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No. 14979

STATE PRESIDENT'S OFFICE

No. 1280.

20 July 1993

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 113 of 1993: Income Tax Act, 1993.

KANTOOR VAN DIE STAATSPRESIDENT

No. 1280.

20 Julie 1993

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 113 van 1993: Inkomstebelastingwet, 1993.

GENERAL EXPLANATORY NOTE:

- []** Words in bold type in square brackets indicate omissions from existing enactments.
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- _____** Words underlined with a solid line indicate insertions in existing enactments.
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ACT

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on 28 February 1994 and 30 June 1994, and by companies in respect of taxable incomes for years of assessment ending during the period of 12 months ending on 31 March 1994; to amend the Income Tax Act, 1962; to withdraw a Government Notice; to provide for special provisions with regard to unbundling transactions; to provide for agreements for the settlement of certain disputes; to provide that the Commissioner for Inland Revenue shall refrain from taking steps for the assessment of certain additional taxes; to amend the Insurance Act, 1943, to impose restrictions on certain policies issued by insurers who carry on long-term insurance business, to amend the restrictions on sinking fund business and to provide for matters connected therewith; and to provide for incidental matters.

*(English text signed by the State President.)
(Assented to 9 July 1993.)*

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

Rates of normal tax

1. The rates of normal tax to be levied in terms of section 5(2) of the Income Tax Act, 1962 (Act No. 58 of 1962) (hereinafter referred to as the principal Act), in respect of—

- (a) the taxable income of any person other than a company for the year of assessment ending on 28 February 1994 or 30 June 1994; and
 - (b) the taxable income of any company for any year of assessment ending during the period of 12 months ending on 31 March 1994,
- shall be as set forth in the Schedule to this Act.

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Amendment of section 1 of Act 58 of 1962, as amended by section 3 of Act 90 of 1962, section 1 of Act 6 of 1963, section 4 of Act 72 of 1963, section 4 of Act 90 of 1964, section 5 of Act 88 of 1965, section 5 of Act 55 of 1966, section 5 of Act 95 of 1967, section 5 of Act 76 of 1968, section 6 of Act 89 of 1969, section 6 of Act 52 of 1970, section 4 of Act 88 of 1971, section 4 of Act 90 of 1972, section 4 of Act 65 of 1973, section 4 of Act 85 of 1974, section 4 of Act 69 of 1975, section 4 of Act 103 of 1976, section 4 of Act 113 of 1977, section 3 of Act 101 of 1978, section 3 of Act 104 of 1979,

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ALGEMENE VERDUIDELIKENDE NOTA:

- I** Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.
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- Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.
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WET

Tot vasstelling van die skale van normale belasting betaalbaar deur ander persone as maatskappye ten opsigte van belasbare inkomstes vir die jare van aanslag eindigende op 28 Februarie 1994 en 30 Junie 1994, en deur maatskappye ten opsigte van belasbare inkomstes vir jare van aanslag wat eindig gedurende die tydperk van 12 maande eindigende op 31 Maart 1994; tot wysiging van die Inkomstebelastingwet, 1962; om 'n Goewermentskennisgewing in te trek; om voorsiening te maak vir spesiale bepalings met betrekking tot ontbondelingstransaksies; om voorsiening te maak vir ooreenkomste vir die beslewing van sekere geskille; om te bepaal dat die Kommissaris van Binnelandse Inkomste hom daarvan moet weerhou om stappe te doen vir die aanslaan van sekere addisionele belasting; tot wysiging van die Versekeringswet, 1943, om beperkings in te stel op sekere polisse wat deur versekeraars wat langtermynversekeringsbesigheid dryf, uitgereik word, om die beperkings op amortisasiebesigheid te wysig en om voorsiening te maak vir aangeleenthede wat daarmee verband hou; en om vir bykomstige aangeleenthede voorsiening te maak.

*(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 9 Julie 1993.)*

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

Skale van normale belasting

1. Die skale van normale belasting wat ooreenkomsdig artikel 5(2) van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962) (hieronder die Hoofwet genoem), gehef moet word ten opsigte van—
- (a) die belasbare inkomste van 'n ander persoon as 'n maatskappy vir die jaar van aanslag eindigende op 28 Februarie 1994 of 30 Junie 1994; en
 - (b) die belasbare inkomste van 'n maatskappy vir 'n jaar van aanslag wat eindig gedurende die tydperk van 12 maande eindigende op 31 Maart 1994,
- is soos uiteengesit in die Bylae by hierdie Wet.

- Wysiging van artikel 1 van Wet 58 van 1962, soos gewysig deur artikel 3 van Wet 90 van 1962, artikel 1 van Wet 6 van 1963, artikel 4 van Wet 72 van 1963, artikel 15 4 van Wet 90 van 1964, artikel 5 van Wet 88 van 1965, artikel 5 van Wet 55 van 1966, artikel 5 van Wet 95 van 1967, artikel 5 van Wet 76 van 1968, artikel 6 van Wet 89 van 1969, artikel 6 van Wet 52 van 1970, artikel 4 van Wet 88 van 1971, artikel 4 van Wet 90 van 1972, artikel 4 van Wet 65 van 1973, artikel 4 van Wet 85 van 1974, artikel 4 van Wet 69 van 1975, artikel 4 van Wet 103 van 1976,

section 2 of Act 104 of 1980, section 2 of Act 96 of 1981, section 3 of Act 91 of 1982, section 2 of Act 94 of 1983, section 1 of Act 30 of 1984, section 2 of Act 121 of 1984, section 2 of Act 96 of 1985, section 2 of Act 65 of 1986, section 1 of Act 108 of 1986, section 2 of Act 85 of 1987, section 2 of Act 90 of 1988, section 1 of Act 99 of 1988, Government Notice No. R.780 of 14 April 1989, section 2 of Act 70 of 1989, section 2 of Act 101 of 1990, section 2 of Act 129 of 1991 and section 2 of Act 141 of 1992

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- 2.(1) Section 1 of the principal Act is hereby amended—
- (a) by the insertion after the definition of “building society” of the following definition:
“‘business day’ means any day which is not a Saturday, Sunday or public holiday;”
 - (b) by the insertion after the definition of “company” of the following definition:
“‘connected person’ means—
- | | | |
|-----|--|----|
| (a) | in relation to a natural person— | 15 |
| | (i) any relative; and | |
| | (ii) any trust of which such natural person or such relative is a beneficiary; | |
| (b) | in relation to a trust— | |
| | (i) any beneficiary of such trust; and | 20 |
| | (ii) any connected person in relation to such beneficiary; | |
| (c) | in relation to a member of any partnership— | |
| | (i) any other member; and | |
| | (ii) any connected person in relation to any member of such partnership; | 25 |
| (d) | in relation to a company— | |
| | (i) its holding company as defined in section 1 of the Companies Act, 1973 (Act No. 61 of 1973); | |
| | (ii) its subsidiary as so defined; | |
| | (iii) any other company where both such companies are subsidiaries (as so defined) of the same holding company; | 30 |
| | (iv) any person who individually or jointly with any connected person in relation to himself, holds, directly or indirectly, at least 20 per cent of the company’s equity share capital, members’ interest or voting rights; | |
| | (v) any other company if at least 40 per cent of the equity share capital, members’ interest or voting rights of both such companies is held by the same persons; and | 35 |
| | (vi) where such company is a close corporation— | |
| | (aa) any member; | |
| | (bb) any relative of such member or any trust which is a connected person in relation to such member; and | |
| | (cc) any other close corporation which is a connected person in relation to the relative or trust contemplated in item (bb); and | 40 |
| (e) | in relation to any person who is a connected person in relation to any other person in terms of the foregoing provisions of this definition, such other person, | |
| | and in this definition the expression ‘beneficiary’ means any person who has been named in the will or deed of trust concerned— | 45 |
| | (i) as a beneficiary; or | |
| | (ii) as a person upon whom the trustee of the trust has the power to confer a benefit from such trust;”; | 50 |
| (c) | by the substitution for the words preceding the proviso to paragraph (g) of the definition of “dividend” of the following words: | |
| | “so much of the nominal value of any capitalization shares awarded to shareholders on or before 30 June 1975 as part of the equity share capital of a company by a company which during the period of | 55 |

artikel 4 van Wet 113 van 1977, artikel 3 van Wet 101 van 1978, artikel 3 van Wet 104 van 1979, artikel 2 van Wet 104 van 1980, artikel 2 van Wet 96 van 1981, artikel 3 van Wet 91 van 1982, artikel 2 van Wet 94 van 1983, artikel 1 van Wet 30 van 1984, artikel 2 van Wet 121 van 1984, artikel 2 van Wet 96 van 1985, 5 artikel 2 van Wet 65 van 1986, artikel 1 van Wet 108 van 1986, artikel 2 van Wet 85 van 1987, artikel 2 van Wet 90 van 1988, artikel 1 van Wet 99 van 1988, Goewermentskennisgewing No. R.780 van 14 April 1989, artikel 2 van Wet 70 van 1989, artikel 2 van Wet 101 van 1990, artikel 2 van Wet 129 van 1991 en artikel 2 van Wet 141 van 1992

- 10 2. (1) Artikel 1 van die Hoofwet word hierby gewysig—
 (a) deur die volgende omskrywing na die omskrywing van “bepaalde tydperk” in te voeg:
 “besigheidsdag enige dag wat nie ’n Saterdag, Sondag of openbare vakansiedag is nie;”;
- 15 (b) deur paragraaf (a) van die omskrywing van “bruto inkomste” deur die volgende paragraaf te vervang:
 “(a) ’n bedrag by wyse van jaargeld ontvang of toegeval, met inbegrip van ’n bedrag beoog in die omskrywing van ‘jaargeldbedrag’ in artikel 10A(1);”;
- 20 (c) deur paragraaf (eA) van die omskrywing van “bruto inkomste” te skrap;
 (d) deur subparagraph (ii) van paragraaf (h) van die omskrywing van “bruto inkomste” deur die volgende subparagraph te vervang:
 “(ii) indien geen bedrag aldus beding is nie, ’n bedrag wat **[volgens die Kommissaris se oordeel]** die billike en redelike waarde van die verbeterings voorstel;”;
- 25 (e) deur paragraaf (l) van die omskrywing van “bruto inkomste” deur die volgende paragraaf te vervang:
 “(l) ’n bedrag ontvang of toegeval by wyse van toekenning of subsidie ten opsigte van grondbewaringswerke in artikel 17A(1) bedoel of ’n aangeleentheid in items (a) tot en met **[(j)] (i)** van paragraaf 12(1) van die Eerste Bylae vermeld;”;
- 30 (f) deur die woorde wat die voorbehoudsbepaling by paragraaf (g) van die omskrywing van “dividend” voorafgaan deur die volgende woorde te vervang:
 “soveel van die nominale waarde van kapitalisasie-aandele aan aandeelhouers toegeken op of voor 30 Junie 1975 as deel van die ekwiteitsaandelekapitaal van ’n maatskappy, deur ’n maatskappy wat gedurende die tydperk van 10 jaar wat die dag voor die datum van bedoelde toekenning eindig, ’n gedeeltelike vermindering van sy opbetaalde aandelekapitaal gemaak het wat ’n uitkering aan aandeelhouers van kontant of ander bates meegebring het, as wat die som van die bedrae wat **[volgens die Kommissaris se oordeel]** beskikbaar was vir uitkering aan aandeelhouers op elke en iedere datum waarop die maatskappy ’n gedeeltelike vermindering van sy opbetaalde aandelekapitaal gedurende bedoelde tydperk gemaak het, min die som van soveel van die nominale waardes van al die kapitalisasie-aandele deur bedoelde maatskappy gedurende daardie tydperk (uitgesonderd enige gedeelte van bedoelde tydperk wat voor 1 Julie 1957 val) toegeken, as wat dividende by die toepassing van hierdie omskrywing of die omskrywing van ‘dividend’ in artikel 1 van die Inkomstebelastingwet, 1941, uitgemaak het, te bove gaan;”;
- 35 (g) deur die vierde voorbehoudsbepaling by die omskrywing van “dividend” deur die volgende voorbehoudsbepaling te vervang:
 “Met dien verstande voorts dat ’n reserwe van ’n maatskappy wat uit ’n bedrag bestaan of ’n bedrag insluit wat van die aandelepremierrekening van die maatskappy oorgeplaas is, behalwe in die mate waarin **[die Kommissaris oortuig is dat]** bedoelde reserwe uit ’n ander bedrag bestaan, vir die doeleinnes van hierdie omskrywing geag word ’n aandelepremierrekening van, of ’n aandelepremie ontvang deur, bedoelde maatskappy te wees;”;
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- 10 years ending the day before the date of such award has made any partial reduction of its paid-up share capital involving a distribution to shareholders of cash or other assets, as exceeds the sum of the amounts which [in the opinion of the Commissioner] were available for distribution to shareholders on each and every date on which the company made a partial reduction of its paid-up share capital during the said period, less the sum of so much of the nominal values of all capitalization shares awarded by such company during that period (excluding any portion of that period occurring prior to 1 July 1957) as constituted dividends for the purposes of this definition or the definition of 'dividend' in section 1 of the Income Tax Act, 1941:"; 5 10
- (d) by the substitution for the fourth proviso to the definition of "dividend" of the following proviso: 15
- "Provided further that a reserve of any company which consists of or includes any amount transferred from the share premium account of the company shall, except to the extent to which [the Commissioner is satisfied that] such reserve consists of any other amount, be deemed for the purposes of this definition to be a share premium account of, or share premium received by, such company:";
- (e) by the substitution for paragraph (a) of the definition of "gross income" of the following paragraph: 20 25
- "(a) any amount received or accrued by way of annuity, including any amount contemplated in the definition of 'annuity amount' in section 10A(1);";
- (f) by the deletion of paragraph (eA) of the definition of "gross income";
- (g) by the substitution for subparagraph (ii) of paragraph (h) of the definition of "gross income" of the following subparagraph: 30
- "(ii) if no amount is so stipulated, an amount representing [in the opinion of the Commissioner] the fair and reasonable value of the improvements;";
- (h) by the substitution for paragraph (l) of the definition of "gross income" of the following paragraph: 35 40
- "(l) any amount received or accrued by way of grant or subsidy in respect of any soil erosion works referred to in section 17A(1) or any of the matters mentioned in items (a) to [(j)] (i), inclusive, of paragraph 12(1) of the First Schedule;";
- (i) by the substitution in subparagraph (dd) of paragraph (ii) of the proviso to paragraph (c) of the definition of "pension fund" for the expression "R600" of the expression "R1 800";
- (j) by the substitution in paragraph (a) of the definition of "prescribed rate" for the expression "14 per cent" of the expression "12 per cent";
- (k) by the substitution in subparagraph (ii) of paragraph (b) of the definition of "retirement annuity fund" for the expression "R600" of the expression "R1 800"; 45
- (l) by the substitution for subparagraph (i) of paragraph (a) of the definition of "retirement-funding employment" of the following subparagraph: 50 55
- "(i) in the case of such employee, derives in respect of his employment any income constituting remuneration as defined in paragraph 1 of the Fourth Schedule (but leaving out of account the provisions of paragraph [(iv)] (vii) of that definition) and is a member of or, as an employee, contributes to a pension fund or provident fund established for the benefit of employees of the employer from whom such income is derived; or"; and

- (h) deur die omskrywing van "handelsvoorraad" deur die volgende omskrywing te vervang:
- " 'handelsvoorraad' ook enigets deur 'n belastingpligtige vir doeleindes van vervaardiging, verkoop of ruil deur of ten behoeve van hom geproduseer, vervaardig, gekoop of op 'n ander wyse verkry, of enigets waarvan die opbrengs uit die van die hand sit daarvan deel van sy bruto inkomste uitmaak of sal uitmaak, of enige verbruikbare voorrade en onderdele deur hom verkry om gebruik of verbruik te word in die loop van sy bedryf, maar nie ook 'n buitelandse valuta-opsiekontrak en 'n valutatermynkontrak soos in artikel 24I(1) omskryf nie;";
- (i) deur in subparagraph (dd) van paragraaf (ii) van die voorbehoudsbe-paling by paragraaf (c) van die omskrywing van "pensioenfonds" die uitdrukking "R600" deur die uitdrukking "R1 800" te vervang;
- (j) deur in subparagraph (ii) van paragraaf (b) van die omskrywing van "uittredingannuiteitsfonds" die uitdrukking "R600" deur die uitdrukking "R1 800" te vervang;
- (k) deur subparagraph (i) van paragraaf (a) van die omskrywing van "uittredingfunderingsdiens" deur die volgende subparagraph te ver-vang:
- "(i) in die geval van bedoelde werknemer, ten opsigte van sy diens enige inkomste verkry wat besoldiging uitmaak soos omskryf in paragraaf 1 van die Vierde Bylae (maar sonder om rekening te hou met die bepalings van paragraaf [(iv)] (vii) van bedoelde omskrywing) en 'n lid is van, of as 'n werknemer bydra tot, 'n pensioenfonds of voorsorgsfonds ingestel ten voordele van werknemers van die werkgever van wie bedoelde inkomste verkry is; of";
- (l) deur die volgende omskrywing na die omskrywing van "uittredingfun-deringsdiens" in te voeg:
" 'verbonde persoon'
- | | |
|------|---|
| (a) | met betrekking tot 'n natuurlike persoon—
(i) 'n familielid; en
(ii) 'n trust waarvan bedoelde natuurlike persoon of bedoelde familielid 'n begunstigde is; |
| (b) | met betrekking tot 'n trust—
(i) 'n begunstigde van bedoelde trust; en
(ii) 'n verbonde persoon met betrekking tot bedoelde begun-stigde; |
| (c) | met betrekking tot 'n lid van 'n vennootskap—
(i) 'n ander lid; en
(ii) 'n verbonde persoon met betrekking tot 'n lid van bedoelde vennootskap; |
| (d) | met betrekking tot 'n maatskappy—
(i) sy houermaatskappy soos omskryf in artikel 1 van die Maatskappywet, 1973 (Wet No. 61 van 1973);
(ii) sy filiaal soos aldus omskryf;
(iii) enige ander maatskappy waar beide bedoelde maatskappye filiale (soos aldus omskryf) van dieselfde houermaatskappy is; |
| (iv) | enige persoon wat afsonderlik of gesamentlik met 'n verbonde persoon met betrekking tot homself, regstreeks of onreg-streeks, ten minste 20 persent van die maatskappy se ekwiteits-aandelekapitaal, ledebelang of stemregte hou; |
| (v) | enige ander maatskappy indien ten minste 40 persent van die ekwiteitsaandelekapitaal, ledebelang of stemregte van beide bedoelde maatskappye deur dieselfde persone gehou word; en waar bedoelde maatskappy 'n beslote korporasie is—
(aa) enige lid;
(bb) enige familielid van bedoelde lid of enige trust wat 'n verbonde persoon met betrekking tot bedoelde lid is; en
(cc) enige ander beslote korporasie wat 'n verbonde per-soon is met betrekking tot die familielid of trust in item (bb) beoog; en |

(m) by the substitution for the definition of "trading stock" of the following definition:

"trading stock" includes anything produced, manufactured, purchased or in any other manner acquired by a taxpayer for purposes of manufacture, sale or exchange by him or on his behalf, or the proceeds from the disposal of which forms or will form part of his gross income, or any consumable stores and spare parts acquired by him to be used or consumed in the course of his trade, but does not include a foreign currency option contract and a forward exchange contract as defined in section 24I(1);".

(2)(a) Subsection (1)(b) shall be deemed to have come into operation on 21 June 1993.

(b) Subsection (1)(e) and (f) shall be deemed to have come into operation on 1 March 1993 and shall apply to any amount received or accrued on or after that date.

(c) Subsection (1)(j) shall be deemed to have come into operation on 1 July 1993.

Amendment of section 7A of Act 58 of 1962, as inserted by section 6 of Act 69 of 1975 and amended by section 7 of Act 103 of 1976, section 6 of Act 96 of 1981, section 4 of Act 65 of 1986 and section 8 of Act 129 of 1991

3. Section 7A of the principal Act is hereby amended by the substitution for subparagraph (i) of paragraph (d) of subsection (4A) of the following subparagraph:

"(i) the termination or impending termination of the taxpayer's services is due to his employer having ceased to carry on or intending to cease carrying on the trade in respect of which the taxpayer was employed or to the taxpayer having become redundant in consequence of his employer having effected a general reduction in personnel or a reduction in personnel of a particular class; and".

Amendment of section 8 of Act 58 of 1962, as amended by section 6 of Act 90 of 1962, section 6 of Act 90 of 1964, section 9 of Act 88 of 1965, section 10 of Act 55 of 1966, section 10 of Act 89 of 1969, section 6 of Act 90 of 1972, section 8 of Act 85 of 1974, section 7 of Act 69 of 1975, section 7 of Act 113 of 1977, section 8 of Act 94 of 1983, section 5 of Act 121 of 1984, section 4 of Act 96 of 1985, section 5 of Act 65 of 1986, section 6 of Act 85 of 1987, section 6 of Act 90 of 1988, section 5 of Act 101 of 1990, section 9 of Act 129 of 1991 and section 6 of Act 141 of 1992

4.(1) Section 8 of the principal Act is hereby amended by the addition of the following paragraph to subsection (4):

"(k) For the purposes of paragraph (a), where during any year of assessment any person has donated or distributed by way of a dividend, any asset in respect of which a deduction or an allowance has been granted to such person in terms of any of the provisions referred to in that paragraph, such person shall be deemed to have recovered or recouped an amount equal to the market value of such asset as at the date of such donation or distribution.".

(2) Subsection (1) shall be deemed to have come into operation on 21 June 1993 and shall apply to any asset donated or distributed as a dividend on or after that date.

Amendment of section 9 of Act 58 of 1962, as amended by section 7 of Act 90 of 1962, section 6 of Act 72 of 1963, section 7 of Act 90 of 1964, section 9 of Act 95 of 1967, section 12 of Act 89 of 1969, section 6 of Act 65 of 1973, section 9 of Act 85 of 1974, section 8 of Act 103 of 1976, section 9 of Act 121 of 1984, section 5 of Act 96 of 1985, section 6 of Act 65 of 1986, section 2 of Act 108 of 1986, section 7 of Act 85 of 1987, section 10 of Act 129 of 1991 and section 7 of Act 141 of 1992

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

"Provided that the provisions of this paragraph shall not apply if any such

- (e) met betrekking tot enige persoon wat 'n verbonde persoon is met betrekking tot enige ander persoon ingevolge die voorgaande bepalings van hierdie omskrywing, bedoelde ander persoon, en beteken in hierdie omskrywing die uitdrukking 'begunstigde' 'n persoon wat in die betrokke testament of trustakte genoem is—
 5 (i) as 'n begunstigde; of
 (ii) as 'n persoon aan wie die trustee van die trust die bevoegdheid het om 'n voordeel uit bedoelde trust te verleen;" en
 10 (m) deur in paragraaf (a) van die omskrywing van "voorgeskrewe koers" die uitdrukking "14 persent" deur die uitdrukking "12 persent" te vervang.
 15 (2)(a) Subartikel (1)(b) en (c) word geag op 1 Maart 1993 in werking te getree het en is van toepassing op 'n bedrag wat op of na daardie datum ontvang is of toeval.
 (b) Subartikel (1)(l) word geag op 21 Junie 1993 in werking te getree het.
 (c) Subartikel (1)(m) word geag op 1 Julie 1993 in werking te getree het.

Wysiging van artikel 7A van Wet 58 van 1962, soos ingevoeg deur artikel 6 van Wet 69 van 1975 en gewysig deur artikel 7 van Wet 103 van 1976, artikel 6 van Wet 96 van 1981, artikel 4 van Wet 65 van 1986 en artikel 8 van Wet 129 van 1991

3. Artikel 7A van die Hoofwet word hierby gewysig deur subparagraph (i) van 20 paragraaf (d) van subartikel (4A) deur die volgende subparagraph te vervang:
 (i) die beëindiging of naderende beëindiging van die belastingpligtige se dienste daarvan te wye is dat sy werkewer opgehou het of van voorneme is om op te hou om die bedryf te beoefen ten opsigte waarvan die belastingpligtige in diens was of dat die belastingpligtige 25 oorbidig geword het omrede sy werkewer 'n algemene vermindering in personeel ingestel het of 'n vermindering in personeel van 'n bepaalde klas; en'.

Wysiging van artikel 8 van Wet 58 van 1962, soos gewysig deur artikel 6 van Wet 90 van 1962, artikel 6 van Wet 90 van 1964, artikel 9 van Wet 88 van 1965, artikel 30 10 van Wet 55 van 1966, artikel 10 van Wet 89 van 1969, artikel 6 van Wet 90 van 1972, artikel 8 van Wet 85 van 1974, artikel 7 van Wet 69 van 1975, artikel 7 van Wet 113 van 1977, artikel 8 van Wet 94 van 1983, artikel 5 van Wet 121 van 1984, artikel 4 van Wet 96 van 1985, artikel 5 van Wet 65 van 1986, artikel 6 van Wet 85 van 1987, artikel 6 van Wet 90 van 1988, artikel 5 van Wet 101 van 1990, 35 artikel 9 van Wet 129 van 1991 en artikel 6 van Wet 141 van 1992

4. (1) Artikel 8 van die Hoofwet word hierby gewysig deur die volgende paragraaf by subartikel (4) te voeg:

- "(k) By die toepassing van paragraaf (a), waar gedurende 'n jaar van 40 aanslag 'n persoon 'n bate ten opsigte waarvan 'n aftrekking of vermindering aan bedoelde persoon toegestaan is ingevolge enige van die bepalings in daardie paragraaf bedoel, geskenk of uitgekeer het by wyse van 'n dividend, word bedoelde persoon geag 'n bedrag gelyk aan die markwaarde van bedoelde bate soos op die datum van bedoelde skenking of uitkering, te verhaal of vergoed het.".
- 45 (2) Subartikel (1) word geag op 21 Junie 1993 in werking te getree het en is van toepassing op 'n bate wat op of na daardie datum geskenk of as 'n dividend uitgekeer is.

Wysiging van artikel 9 van Wet 58 van 1962, soos gewysig deur artikel 7 van Wet 90 van 1962, artikel 6 van Wet 72 van 1963, artikel 7 van Wet 90 van 1964, artikel 50 9 van Wet 95 van 1967, artikel 12 van Wet 89 van 1969, artikel 6 van Wet 65 van 1973, artikel 9 van Wet 85 van 1974, artikel 8 van Wet 103 van 1976, artikel 9 van Wet 121 van 1984, artikel 5 van Wet 96 van 1985, artikel 6 van Wet 65 van 1986, artikel 2 van Wet 108 van 1986, artikel 7 van Wet 85 van 1987, artikel 10 van Wet 129 van 1991 en artikel 7 van Wet 141 van 1992

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

"Met dien verstande dat die bepalings van hierdie paragraaf nie van toepassing

person was outside the Republic for a period or periods exceeding 183 days in aggregate during the year of assessment;”.

Amendment of section 9B of Act 58 of 1962, as inserted by section 9 of Act 101 of 1990 and amended by section 11 of Act 129 of 1991 and section 9 of Act 141 of 1992

6. Section 9B of the principal Act is hereby amended by the addition of the following subsection: 5

“(8) For the purposes of this section any amount included in the income of any company in terms of the provisions of the second proviso to section 22(8) as a result of the distribution of any affected share, shall be deemed to be an amount which has accrued to such company as a result of the disposal of such 10 affected share.”. 15

Amendment of section 10 of Act 58 of 1962, as amended by section 8 of Act 90 of 1962, section 7 of Act 72 of 1963, section 8 of Act 90 of 1964, section 10 of Act 88 of 1965, section 11 of Act 55 of 1966, section 10 of Act 95 of 1967, section 8 of Act 76 of 1968, section 13 of Act 89 of 1969, section 9 of Act 52 of 1970, section 9 of Act 88 of 1971, section 7 of Act 90 of 1972, section 7 of Act 65 of 1973, section 10 of Act 85 of 1974, section 8 of Act 69 of 1975, section 9 of Act 103 of 1976, section 8 of Act 113 of 1977, section 4 of Act 101 of 1978, section 7 of Act 104 of 1979, section 7 of Act 104 of 1980, section 8 of Act 96 of 1981, section 6 of Act 91 of 1982, section 9 of Act 94 of 1983, section 10 of Act 121 of 1984, section 6 of Act 96 of 1985, section 7 of Act 65 of 1986, section 3 of Act 108 of 1986, section 9 of Act 85 of 1987, section 7 of Act 90 of 1988, section 36 of Act 9 of 1989, section 7 of Act 70 of 1989, section 10 of Act 101 of 1990, section 12 of Act 129 of 1991 and section 10 of Act 141 of 1992 15

7. (1) Section 10 of the principal Act is hereby amended— 20

(a) by the substitution for subparagraph (v) of paragraph (cC) of subsection 25 (1) of the following subparagraph:

“(v) in the case of an association to which the provisions of item (bb) of subparagraph (i) apply, the directors of the association are independent persons who do not derive any remuneration for their services to the association (or, if such remuneration is in fact derived by any such director, it does not in any one year exceed an amount [notified to the association by the Commissioner as being] which is reasonable in the circumstances) and at least one of those directors is a person nominated by a Minister responsible for housing matters;”; 30

(b) by the substitution for paragraph (cD) of subsection (1) of the following paragraph:

“(cD) the receipts and accruals of any [association which in the opinion of the Commissioner is an] amateur sporting association;”; 35

(c) by the substitution for item (aa) of subparagraph (i) of paragraph (cI) of subsection (1) of the following item:

“(aa) to acquire, hold, develop or improve land or any right to land in the Republic or in any country the territory of which formerly formed part of the Republic [and] with a view to enabling any community, in the Republic or such country, of which [all] at least 75 per cent of the adult members [or the majority of the members] are persons who earn less than [R1 000] R1 500 per month, to acquire such land, or right thereto, so as to occupy that land wholly or mainly for residential purposes;”; 45

(d) by the substitution for item (bb) of subparagraph (i) of paragraph (cJ) of subsection (1) of the following item:

“(bb) to lend or donate money to any company, association or trust contemplated in paragraph (cC), [or] (cI) or this paragraph;”; 50

is nie indien so iemand buite die Republiek was vir 'n tydperk of tydperke wat gesamentlik 183 dae gedurende die jaar van aanslag te bove gaan;".

Wysiging van artikel 9B van Wet 58 van 1962, soos ingevoeg deur artikel 9 van Wet 101 van 1990 en gewysig deur artikel 11 van Wet 129 van 1991 en artikel 9 5 van Wet 141 van 1992

6. Artikel 9B van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg:

10 "8) By die toepassing van hierdie artikel word 'n bedrag wat ingevolge die bepalings van die tweede voorbehoudsbepaling by artikel 22(8) by die inkomste van 'n maatskappy ingesluit word vanweë die uitkering van 'n geaffekteerde aandeel, geag 'n bedrag te wees wat aan bedoelde maatskappy toegeval het vanweë die vervreemding van bedoelde geaffekteerde aandeel.".

15 **Wysiging van artikel 10 van Wet 58 van 1962, soos gewysig deur artikel 8 van Wet 90 van 1962, artikel 7 van Wet 72 van 1963, artikel 8 van Wet 90 van 1964, artikel 10 van Wet 88 van 1965, artikel 11 van Wet 55 van 1966, artikel 10 van Wet 95 van 1967, artikel 8 van Wet 76 van 1968, artikel 13 van Wet 89 van 1969, artikel 9 van Wet 52 van 1970, artikel 9 van Wet 88 van 1971, artikel 7 van Wet 90 van 1972, artikel 7 van Wet 65 van 1973, artikel 10 van Wet 85 van 1974, artikel 8 van 20 Wet 69 van 1975, artikel 9 van Wet 103 van 1976, artikel 8 van Wet 113 van 1977, artikel 4 van Wet 101 van 1978, artikel 7 van Wet 104 van 1979, artikel 7 van Wet 104 van 1980, artikel 8 van Wet 96 van 1981, artikel 6 van Wet 91 van 1982, artikel 9 van Wet 94 van 1983, artikel 10 van Wet 121 van 1984, artikel 6 van Wet 96 van 1985, artikel 7 van Wet 65 van 1986, artikel 3 van Wet 108 van 1986, 25 artikel 9 van Wet 85 van 1987, artikel 7 van Wet 90 van 1988, artikel 36 van Wet 9 van 1989, artikel 7 van Wet 70 van 1989, artikel 10 van Wet 101 van 1990, artikel 12 van Wet 129 van 1991 en artikel 10 van Wet 141 van 1992**

30 7. (1) Artikel 10 van die Hoofwet word hierby gewysig—

(a) deur subparagraph (v) van paragraaf (cC) van subartikel (1) deur die volgende subparagraph te vervang:

35 "(v) in die geval van 'n vereniging waarop die bepalings van item (bb) van subparagraph (i) van toepassing is, die direkteure van die vereniging onafhanklike persone is wat geen vergoeding vir hul dienste aan die vereniging verkry nie (of, indien bedoelde vergoeding wel deur so 'n direkteur verkry word, dit nie in enige jaar meer is nie as 'n bedrag wat [deur die Kommissaris aan die vereniging meegedeel is as synde] in die omstandighede redelik is) en minstens een van daardie direkteure 'n persoon is wat deur 'n Minister verantwoordelik vir behuisingsaangeleenthede benoem is;";

40 (b) deur paragraaf (cD) van subartikel (1) deur die volgende paragraaf te vervang:

45 "(cD) die ontvangste en toevallings van ['n vereniging wat na die mening van die Kommissaris] 'n amateursportvereniging [is];";

(c) deur item (aa) van subparagraph (i) van paragraaf (cI) van subartikel (1) deur die volgende item te vervang:

50 "(aa) om grond of 'n reg op grond in die Republiek of in 'n land waarvan die gebied voorheen deel van die Republiek uitgemaak het, te verkry, hou, ontwikkel of verbeter met die oog daarop om 'n gemeenskap, in die Republiek of so 'n land, waarvan [al] ten minste 75 persent van die volwasse lede [of die meerderheid van die lede] persone is wat minder as [R1 000] R1 500 per maand verdien, in staat te stel om daardie grond, of 'n reg daarop, te verkry ten einde dié grond uitsluitlik of hoofsaaklik vir bewoningsdoeleindes te okkupeer;";

55 (d) deur item (bb) van subparagraph (i) van paragraaf (cJ) van subartikel (1) deur die volgende item te vervang:

60 "(bb) om geld aan 'n maatskappy, vereniging of trust beoog in paragraaf (cC), [of] (cl) of hierdie paragraaf uit te leen of te skenk;";

- (e) by the substitution for item (dd) of subparagraph (i) of paragraph (cJ) of subsection (1) of the following item:
 “(dd) to provide funds or guarantees to a [deposit-taking institution] bank registered in terms of the [Deposit-taking Institutions] Banks Act, 1990 (Act No. 94 of 1990), a mutual building society registered under the Mutual Building Societies Act, 1965 (Act No. 24 of 1965), an insurer registered in terms of the Insurance Act, 1943 (Act No. 27 of 1943), a pension fund organization registered in terms of the Pension Funds Act, 1956 (Act No. 24 of 1956), or the Development Bank of Southern Africa, if such funds or guarantees are provided on condition that such [deposit-taking institution] bank, mutual building society, insurer or pension fund organization or the said Development Bank of Southern Africa shall utilize the funds or guarantees solely to lend money or provide other financial assistance to persons, and for the achievement of the object, referred to in item (cc);”;
- (f) by the substitution in the Afrikaans text for subitem (B) of item (ee) of subparagraph (i) of paragraph (cJ) of subsection (1) of the following subitem:
 “(B) so ’n polis [deur bedoelde gelduitlener] verskaf word ten opsigte van lenings of ander finansiële bystand wat deur bedoelde gelduitlener aan persone, en ter bereiking van die oogmerk, bedoel in item (cc) verleen is;”;
- (g) by the insertion after paragraph (cJ) of subsection (1) of the following paragraphs:
 “(cK) the receipts and accruals of any company, if—
 (i) the sole object of such company is to supply electricity, whether as principal or as agent, to the electricity consumers of any self-governing territory as defined in section 38(1) of the Self-governing Territories Constitution Act, 1971 (Act No. 21 of 1971), or of any local authority as defined in section 1 of the Electricity Act, 1987 (Act No. 41 of 1987);
 (ii) such sole object is actively pursued;
 (iii) such company is under its memorandum or articles of association not permitted to distribute any of its profits or gains to any member and is required to utilize its funds solely for investment or the object for which it has been formed;
 (iv) the Commissioner has approved such company subject to such conditions as he may deem necessary to ensure that the activities of such company are wholly directed to the furtherance of its sole object;
 (v) in terms of the memorandum or articles of association of such company it will upon its deregistration, winding-up or liquidation be obliged to transfer its assets remaining after the satisfaction of its liabilities to—
 (aa) some other company which is exempt from tax in terms of this paragraph; or
 (bb) an undertaker or class of undertaker as contemplated in section 6 of the Electricity Act, 1987; and
 (vi) the members of such company consist of Eskom and—
 (aa) the government of such self-governing territory;
 (bb) a local authority referred to in subparagraph (i);
 (cc) a regional services council or a joint services board referred to in paragraph (c) of the definition of ‘local authority’ in section 1; or
 (dd) a trust acting as nominee for such self-governing territory, local authority, regional services council or joint services board;
 (cL) the receipts and accruals of any fund the sole object of which is to

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- (e) deur item (dd) van subparagraaf (i) van paragraaf (cJ) van subartikel (1) deur die volgende item te vervang:
- “(dd) om fondse of waarborgte te verskaf aan 'n **[depositonemende instelling] bank** wat ingevolge die **[Wet op Depositonemende Instellings]** Bankwet, 1990 (Wet No. 94 van 1990), geregistreer is, 'n onderlinge bouvereniging wat ingevolge die Wet op Onderlinge Bouverenigings, 1965 (Wet No. 24 van 1965), geregistreer is, 'n versekeraar wat ingevolge die Versekeringswet, 1943 (Wet No. 27 van 1943), geregistreer is, 'n pensioenfondsorganisasie wat ingevolge die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), geregistreer is, of die Ontwikkelingsbank van Suider-Afrika, indien bedoelde fondse of waarborgte verskaf word op voorwaarde dat bedoelde **[depositonemende instelling] Bank**, onderlinge bouvereniging, versekeraar of pensioenfondsorganisasie of genoemde Ontwikkelingsbank van Suider-Afrika die fondse of waarborgte uitsluitlik aanwend om geld uit te leen, of ander finansiële bystand te verleen aan persone, en ter bereiking van die oogmerk, bedoel in item (cc);”;
- (f) deur subitem (B) van item (ee) van subparagraaf (i) van paragraaf (cJ) van subartikel (1) deur die volgende subitem te vervang:
- “(B) so 'n polis **[deur bedoelde gelduitlener]** verskaf word ten opsigte van lenings of ander finansiële bystand wat **deur bedoelde gelduitlener** aan persone, en ter bereiking van die oogmerk, bedoel in item (cc) verleen is;”;
- (g) deur na paragraaf (cJ) van subartikel (1) die volgende paragrawe in te voeg:
- “(cK) die ontvangste en toevallings van 'n maatskappy, indien—
- (i) die enigste oogmerk van bedoelde maatskappy is om elektrisiteit te voorsien, hetby as prinsipaal of as agent, aan die elektrisiteitsverbruikers van 'n selfregerende gebied soos omskryf in artikel 38(1) van die Grondwet van die Selfregerende Gebiede, 1971 (Wet No. 21 van 1971), of van 'n plaaslike owerheid soos omskryf in artikel 1 van die Elektrisiteitswet, 1987 (Wet No. 41 van 1987);
 - (ii) bedoelde enigste oogmerk aktief uitgevoer word;
 - (iii) bedoelde maatskappy nie ingevolge sy akte van oprigting of statute bevoeg is om enige van sy profyte of winste aan enige lid uit te keer nie en hy verplig is om sy fondse uitsluitlik vir belegging of die oogmerk waarvoor hy opgerig is, te gebruik;
 - (iv) die Kommissaris bedoelde maatskappy goedkeur het onderworpe aan die voorwaardes wat hy nodig ag om te verseker dat die bedrywighede van bedoelde maatskappy geheel en al daarop gemik is om sy enigste oogmerk te bevorder;
 - (v) ingevolge die akte van oprigting of statute van bedoelde maatskappy, hy by sy deregistrasie, ontbinding of likwidasie verplig sal wees om sy bates wat na voldoening aan sy verpligte oorby, oor te dra aan—
 - (aa) 'n ander maatskappy wat ingevolge hierdie paragraaf van belasting vrygestel is; of
 - (bb) 'n ondernemer of klas ondernemer soos beoog in artikel 6 van die Elektrisiteitswet, 1987; en
 - (vi) die lede van bedoelde maatskappy bestaan uit Eskom en—
 - (aa) die regering van bedoelde selfregerende gebied;
 - (bb) 'n plaaslike owerheid bedoel in subparagraaf (i);
 - (cc) 'n streeksdiensteraad of 'n gesamentlike diensteraad bedoel in paragraaf (c) van die omskrywing van 'plaaslike bestuur' in artikel 1; of
 - (dd) 'n trust wat as genomineerde optree vir bedoelde selfregerende gebied, plaaslike owerheid, streeksdiensteraad of gesamentlike diensteraad;
- (cL) die ontvangste en toevallings van 'n fonds waarvan die enigste

provide funds for any company, society, association of persons or trust contemplated in paragraph (cF), if such fund—	
(i) has been approved by the Commissioner subject to such conditions as he may deem necessary to ensure that no benefits are allocated by the fund for purposes other than the provision of residential accommodation contemplated in paragraph (cF);	5
(ii) has submitted to the Commissioner a copy of the written constitution, will or any other written instrument under which it has been established and in terms of which it is—	10
(aa) not permitted to distribute any of its funds to any person, other than a company, society, association of persons or trust contemplated in paragraph (cF);	
(bb) required to utilize its funds solely for the object for which it has been established or to invest such funds—	15
(A) with a financial institution as defined in section 1 of the Financial Institutions (Investment of Funds) Act, 1984 (Act No. 39 of 1984);	
(B) in securities listed on a licensed stock exchange as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985); or	20
(C) in such other financial instruments as the Commissioner may approve;	
(cc) required to distribute, unless the Commissioner otherwise directs, at least 75 per cent of its net revenue (being the gross income of such fund less the costs of its administration) to any company, society, other association of persons or trust contemplated in paragraph (cF) within a period of 12 months from the end of the financial year during which such net revenue was derived;	25
(dd) required on dissolution to transfer its assets to any company, society, other association of persons or trust which is exempt from tax under paragraph (cF);	30
(ee) not permitted, except to the extent that the Commissioner directs, to carry on any business;	
(ff) required to submit to the Commissioner a copy of any amendment to the constitution, will or other written instrument under which it was established; and	40
(gg) not permitted to accept any donation which is not irrevocable and unconditional:	
Provided that—	45
(a) where such constitution, will or other written instrument does not comply with the provisions of this subparagraph, it shall be deemed so to comply if—	
(i) in the case of a fund established under the terms of a will; or	50
(ii) in the case of a fund established prior to 21 June 1993 under a constitution or other written instrument which cannot be amended to comply with the said provisions,	
the trustee of the fund furnishes the Commissioner with a written undertaking that the fund will be administered in compliance with the said provisions; and	55
(b) notwithstanding the provisions of items (bb) and (ee), any asset or business undertaking acquired by such	60

- oogmerk is om fondse aan 'n maatskappy, genootskap, vereniging van persone of trust beoog in paragraaf (cF) te verskaf, indien bedoelde fonds—
- 5 (i) deur die Kommissaris goedgekeur is onderworpe aan die voorwaardes wat hy nodig ag om te verseker dat geen voordele deur die fonds toegeken word nie anders as vir doeleindes van die verskaffing van woonakkommodasie in paragraaf (cF) beoog;
 - 10 (ii) by die Kommissaris 'n afskrif ingedien het van die geskrewe konstitusie, testament of enige ander geskrewe stuk waarkragtens dit ingestel is en ingevolge waarvan dit—
 - (aa) nie bevoeg is om enige van sy fondse aan enige persoon uit te keer nie behalwe aan 'n maatskappy, genootskap, vereniging van persone of trust in paragraaf (cF) beoog;
 - (bb) verplig is om sy fondse uitsluitlik aan te wend vir die oogmerk waarvoor dit ingestel is of om bedoelde fondse te belê—
 - (A) by 'n finansiële instelling soos omskryf in artikel 1 van die Wet op Finansiële Instellings (Belegging van Fondse), 1984 (Wet No. 39 van 1984);
 - (B) in effekte genoteer op 'n gelisensieerde effektebeurs soos omskryf in artikel 1 van die Wet op Beheer van Effektebeurse, 1985 (Wet No. 1 van 1985); of
 - (C) in die ander finansiële instrumente wat die Kommissaris mag goedkeur;
 - (cc) verplig is om, tensy die Kommissaris anders gelas, ten minste 75 persent van sy netto inkomme (synde die bruto inkomste van bedoelde fonds min die koste van sy administrasie) aan 'n maatskappy, genootskap, ander vereniging van persone of trust beoog in paragraaf (cF) uit te keer binne 'n tydperk van 12 maande vanaf die einde van die finansiële jaar waartydens bedoelde netto inkomme verkry is;
 - (dd) verplig is om by ontbinding sy bates aan 'n maatskappy, genootskap, ander vereniging van persone of trust oor te dra wat kragtens paragraaf (cF) van belasting vrygestel is;
 - (ee) nie bevoeg is om, behalwe vir sover die Kommissaris gelas, 'n besigheid te bedryf nie;
 - (ff) verplig is om 'n afskrif van enige wysiging aan die konstitusie, testament of ander geskrewe stuk waarkragtens dit ingestel is, aan die Kommissaris te verstrek; en
 - (gg) nie bevoeg is om 'n skenking wat nie onherroeplik en onvoorwaardelik is nie, te aanvaar nie:
- Met dien verstande dat—
- 30 (a) waar bedoelde konstitusie, testament of ander geskrewe stuk nie aan die bepalings van hierdie subparagraph voldoen nie, dit geag word aldus te voldoen indien—
 - (i) in die geval van 'n fonds ingestel kragtens die bepalings van 'n testament; of
 - (ii) in die geval van 'n fonds ingestel voor 21 Junie 1993 kragtens 'n konstitusie of ander geskrewe stuk wat nie gewysig kan word om aan genoemde bepalings te voldoen nie,
 - 35 die trustee van die fonds 'n geskrewe onderneming aan die Kommissaris verstrek dat die fonds ooreenkomsdig genoemde bepalings geadministreer sal word; en
 - 40 (b) ondanks die bepalings van items (bb) en (ee), enige bate of sake-onderneming deur bedoelde fonds

<p>fund by way of donation, inheritance or bequest, may be retained or continued, as the case may be, in the form so acquired:</p> <p>Provided that—</p> <p>(a) where the Commissioner is satisfied that any such fund has during any year of assessment failed to comply with the provisions of this paragraph, he may withdraw his approval of the fund with effect from the commencement of that year of assessment; 5</p> <p>(b) where the Commissioner has withdrawn his approval of such fund, it shall, within two months from the date of such withdrawal, transfer, or take reasonable steps to transfer, its remaining assets to any company, society, other association of persons or trust which is exempt from tax under paragraph (cF); 10</p> <p>(c) where a fund fails to transfer, or take reasonable steps to transfer, its remaining assets as contemplated in paragraph (b) of this proviso, the accumulated net revenue which has not been distributed shall be deemed for the purposes of this Act to be an amount of taxable income which accrued to such fund during the year of assessment referred to in paragraph (a) of this proviso; and 15</p> <p>(d) any decision of the Commissioner in the exercise of his discretion under this paragraph shall be subject to objection and appeal;”; 20</p> <p>(h) by the substitution for paragraph (f) of subsection (1) of the following paragraph:</p> <p>“(f) the receipts and accruals of all [ecclesiastical] religious, charitable and educational institutions of a public character, whether or not supported wholly or partly by grants from [the] public revenue [and the receipts and accruals of any fund which has a written constitution or has been established by or under the will of a deceased person or by any other written instrument, which has been approved by the Commissioner for the purposes of this paragraph and which is obliged in terms of the provisions of the said constitution, will or other written instrument to distribute so much of its net revenue (being the gross income of the fund less the costs of its administration) as the Commissioner directs to any such institution: Provided that— 30</p> <p>(i) the Commissioner may approve such fund subject to such conditions as he may deem necessary to ensure that no benefits are allocated by the fund for other than ecclesiastical, charitable or educational purposes for the benefit of the general public; 35</p> <p>(ii) the net revenue of such fund shall, unless the Minister of Finance in any case otherwise directs, be applied for the furtherance of its objects in the Republic or in any country the territory of which formerly formed part of the Republic; 45</p> <p>(iii) no such fund shall, unless the Commissioner in any case otherwise directs, carry on any business; 50</p> <p>(iv) if the Commissioner is satisfied that the administrator of any such fund has during any year of assessment failed to comply with any condition imposed by him under paragraph (i) of this proviso, or with the provisions of paragraph (ii) or (iii) of this proviso, he may withdraw his approval of the fund with effect from the commencement of that year of assessment; and 55</p> <p>(v) any decision of the Commissioner in the exercise of his</p>	
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verkry by wyse van skenking, erflating of bemaking, behou of voortgesit kan word, na gelang van die geval, in die vorm aldus verkry:

Met dien verstande dat—

- (a) waar die Kommissaris oortuig is dat enige bedoelde fonds gedurende 'n jaar van aanslag versuim het om aan die bepalings van hierdie paragraaf te voldoen, hy sy goedkeuring van die fonds met ingang van die begin van daardie jaar van aanslag kan intrek;
- (b) waar die Kommissaris sy goedkeuring van bedoelde fonds ingetrek het, dit binne twee maande vanaf die datum van bedoelde intrekking sy oorblywende bates moet oordra, of redelike stappe moet doen om sodanige bates oor te dra, aan enige maatskappy, genootskap, ander vereniging van persone of trust wat kragtens paragraaf (cF) van belasting vrygestel is;
- (c) waar 'n fonds versuim om sy oorblywende bates soos beoog in paragraaf (b) van hierdie voorbehoudsbepaling oor te dra of redelike stappe te doen om sodanige bates oor te dra, die opgehoede netto inkomte wat nie uitgekeer is nie by die toepassing van hierdie Wet geag word 'n bedrag aan belasbare inkomste te wees wat bedoelde fonds toegeval het gedurende die jaar van aanslag in paragraaf (a) van hierdie voorbehoudsbepaling bedoel; en
- (d) 'n beslissing van die Kommissaris by die uitoefening van sy diskresie kragtens hierdie paragraaf aan beswaar en appèl onderhewig is;
- (h) deur paragraaf (f) van subartikel (1) deur die volgende paragraaf te vervang:
 - "(f) die ontvangste en toevallings van alle godsdienstige, liefdadigheids- en opvoedkundige inrigtings van 'n openbare aard, hetsy hulle geheel en al of ten dele deur toekennings uit staatsinkomste ondersteun word al dan nie **[en die ontvangste en toevallings van 'n fonds wat 'n geskrewe grondwet het of wat deur of ingevolge die testament van 'n oorlede persoon of deur 'n ander geskrewe stuk ingestel is, wat deur die Kommissaris vir die doeleindest van hierdie paragraaf goedgekeur is en wat ingevolge die bepalings van bedoelde grondwet, testament of ander geskrewe stuk, verplig is om soveel van sy netto inkomte (synde die bruto inkomste van die fonds min die koste van sy administrasie) as wat die Kommissaris gelas aan so 'n inrigting uit te keer: Met dien verstande dat—**
 - (i) die Kommissaris so 'n fonds kan goedkeur onderworpe aan die voorwaardes wat hy nodig ag om te verseker dat geen voordele deur die fonds toegeken word nie anders as vir godsdienstige, liefdadigheids- of opvoedkundige doeleindes tot voordeel van die algemene publiek;
 - (ii) die netto inkomte van so 'n fonds, tensy die Minister van Finansies in enige geval anders gelas, aangewend word vir die bevordering van sy oogmerke in die Republiek of in 'n land waarvan die gebied voorheen deel van die Republiek uitgemaak het;
 - (iii) geen sodanige fonds besigheid mag dryf nie, tensy die Kommissaris in enige geval anders gelas;
 - (iv) indien die Kommissaris daarvan oortuig is dat die administrator van so 'n fonds gedurende 'n jaar van aanslag versuim het om 'n voorwaarde wat ingevolge paragraaf (i) van hierdie voorbehoudsbepaling deur hom opgelê is, of die bepalings van paragraaf (ii) of (iii) van hierdie voorbehoudsbepaling, na te kom, hy sy goedkeuring van die fonds met ingang van die begin van daardie jaar van aanslag kan intrek; en
 - (v) 'n beslissing van die Kommissaris by die uitoefening van

<p>discretion under this paragraph shall be subject to objection and appeal];";</p> <p>(i) by the insertion after paragraph (f) of subsection (1) of the following paragraph:</p> <p><u>"(fA) the receipts and accruals of any fund the sole object of which is to provide funds for any religious, charitable or educational institution contemplated in paragraph (f), if such fund—</u></p>	5
<p>(i) has been approved by the Commissioner subject to such conditions as he may deem necessary to ensure that no benefits are allocated by the fund for purposes other than the provision of funds for a religious, charitable or educational institution contemplated in paragraph (f);</p>	10
<p>(ii) has submitted to the Commissioner a copy of the written constitution, will or any other written instrument under which it has been established and in terms of which it is—</p> <p>(aa) not permitted to distribute any of its funds to any person other than an institution contemplated in paragraph (f);</p>	15
<p>(bb) required to utilize its funds solely for the object for which it has been established or to invest such funds—</p> <p>(A) with a financial institution as defined in section 1 of the Financial Institutions (Investment of Funds) Act, 1984 (Act No. 39 of 1984);</p>	20
<p>(B) in securities listed on a licensed stock exchange as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985); or</p>	25
<p>(C) in such other financial instruments as the Commissioner may approve;</p>	30
<p>(cc) required to distribute, unless the Commissioner otherwise directs, at least 75 per cent of its net revenue (being the gross income of such fund less the costs of its administration) to any religious, charitable or educational institution contemplated in paragraph (f) within a period of 12 months from the end of the financial year during which such net revenue was derived;</p>	35
<p>(dd) required on dissolution to transfer its assets to any religious, charitable or educational institution which is exempt from tax under paragraph (f);</p>	40
<p>(ee) not permitted, except to the extent that the Commissioner directs, to carry on any business;</p>	45
<p>(ff) required to submit to the Commissioner a copy of any amendment to the constitution, will or other written instrument under which it was established;</p>	50
<p>(gg) not permitted to accept any donation which is not irrevocable and unconditional; and</p>	
<p>(hh) required to apply its net revenue, unless the Minister of Finance otherwise directs, for the furtherance of its sole object in the Republic or in any country the territory of which formerly formed part of the Republic:</p>	
<p>Provided that—</p> <p>(a) where such constitution, will or other written instrument does not comply with the provisions of this subparagraph, it shall be deemed so to comply if—</p> <p>(i) in the case of a fund established under the terms of a will; or</p>	55

**sy diskresie ingevolge hierdie paragraaf aan beswaar en
appèl onderworpe is];”;**

- (i) deur die volgende paragraaf na paragraaf (f) van subartikel (1) in te voeg:
“(fA) die ontvangste en toevaltings van ’n fonds waarvan die enigste oogmerk is om fondse aan enige godsdienstige, liefdadigheds- of opvoedkundige inrigting beoog in paragraaf (f) te verskaf, indien bedoelde fonds—
- (i) deur die Kommissaris goedgekeur is onderworpe aan die voorwaardes wat hy nodig ag om te verseker dat geen voordele deur die fonds toegeken word nie behalwe vir doeleindes van die verskaffing van fondse aan ’n godsdienstige, liefdadigheds- of opvoedkundige inrigting in paragraaf (f) beoog;
- (ii) by die Kommissaris ’n afskrif ingestel is van die geskrewe konstitusie, testament of enige ander geskrewe stuk waarkragtens dit ingestel is en ingevolge waarvan dit—
 (aa) nie bevoeg is om enige van sy fondse aan enige persoon uit te keer nie anders as aan ’n inrigting soos in paragraaf (f) beoog;
- (bb) verplig is om sy fondse uitsluitlik aan te wend vir die oogmerk waarvoor dit ingestel is of om bedoelde fondse te belê—
 (A) by ’n finansiële instelling soos omskryf in artikel 1 van die Wet op Finansiële Instellings (Belegging van Fondse), 1984 (Wet No. 39 van 1984);
 (B) in effekte genoteer op ’n gelisensieerde effektebeurs soos omskryf in artikel 1 van die Wet op Beheer van Effektebeurse, 1985 (Wet No. 1 van 1985); of
 (C) in die ander finansiële instrumente wat die Kommissaris mag goedkeur;
- (cc) verplig is om, tensy die Kommissaris anders gelas, ten minste 75 persent van sy netto inkomte (synde die bruto inkomste van bedoelde fonds min die koste van sy administrasie) aan ’n godsdienstige, liefdadigheds- of opvoedkundige inrigting beoog in paragraaf (f) uit te keer binne ’n tydperk van 12 maande vanaf die einde van die finansiële jaar waartydens bedoelde netto inkomte verkry is;
- (dd) verplig is om by ontbinding sy bates aan enige godsdienstige, liefdadigheds- of opvoedkundige inrigting oor te dra wat kragtens paragraaf (f) van belasting vrygestel is;
- (ee) nie bevoeg is om, behalwe vir sover die Kommissaris gelas, ’n besigheid te dryf nie;
- (ff) verplig is om ’n afskrif van enige wysiging aan die konstitusie, testament of ander geskrewe stuk waarkragtens dit ingestel is, aan die Kommissaris te verstrek;
- (gg) nie bevoeg is om ’n skenking wat nie onherroeplik en onvoorwaardelik is nie, te aanvaar nie; en
- (hh) verplig is om sy netto inkomte, tensy die Minister van Finansies anders gelas, aan te wend ter bevordering van sy enigste oogmerk in die Republiek of in ’n land waarvan die gebied voorheen deel van die Republiek uitgemaak het:
- Met dien verstande dat—
- (a) waar bedoelde konstitusie, testament of ander geskrewe stuk nie aan die bepaling van hierdie subparagraaf voldoen nie, dit geag word aldus te voldoen indien—
 (i) in die geval van ’n fonds ingestel kragtens die bepaling van ’n testament; of

- (ii) in the case of a fund established prior to 21 June 1993 under a constitution or other written instrument which cannot be amended to comply with the said provisions,
 the trustee of the fund furnishes the Commissioner with a written undertaking that the fund will be administered in compliance with the said provisions; and
- (b) notwithstanding the provisions of items (bb) and (ee), any asset or business undertaking acquired by such fund by way of donation, inheritance or bequest, may be retained or continued, as the case may be, in the form so acquired:
- Provided that—
- (a) where the Commissioner is satisfied that any such fund has during any year of assessment failed to comply with the provisions of this paragraph, he may withdraw his approval of the fund with effect from the commencement of that year of assessment;
- (b) where the Commissioner has withdrawn his approval of such fund, it shall, within two months from the date of such withdrawal, transfer, or take reasonable steps to transfer, its remaining assets to any religious, charitable or educational institution which is exempt from tax under paragraph (f);
- (c) where a fund fails to transfer, or take reasonable steps to transfer, its remaining assets as contemplated in paragraph (b) of this proviso, the accumulated net revenue which has not been distributed shall be deemed for the purposes of this Act to be an amount of taxable income which accrued to such fund during the year of assessment referred to in paragraph (a) of this proviso; and
- (d) any decision of the Commissioner in the exercise of his discretion under this paragraph shall be subject to objection and appeal;”;
- (j) by the deletion of the word “and” at the end of paragraph (i) of the proviso to paragraph (hA) of subsection (1);
- (k) by the addition of the word “and” at the end of paragraph (ii) of the proviso to paragraph (hA) of subsection (1);
- (l) by the addition to the proviso to paragraph (hA) of subsection (1) of the following paragraph:
- “(iii) for the purposes of this paragraph, so much of any dividend as has been distributed by any unit portfolio constituting a company in terms of paragraph (e) of the definition of ‘company’ in section 1 out of interest derived by such unit portfolio which is exempt from tax in the hands of such unit portfolio under the provisions of paragraph (iA), shall be deemed to be interest;”;
- (m) by the substitution for paragraph (bb) of the proviso to subparagraph (i) of paragraph (k) of subsection (1) of the following paragraph:
- “(bb) to so much of any dividend as has been distributed by any unit portfolio constituting a company in terms of paragraph (e) of the definition of ‘company’ in section 1—
- (A) out of interest derived by such unit portfolio which is exempt from tax in the hands of such unit portfolio under the provisions of paragraph (iA); and
- (B) out of amounts received by or accrued to such unit portfolio by way of dividends referred to in section 11(s);”;
- (n) by the addition to paragraph (t) of subsection (1) of the following subparagraph:
- “(xv) of a recognized company as contemplated in section 2 of the Provision of Special Funds for Tertiary Training and Education Act, 1993, which has been approved by the Commissioner;”;

- (ii) in die geval van 'n fonds ingestel voor 21 Junie 1993 kragtens 'n konstitusie of ander geskrewe stuk wat nie gewysig kan word om aan genoemde bepalings te voldoen nie,
 5 die trustee van die fonds 'n geskrewe onderneming aan die Kommissaris verstrek dat die fonds ooreenkomsdig genoemde bepalings geadministreer sal word; en
 10 (b) ondanks die bepalings van items (bb) en (ee), enige bate of sake-onderneming deur bedoelde fonds verkry by wyse van skenking, erflating of bemaking, behou of voortgesit kan word, na gelang van die geval, in die vorm aldus verkry:
- Met dien verstande dat—
- (a) waar die Kommissaris oortuig is dat enige bedoelde fonds gedurende 'n jaar van aanslag versuim het om aan die bepalings van hierdie paragraaf te voldoen, hy sy goedkeuring van die fonds met ingang van die begin van daardie jaar van aanslag kan intrek;
- (b) waar die Kommissaris sy goedkeuring van bedoelde fonds ingetrek het, dit binne twee maande vanaf die datum van bedoelde intrekking sy oorblywende bates moet oordra, of redelike stappe moet doen om sodanige bates oor te dra, aan enige godsdienstige, liefdadigheids- of opvoedkundige inrigting wat kragtens paragraaf (f) van belasting vrygestel is;
- (c) waar 'n fonds versuim om sy oorblywende bates soos beoog in paragraaf (b) van hierdie voorbehoudsbepaling oor te dra of redelike stappe te doen om sodanige bates oor te dra, die opgehoopte netto inkomste wat nie uitgekeer is nie by die toepassing van hierdie Wet geag word 'n bedrag aan belasbare inkomste te wees wat bedoelde fonds toegeval het gedurende die jaar van aanslag in paragraaf (a) van hierdie voorbehoudsbepaling bedoel; en
- (d) 'n beslissing van die Kommissaris bý die uitoefening van sy diskresie kragtens hierdie paragraaf aan beswaar en appèl onderhewig is";
- (j) deur die woord "en" aan die einde van paragraaf (i) van die voorbehoudsbepaling by paragraaf (hA) van subartikel (1) te skrap;
- (k) deur die woord "en" aan die einde van paragraaf (ii) van die voorbehoudsbepaling by paragraaf (hA) van subartikel (1) by te voeg;
- (l) deur die volgende paragraaf by die voorbehoudsbepaling by paragraaf (hA) van subartikel (1) te voeg:
 45 "(iii) by die toepassing van hierdie paragraaf, soveel van 'n dividend as wat deur 'n effektegroep wat ingevolge paragraaf (e) van die omskrywing van 'maatskappy' in artikel 1 'n maatskappy is, uitgekeer is uit rente deur sodanige effektegroep verkry wat ingevolge die bepalings van paragraaf (iA) in die hande van daardie effektegroep van belasting vrygestel is, geag word 'n bedrag aan rente te wees';"
- 50 (m) deur paragraaf (bb) van die voorbehoudsbepaling by subparagraph (i) van paragraaf (k) van subartikel (1) deur die volgende paragraaf te vervang:
 "bb) op soveel van 'n dividend as wat deur 'n effektegroep wat ingevolge paragraaf (e) van die omskrywing van 'maatskappy' in artikel 1 'n maatskappy is, uitgekeer is—
 55 (A) uit rente deur sodanige effektegroep verkry wat ingevolge die bepalings van paragraaf (iA) in die hande van daardie effektegroep van belasting vrygestel is; en
 (B) uit bedrae deur sodanige effektegroep ontvang of aan hom toegeval by wyse van dividende in artikel 11(s) bedoel";
- 60 (n) deur die volgende subparagraph by paragraaf (t) van subartikel (1) te voeg:
 "xv) van 'n erkende maatskappy soos beoog in artikel 2 van die Wet op die Voorsiening van Spesiale Fondse vir Tertiére Onderwys en Opleiding, 1993, wat deur die Kommissaris goedgekeur is";

- (o) by the substitution for subparagraph (ii) of paragraph (w) of subsection (1) of the following subparagraph:
- (ii) such loan or deposit has been made for the purposes of any business carried on by such person or company outside the Republic or [that] such loan or deposit was made by such person before he became ordinarily resident in the Republic for the first time, out of funds which were derived by such person entirely from sources outside the Republic; and";
- (p) by the addition of the word "or" at the end of paragraph (iii) of the first proviso to paragraph (x) of subsection (1); and
- (q) by the addition to the first proviso to paragraph (x) of subsection (1) of the following paragraph:
- (iv) the termination or impending termination of such person's services is due to his employer having ceased to carry on or intending to cease carrying on the trade in respect of which such person was employed or to such person having become redundant in consequence of his employer having effected a general reduction in personnel or a reduction in personnel of a particular class and, where such person's employer is a company, such person was not at any time a director of such company and did not at any time hold more than five per cent of the issued share capital or members' interest in such company:".
- (2)(a) Subsection (1)(j), (k) and (l) shall be deemed to have come into operation on 3 June 1992 and shall apply to any amount received or accrued on or after that date.
- (b) Subsection (1)(n) shall come into operation on the date on which section 2 of the Provision of Special Funds for Tertiary Training and Education Act, 1993, comes into operation.
- (c) Subsection (1)(p) and (q) shall be deemed to have come into operation on 1 March 1992 and shall apply to any amount received or accrued on or after that date.

Amendment of section 10A of Act 58 of 1962, as inserted by section 8 of Act 65 of 1973 and amended by section 11 of Act 85 of 1974

8. Section 10A of the principal Act is hereby amended—
- (a) by the substitution for the definition of "annuity amount" in subsection (1) of the following definition:
- " 'annuity amount' means an amount payable by way of annuity under an annuity contract and any amount payable in consequence of the commutation or termination of any such annuity contract;";
- (b) by the addition of the word "or" at the end of paragraph (b) of subsection (3); and
- (c) by the addition to subsection (3) of the following paragraph:
- "(c) where such annuity amount is payable in consequence of the commutation or termination of the annuity contract concerned, an amount determined in accordance with the formula
- $$X = A - D$$
- in which formula—
- (i) 'X' represents the amount to be determined;
- (ii) 'A' represents the amount of the total cash consideration given by the purchaser under the annuity contract concerned as contemplated in paragraph (b) of the definition of 'annuity contract' in subsection (1); and
- (iii) 'D' represents the sum of the amounts determined in accordance with paragraphs (a) and (b) as representing the capital element of all annuity amounts payable under the annuity contract prior to the commutation or termination thereof.".

- (o) deur subparagraaf (ii) van paragraaf (w) van subartikel (1) deur die volgende subparagraaf te vervang:
- “(ii) sodanige lening of deposito gemaak is vir die doeleinnes van 'n besigheid deur bedoelde persoon of maatskappy buite die Republiek gedryf of **[dat]** sodanige lening of deposito deur bedoelde persoon gemaak is voordat hy vir die eerste maal gewoonlik in die Republiek woonagtig geword het, uit fondse wat deur bedoelde persoon geheel en al uit bronne buite die Republiek verkry is; en”;
- (p) deur die woord “of” aan die einde van paragraaf (iii) van die eerste voorbehoudsbepaling by paragraaf (x) van subartikel (1) by te voeg; en
- (q) deur die volgende paragraaf by die eerste voorbehoudsbepaling by paragraaf (x) van subartikel (1) te voeg:
- “(iv) die beëindiging of naderende beëindiging van sodanige persoon se dienste daarvan te wyte is dat sy werkewer opgehou het of van voorneme is om op te hou om die bedryf te beoefent ten opsigte waarvan sodanige persoon in diens was of dat sodanige persoon oorbodig geword het omrede sy werkewer 'n algemene vermindering in personeel of 'n vermindering in personeel van 'n bepaalde klas ingestel het en, waar sodanige persoon se werkewer 'n maatskappy is, sodanige persoon nie te eniger tyd 'n direkteur van sodanige maatskappy was nie en nie te eniger tyd meer as vyf persent van die uitgerekte aandelekapitaal of ledebelang in sodanige maatskappy gehou het nie.”.
- (2)(a) Subartikel (1)(j), (k) en (l) word geag op 3 Junie 1992 in werking te getree het en is van toepassing op enige bedrag wat op of na daardie datum ontvang is of toeval.
- (b) Subartikel (1)(n) tree in werking op die datum van inwerkingtreding van artikel 2 van die Wet op die Voorsiening van Spesiale Fondse vir Tertiêre Onderwys en Opleiding, 1993.
- (c) Subartikel (1)(p) en (q) word geag op 1 Maart 1992 in werking te getree het en is van toepassing op enige bedrag wat op of na daardie datum ontvang is of toeval.

35 Wysiging van artikel 10A van Wet 58 van 1962, soos ingevoeg deur artikel 8 van Wet 65 van 1973 en gewysig deur artikel 11 van Wet 85 van 1974

8. Artikel 10A van die Hoofwet word hierby gewysig—

- (a) deur die omskrywing van “jaargeldbedrag” in subartikel (1) deur die volgende omskrywing te vervang:
- “'jaargeldbedrag' 'n bedrag wat betaalbaar is by wyse van 'n jaargeld ingevolge 'n jaargeldkontrak en enige bedrag betaalbaar as gevolg van die omsetting of beëindiging van enige bedoelde jaargeldkontrak;”;
- (b) deur die woord “of” aan die einde van paragraaf (b) van subartikel (3) by te voeg; en
- (c) deur die volgende paragraaf by subartikel (3) te voeg:
- “(c) waar bedoelde jaargeldbedrag betaalbaar is as gevolg van die omsetting of beëindiging van die betrokke jaargeldkontrak, 'n bedrag vasgestel ooreenkomsdig die formule
- $$X = A - D$$
- in welke formule—
- (i) 'X' die bedrag voorstel wat vasgestel moet word;
- (ii) 'A' die bedrag van die totale kontantvergoeding voorstel wat deur die koper ingevolge die betrokke jaargeldkontrak gegee word soos in paragraaf (b) van die omskrywing van 'jaargeldkontrak' in subartikel (1) beoog; en
- (iii) 'D' die som van die bedrae vasgestel ooreenkomsdig paragrawe (a) en (b) voorstel wat die kapitaalelement van alle jaargeldbedrae betaalbaar kragtens die jaargeldkontrak voor die omsetting of beëindiging daarvan, verteenvoorlig.”.

Amendment of section 11 of Act 58 of 1962, as amended by section 9 of Act 90 of 1962, section 8 of Act 72 of 1963, section 9 of Act 90 of 1964, section 11 of Act 88 of 1965, section 12 of Act 55 of 1966, section 11 of Act 95 of 1967, section 9 of Act 76 of 1968, section 14 of Act 89 of 1969, section 10 of Act 52 of 1970, section 10 of Act 88 of 1971, section 8 of Act 90 of 1972, section 9 of Act 65 of 1973, section 12 of Act 85 of 1974, section 9 of Act 69 of 1975, section 9 of Act 113 of 1977, section 5 of Act 101 of 1978, section 8 of Act 104 of 1979, section 8 of Act 104 of 1980, section 9 of Act 96 of 1981, section 7 of Act 91 of 1982, section 10 of Act 94 of 1983, section 11 of Act 121 of 1984, section 46 of Act 97 of 1986, section 10 of Act 85 of 1987, section 8 of Act 90 of 1988, section 8 of Act 70 of 1989, section 11 of Act 101 of 1990, section 13 of Act 129 of 1991 and section 11 of Act 141 of 1992

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9. (1) Section 11 of the principal Act is hereby amended—

- (a) by the addition to the proviso to paragraph (e) of the following paragraph:**

“(viii) where in respect of any machinery, implement, utensil or article acquired by the taxpayer on or after 21 June 1993, a deduction or allowance was previously granted to a connected person in relation to the taxpayer under this paragraph or section 12B(1) or 12C(1), or under section 27(2)(d) prior to the deletion thereof by section 28(b) of the Income Tax Act, 1991 (Act No. 129 of 1991), the allowance under this paragraph shall be calculated on the lesser of the cost of such machinery, implement, utensil or article to such connected person or the market value thereof as determined on the date upon which it was acquired by the taxpayer;”;

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- (b) by the substitution for subparagraph (iii) of paragraph (gA) of the following subparagraph:**

“(iii) in acquiring by assignment from any other person any such patent, design, trade mark or copyright or in acquiring any other property [which in the opinion of the Commissioner is] of a similar nature or any knowledge connected with the use of such patent, design, trade mark, copyright or other property or the right to have such knowledge imparted;”;

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- (c) by the substitution for the words preceding subparagraph (A) of paragraph (cc) of the proviso to paragraph (gA) of the following words:**

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“no allowance shall be made in respect of any such invention, patent, design, trade mark, copyright or other property or knowledge so acquired or obtained by the taxpayer on or after 24 June 1988, but prior to 1 July 1993 from any other person who is a resident of the Republic or a neighbouring country (or, in the case of a company, a domestic company or a company incorporated, managed or controlled in a neighbouring country), if—”;

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- (d) by the addition to the proviso to paragraph (gA) of the following paragraph:**

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“(dd) where any such invention, patent, design, trade mark, copyright or other property or knowledge was so acquired or obtained by the taxpayer on or after 1 July 1993 from any other person who is a resident of the Republic or a neighbouring country (or, in the case of a company, a domestic company or a company incorporated, managed or controlled in a neighbouring country), and who is a connected person in relation to the taxpayer, the allowance under this paragraph shall be calculated on the lesser of the cost of such invention, patent, design, trade mark, copyright or other property or knowledge to such connected person or the market value thereof as determined on the date upon which such invention, patent, design, trade mark, copyright

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Wysiging van artikel 11 van Wet 58 van 1962, soos gewysig deur artikel 9 van Wet 90 van 1962, artikel 8 van Wet 72 van 1963, artikel 9 van Wet 90 van 1964, artikel 11 van Wet 88 van 1965, artikel 12 van Wet 55 van 1966, artikel 11 van Wet 95 van 1967, artikel 9 van Wet 76 van 1968, artikel 14 van Wet 89 van 1969, artikel 10 van Wet 52 van 1970, artikel 10 van Wet 88 van 1971, artikel 8 van Wet 90 van 1972, artikel 9 van Wet 65 van 1973, artikel 12 van Wet 85 van 1974, artikel 9 van Wet 69 van 1975, artikel 9 van Wet 113 van 1977, artikel 5 van Wet 101 van 1978, artikel 8 van Wet 104 van 1979, artikel 8 van Wet 104 van 1980, artikel 9 van Wet 96 van 1981, artikel 7 van Wet 91 van 1982, artikel 10 van Wet 94 van 1983, artikel 11 van Wet 121 van 1984, artikel 46 van Wet 97 van 1986, artikel 10 van Wet 85 van 1987, artikel 8 van Wet 90 van 1988, artikel 8 van Wet 70 van 1989, artikel 11 van Wet 101 van 1990, artikel 13 van Wet 129 van 1991 en artikel 11 van Wet 141 van 1992

9. (1) Artikel 11 van die Hoofwet word hierby gewysig—
- 15 (a) deur die volgende paragraaf by die voorbehoudsbepaling by paragraaf (e) te voeg:
- “(viii) waar ten opsigte van enige masjinerie, gereedskap, werktuig of artikel deur die belastingpligtige op of na 21 Junie 1993 verkry, 'n aftrekking of vermindering voorheen aan 'n verbonde persoon met betrekking tot die belastingpligtige ingevolge hierdie paragraaf of artikel 12B(1) of 12C(1), of ingevolge artikel 27(2)(d) voor die skrapping daarvan deur artikel 28(b) van die Inkomstebelastingwet, 1991 (Wet No. 129 van 1991), toegestaan is, word die vermindering ingevolge hierdie paragraaf bereken op die minste van die koste van daardie masjinerie, gereedskap, werktuig of artikel vir bedoelde verbonde persoon of die markwaarde daarvan soos bepaal op die datum waarop dit deur die belastingpligtige verkry is;”;
- 20 (b) deur subparagraph (iii) van paragraaf (gA) deur die volgende subparagraph te vervang:
- “(iii) by die verkryging van so 'n patent, model, handelsmerk of outeursreg by sessie van 'n ander persoon of by die verkryging van enige ander goed [wat volgens die Kommissaris se oordeel] van 'n soortgelyke aard [is] of enige kennis wat in verband staan met die gebruik van sodanige patent, model, handelsmerk, outeursreg of ander goed of die reg om daardie kennis meegedeel te word;”;
- 25 (c) deur die woorde wat subparagraph (A) van paragraaf (cc) van die voorbehoudsbepaling by paragraaf (gA) voorafgaan deur die volgende woorde te vervang:
- “geen vermindering toegestaan word nie ten opsigte van bedoelde uitvinding, patent, model, handelsmerk, outeursreg of ander goed of kennis wat aldus op of na 24 Junie 1988, maar voor 1 Julie 1993 deur die belastingpligtige aangeskaf of verkry is van 'n ander persoon wat in die Republiek of 'n buurstaat woonagtig is (of, in die geval van 'n maatskappy, 'n binnelandse maatskappy of 'n maatskappy wat in 'n buurstaat ingelyf is of bestuur of beheer word), indien—”;
- 30 (d) deur die volgende paragraaf by die voorbehoudsbepaling by paragraaf (gA) te voeg:
- “(dd) waar bedoelde uitvinding, patent, model, handelsmerk, outeursreg of ander goed of kennis wat aldus op of na 1 Julie 1993 deur die belastingpligtige verkry of bekom is van 'n ander persoon wat in die Republiek of 'n buurstaat woonagtig is (of, in die geval van 'n maatskappy, 'n binnelandse maatskappy of 'n maatskappy wat in 'n buurstaat ingelyf is of bestuur of beheer word), en wat 'n verbonde persoon met betrekking tot die belastingpligtige is, word die vermindering kragtens hierdie paragraaf bereken op die minste van die koste van bedoelde uitvinding, patent, model, handelsmerk, outeursreg of ander goed of kennis vir bedoelde verbonde persoon of die markwaarde daarvan soos bepaal op die datum waarop bedoelde

- or other property or knowledge was acquired or obtained by the taxpayer;”;
- (e) by the substitution for paragraph (i) of the following paragraph:
- “(i) the amount of any debts due to the taxpayer [to the extent to which [they are proved to the satisfaction of the Commissioner to be] have during the year of assessment become bad, provided such amount is included in the current year of assessment or was included in previous years of assessment in the taxpayer’s income;”;
- (f) by the substitution for subparagraph (ii) of paragraph (m) of the following subparagraph:
- “(ii) to a person who was for a period of at least five years a partner in an undertaking carried on by the taxpayer and who retired from the partnership in respect of that undertaking on grounds of old age, ill health or infirmity, provided [the Commissioner is satisfied] that the amount so paid to such person is reasonable, having regard to the services rendered by such person as a partner in such undertaking prior to his retirement and the profits made in such undertaking, and that the said amount does not represent consideration payable to such person in respect of his interest in the partnership; or”; 20
- (g) by the substitution for item (A) of subparagraph (aa) of paragraph (n) of the following item:
- “(A) 15 per cent of an amount equal to the amount remaining after deducting from the income derived by the taxpayer during the year of assessment (excluding income derived from any retirement-funding employment (being the income or part thereof referred to in the definition of ‘retirement-funding employment’ in section 1)) the deductions admissible against such income under this Act (excluding this paragraph, sections 17A, 18, 18A 25 and 19(3) of this Act and paragraph 12(1)(c) to [(j)] (i), inclusive, of the First Schedule); or”; 30
- (h) by the substitution for paragraph (ii) of the proviso to subparagraph (bb) of paragraph (n) of the following paragraph:
- “(ii) the deductions in terms of subparagraph (aa) shall not exceed an amount equal to the amount remaining after deducting from the income derived by the taxpayer during the year of assessment the deductions admissible against such income under this Act (excluding the said subparagraph, sections 17A and 19(3) of this Act and paragraph 12(1)(c) to [(j)] (i), 40 inclusive, of the First Schedule);”; 45
- (i) by the substitution for the words preceding the proviso to paragraph (q) of the following words:
- “save as provided in paragraph 12(2) of the First Schedule, if [the Commissioner is satisfied that] expenditure of a capital nature (other than expenditure in respect of which any deduction or allowance has been or will be granted under any other provision of this Act) has been incurred by a taxpayer for the purpose of scientific research undertaken by him for the development of his business, and the Council for Scientific and Industrial Research certifies to the Commissioner that during the year of assessment in question such research was carried on and was financed by such expenditure, an amount in respect of the year of assessment in which such research commenced and of any succeeding year of assessment calculated at the rate of 25 per cent of such expenditure.”; and 50
- (j) by the substitution for the words preceding subparagraph (aa) of paragraph (ii) of the proviso to paragraph (u) of the following words:
- “no deduction shall be made under this paragraph in respect of any 55

- uitvinding, patent, model, handelsmerk, outeursreg of ander goed of kennis deur die belastingpligtige verkry of bekom is;”;
- (e) deur paragraaf (i) deur die volgende paragraaf te vervang:
- “(i) die bedrag van enige skulde aan die belastingpligtige verskuldig [vir sover daar tot bevrediging van die Kommissaris bewys gelewer is dat hulle] wat gedurende die jaar van aanslag oninbaar [is] geword het, mits sodanige bedrag in die lopende jaar van aanslag by die belastingpligtige se inkomste ingesluit is of in vorige jare van aanslag daarby ingesluit was;”;
- (f) deur subparagraph (ii) van paragraaf (m) deur die volgende subparagraph te vervang:
- “(ii) aan 'n persoon wat vir 'n tydperk van minstens vyf jaar 'n vennoot was in 'n onderneming deur die belastingpligtige bedryf en wat uit die vennootskap ten opsigte van daardie onderneming op grond van ouderdom, swak gesondheid of ander gebrek getree het, mits [die Kommissaris oortuig is dat] die bedrag aan bedoelde persoon aldus betaal redelik is, met inagneming van die dienste deur bedoelde persoon as 'n vennoot in bedoelde onderneming voor sy aftrede gelewer en die winste deur die onderneming gemaak, en [dat] genoemde bedrag nie vergoeding aan bedoelde persoon ten opsigte van sy belang in die vennootskap verteenwoordig nie; of”;
- (g) deur item (A) van subparagraph (aa) van paragraaf (n) deur die volgende item te vervang:
- “(A) 15 persent van 'n bedrag gelykstaande met die bedrag wat oorbly na aftrekking van die inkomste deur die belastingpligtige gedurende die jaar van aanslag verkry (uitgesonderd inkomste verkry uit enige uittredingfunderingsdiens (synde die inkomste of gedeelte daarvan bedoel in die omskrywing van 'uittredingfunderingsdiens' in artikel 1)) van die aftrekkings wat teen daardie inkomste ingevolge hierdie Wet (behalwe hierdie paragraaf, artikels 17A, 18, 18A en 19(3) van hierdie Wet en paragraaf 12(1)(c) tot en met [(j)] (i) van die Eerste Bylae) toelaatbaar is; of”;
- (h) deur paragraaf (ii) van die voorbehoudsbepaling by subparagraph (bb) van paragraaf (n) deur die volgende paragraaf te vervang:
- “(ii) die aftrekkings ingevolge subparagraph (aa) nie meer mag bedra nie as 'n bedrag gelyk aan die bedrag wat oorbly na aftrekking van die inkomste deur die belastingpligtige gedurende die jaar van aanslag verkry, van die aftrekkings wat teen daardie inkomste ingevolge hierdie Wet (behalwe genoemde subparagraph, artikels 17A en 19(3) van hierdie Wet en paragraaf 12(1)(c) tot [(j)] en met (i) van die Eerste Bylae) toelaatbaar is;”;
- (i) deur die woorde wat die voorbehoudsbepaling by paragraaf (q) voorafgaan deur die volgende woorde te vervang:
- “behoudens die bepalings van paragraaf 12(2) van die Eerste Bylae, indien [die Kommissaris oortuig is dat] die belastingpligtige onkoste van 'n kapitale aard (behalwe onkoste ten opsigte waarvan 'n aftrekking of vermindering ingevolge 'n ander bepaling van hierdie Wet toegestaan is of sal word) aangegaan het vir wetenskaplike navorsing wat hy ter ontwikkeling van sy besigheid onderneem het, en die Wetenskaplike en Nywerheidnavorsingsraad aan die Kommissaris sertifiseer dat sodanige navorsing gedurende die betrokke jaar van aanslag voortgesit is en deur bedoelde onkoste gefinansier is, 'n bedrag ten opsigte van die jaar van aanslag waarin met die navorsing begin is en van enige daaropvolgende jaar van aanslag, bereken teen die skaal van 25 persent van bedoelde koste;”; en
- (j) deur die woorde wat subparagraph (aa) van paragraaf (ii) van die voorbehoudsbepaling by paragraaf (u) voorafgaan deur die volgende woorde te vervang:
- “geen aftrekking ingevolge hierdie paragraaf gemaak word nie ten

<p>such expenditure as is incurred in connection with any employment or office in respect of which the taxpayer derives remuneration as defined in paragraph 1 of the Fourth Schedule or any amount referred to in paragraph [(iv) or] (vii) of that definition, unless—”.</p> <p>(2)(a) Subsection (1)(a) shall be deemed to have come into operation on 21 June 1993. 5</p> <p>(b) Subsection (1)(c) and (d) shall be deemed to have come into operation on 1 July 1993.</p>	
Amendment of section 12B of Act 58 of 1962, as inserted by section 11 of Act 90 of 1988 and amended by section 13 of Act 101 of 1990	10
10.(1) Section 12B of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (4A) of the following paragraph:	
“(b) such asset was previously brought into use by any connected person [(as defined in section 12C(6))] in relation to such person; and”.	15
(2) Subsection (1) shall be deemed to have come into operation on 21 June 1993 and shall apply to any asset acquired on or after that date.	
Amendment of section 12C of Act 58 of 1962, as inserted by section 14 of Act 101 of 1990	
11.(1) Section 12C of the principal Act is hereby amended by the deletion of subsection (6). 20	
(2) Subsection (1) shall be deemed to have come into operation on 21 June 1993 and shall apply to any asset acquired on or after that date.	
Amendment of section 13 of Act 58 of 1962, as amended by section 12 of Act 90 of 1962, section 5 of Act 6 of 1963, section 11 of Act 72 of 1963, section 12 of Act 90 of 1964, section 14 of Act 88 of 1965, section 17 of Act 55 of 1966, section 13 of Act 52 of 1970, section 13 of Act 88 of 1971, section 12 of Act 90 of 1972, section 13 of Act 65 of 1973, section 16 of Act 85 of 1974, section 13 of Act 69 of 1975, section 7 of Act 101 of 1978, section 10 of Act 104 of 1980, section 14 of Act 96 of 1981, section 10 of Act 96 of 1985, section 12 of Act 85 of 1987 and section 12 of Act 90 of 1988	25
12. Section 13 of the principal Act is hereby amended by the deletion of subsections (4), (4) <i>bis</i> , (5), (6), (6A), (7) and (7A).	30
Amendment of section 13bis of Act 58 of 1962, as inserted by section 15 of Act 88 of 1965 and amended by section 18 of Act 55 of 1966, section 14 of Act 95 of 1967, section 14 of Act 88 of 1971, section 14 of Act 69 of 1975, section 13 of Act 94 of 1983, section 46 of Act 97 of 1986 and section 13 of Act 90 of 1988	35
13. (1) Section 13bis of the principal Act is hereby amended—	
(a) by the substitution for the words preceding subparagraph (aa) of paragraph (d) of subsection (1) of the following word:	
“as [the Commissioner is satisfied]—”;	40
(b) by the substitution for paragraph (e) of subsection (1) of the following paragraph:	
“(e) of such portion of any building improvements (other than repairs and other than improvements in respect of the cost of which, or of any portion thereof, an allowance under the preceding provisions of this subsection is or was deductible from the income of the taxpayer for the current or any previous year of assessment) commenced on or after 1 January 1964, as [the Commissioner is satisfied] was during the year of assessment in question used by the taxpayer for the purposes of his trade of hotelkeeper or was during the year of assessment in question let by the taxpayer and used by the lessee for the purposes of the lessee’s trade of hotelkeeper, provided the building (or a portion	45
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opsigte van enige sodanige onkoste wat in verband met 'n diens of amp aangegaan word ten opsigte waarvan die belastingpligtige besoldiging soos in paragraaf 1 van die Vierde Bylae omskryf of 'n bedrag in paragraaf **[(iv) of]** (vii) van daardie omskrywing beoog, verkry, tensy—".

- 5 (2)(a) Subartikel (1)(a) word geag op 21 Junie 1993 in werking te getree het.
 (b) Subartikel (1)(c) en (d) word geag op 1 Julie 1993 in werking te getree het.

Wysiging van artikel 12B van Wet 58 van 1962, soos ingevoeg deur artikel 11 van Wet 90 van 1988 en gewysig deur artikel 13 van Wet 101 van 1990

- 10 10. (1) Artikel 12B van die Hoofwet word hierby gewysig deur paragraaf (b) van subartikel (4A) deur die volgende paragraaf te vervang:
 " (b) daardie bate voorheen deur 'n verbonde persoon **[(soos omskryf in artikel 12C(6))]** met betrekking tot daardie persoon in gebruik geneem is; en".
 15 (2) Subartikel (1) word geag op 21 Junie 1993 in werking te getree het en is van toepassing op enige bate wat op of na daardie datum verkry is.

Wysiging van artikel 12C van Wet 58 van 1962, soos ingevoeg deur artikel 14 van Wet 101 van 1990

11. (1) Artikel 12C van die Hoofwet word hierby gewysig deur subartikel (6) te skrap.
 20 (2) Subartikel (1) word geag op 21 Junie 1993 in werking te getree het en is van toepassing op enige bate wat op of na daardie datum verkry is.

Wysiging van artikel 13 van Wet 58 van 1962, soos gewysig deur artikel 12 van Wet 90 van 1962, artikel 5 van Wet 6 van 1963, artikel 11 van Wet 72 van 1963, artikel 12 van Wet 90 van 1964, artikel 14 van Wet 88 van 1965, artikel 17 van Wet 55 van 1966, artikel 13 van Wet 52 van 1970, artikel 13 van Wet 88 van 1971, artikel 12 van Wet 90 van 1972, artikel 13 van Wet 65 van 1973, artikel 16 van Wet 85 van 1974, artikel 13 van Wet 69 van 1975, artikel 7 van Wet 101 van 1978, artikel 10 van Wet 104 van 1980, artikel 14 van Wet 96 van 1981, artikel 10 van 25 Wet 96 van 1985, artikel 12 van Wet 85 van 1987 en artikel 12 van Wet 90 van 1988

- 30 12. Artikel 13 van die Hoofwet word hierby gewysig deur subartikels (4), (4)*bis*, (5), (6), (6A), (7) en (7A) te skrap.

Wysiging van artikel 13*bis* van Wet 58 van 1962, soos ingevoeg deur artikel 15 van 35 Wet 88 van 1965 en gewysig deur artikel 18 van Wet 55 van 1966, artikel 14 van Wet 95 van 1967, artikel 14 van Wet 88 van 1971, artikel 14 van Wet 69 van 1975, artikel 13 van Wet 94 van 1983, artikel 46 van Wet 97 van 1986 en artikel 13 van Wet 90 van 1988

- 40 13.(1) Artikel 13*bis* van die Hoofwet word hierby gewysig—
 (a) deur die woorde wat subparagraph (aa) van paragraaf (d) van subartikel (1) voorafgaan deur die volgende woord te vervang:
 "wat **[volgens oortuiging van die Kommissaris]**—";
 (b) deur paragraaf (e) van subartikel (1) deur die volgende paragraaf te vervang:
 45 "(e) van die gedeelte van enige gebouverbeterings (behalwe herstelwerk en behalwe verbeterings ten opsigte van die koste waarvan, of van 'n gedeelte daarvan, 'n vermindering ingevolge die voorgaande bepalings van hierdie subartikel van die belastingpligtige se inkomste vir die lopende of 'n vorige jaar van aanslag afgetrek kan of kon word) wat op of na 1 Januarie 1964 begin is, wat **[volgens oortuiging van die Kommissaris]** gedurende die betrokke jaar van aanslag deur die belastingpligtige vir doeleindes van sy bedryf van hotelhouer gebruik is of gedurende die betrokke jaar van aanslag deur die belastingpligtige verhuur is en deur die huurder vir doeleindes van die huurder se bedryf

thereof) to which such improvements were effected was during the year of assessment in question registered as an hotel under the Hotels Act, 1965.”; and

(c) by the addition to subsection (1) of the following further proviso:

“Provided further that to the extent to which any portion of any such improvements which have or are commenced on or after 17 March 1993 does not extend the existing exterior framework of the building, the allowance under this subsection shall be increased to 20 per cent of the cost of such portion.”.

(2) Subsection (1)(c) shall be deemed to have come into operation as from the commencement of years of assessment ending on or after 17 March 1993. 10

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Amendment of section 14 of Act 58 of 1962, as substituted by section 19 of Act 55 of 1966 and amended by section 17 of Act 85 of 1974, section 12 of Act 103 of 1976, section 11 of Act 104 of 1979 and section 10 of Act 65 of 1986

14. (1) Section 14 of the principal Act is hereby amended by the addition of the following subsection: 15

“(4) Where any person is entitled to an allowance under this section in respect of any ship acquired by him on or after 21 June 1993 from a connected person, and a deduction under this section was previously granted to such connected person in respect of the ship concerned, whether in the current or any previous year of assessment, the deduction under this section shall be calculated on the lesser of the adjustable cost of the ship concerned to such connected person or the market value thereof as determined on the date upon which the ship was acquired by such person.”.

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(2) Subsection (1) shall be deemed to have come into operation on 25 21 June 1993. 25

Amendment of section 14bis of Act 58 of 1962, as inserted by section 16 of Act 88 of 1965 and amended by section 15 of Act 141 of 1992

15. (1) Section 14bis of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection: 30

“(5) Where any person is entitled to an allowance under this section in respect of any aircraft acquired by him from a connected person [as defined in section 12C(6)], and a deduction under this section was previously granted to such connected person in respect of such aircraft, whether in the current or any previous year of assessment, the deduction under this section shall be calculated on the lesser of the cost of the aircraft concerned to such connected person or the market value thereof as determined on the date upon which the aircraft was brought into use by such person.”.

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(2) Subsection (1) shall be deemed to have come into operation on 21 June 1993 and shall apply to any aircraft acquired on or after that date. 40

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Amendment of section 20 of Act 58 of 1962, as amended by section 13 of Act 90 of 1964, section 18 of Act 88 of 1965, section 13 of Act 76 of 1968, section 18 of Act 89 of 1969, section 15 of Act 65 of 1973, section 8 of Act 101 of 1978, section 18 of Act 94 of 1983 and section 19 of Act 101 of 1990

16. Section 20 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection: 45

“(2) For the purposes of this section ‘assessed loss’ means any amount [as established to the satisfaction of the Commissioner] by which the deductions admissible under sections 11 to 19, inclusive, [or the corresponding provisions of any previous Income Tax Act] exceeded the income in respect of which they are so admissible, or, if the context so requires, means an assessed

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van hotelhouer gebruik is, mits die gebou (of 'n gedeelte daarvan) waaraan bedoelde verbeterings aangebring is gedurende die betrokke jaar van aanslag ingevolge die Wet op Hotelle, 1965, as 'n hotel geregistreer is;” en

- 5 (c) deur die volgende verdere voorbehoudsbepaling by subartikel (1) te voeg:

“Met dien verstande voorts dat vir sover enige gedeelte van enige bedoelde verbeterings wat op of na 17 Maart 1993 'n aanvang geneem het of neem, nie die bestaande buiteraamwerk van die gebou uitbrei nie, die vermindering ingevolge hierdie subartikel verhoog word na 20 persent van die koste van bedoelde gedeelte.”.

10 (2) Subartikel (1)(c) word geag in werking te getree het vanaf die begin van jare van aanslag eindigende op of na 17 Maart 1993.

15 **Wysiging van artikel 14 van Wet 58 van 1962, soos vervang deur artikel 19 van Wet 55 van 1966 en gewysig deur artikel 17 van Wet 85 van 1974, artikel 12 van Wet 103 van 1976, artikel 11 van Wet 104 van 1979 en artikel 10 van Wet 65 van 1986**

14. (1) Artikel 14 van die Hoofwet word hierby gewysig deur die volgende 20 subartikel by te voeg:

“(4) Waar 'n persoon op 'n vermindering ingevolge hierdie artikel geregtig is ten opsigte van 'n skip wat hy op of na 21 Junie 1993 van 'n verbonde persoon verkry het, en 'n aftrekking ingevolge hierdie artikel voorheen aan so 'n verbonde persoon toegestaan is ten opsigte van die betrokke skip, hetsy in die lopende of 'n vorige jaar van aanslag, word die aftrekking ingevolge hierdie artikel bereken op die minste van die veranderbare koste van die betrokke skip vir so 'n verbonde persoon of die markwaarde daarvan soos bepaal op die datum waarop die skip deur bedoelde persoon verkry is.”.

30 (2) Subartikel (1) word geag op 21 Junie 1993 in werking te getree het.

Wysiging van artikel 14bis van Wet 58 van 1962, soos ingevoeg deur artikel 16 van Wet 88 van 1965 en gewysig deur artikel 15 van Wet 141 van 1992

15. (1) Artikel 14bis van die Hoofwet word hierby gewysig deur subartikel (5) deur die volgende subartikel te vervang:

35 “(5) Waar 'n persoon op 'n vermindering ingevolge hierdie artikel geregtig is ten opsigte van 'n vliegtuig wat hy van 'n verbonde persoon [soos omskryf in artikel 12C(6)] verkry het, en 'n aftrekking ingevolge hierdie artikel voorheen aan so 'n verbonde persoon toegestaan is ten opsigte van die betrokke vliegtuig, hetsy in die lopende of 'n vorige jaar van aanslag, word die aftrekking ingevolge hierdie artikel bereken op die minste van die koste van die vliegtuig vir so 'n verbonde persoon of die markwaarde daarvan soos bepaal op die datum waarop die [bate] vliegtuig deur bedoelde persoon in gebruik geneem is.”.

40 (2) Subartikel (1) word geag op 21 Junie 1993 in werking te getree het en is van toepassing op 'n vliegtuig wat op of na daardie datum verkry is.

Wysiging van artikel 20 van Wet 58 van 1962, soos gewysig deur artikel 13 van Wet 90 van 1964, artikel 18 van Wet 88 van 1965, artikel 13 van Wet 76 van 1968, artikel 18 van Wet 89 van 1969, artikel 15 van Wet 65 van 1973, artikel 8 van Wet 101 van 1978, artikel 18 van Wet 94 van 1983 en artikel 19 van Wet 101 van 1990

50 16. Artikel 20 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

55 “(2) By die toepassing van hierdie artikel beteken 'vasgestelde verlies' 'n bedrag [soos tot bevrediging van die Kommissaris bewys] waarmee die aftrekkings ingevolge artikels 11 tot en met 19 [of die ooreenstemmende bepalings van 'n vorige Inkomstebelastingwet] toelaatbaar, die inkomste te bowe gegaan het ten opsigte waarvan hulle aldus toelaatbaar is, of, as die samehang aldus vereis, 'n vasgestelde verlies soos ingevolge die bepalings

loss as determined under the provisions of section 30 [or the corresponding provisions of any previous Income Tax Act].”.

Amendment of section 22 of Act 58 of 1962, as amended by section 8 of Act 6 of 1963, section 14 of Act 90 of 1964, section 21 of Act 89 of 1969, section 23 of Act 85 of 1974, section 20 of Act 69 of 1975, section 15 of Act 103 of 1976, section 20 of Act 94 of 1983, section 19 of Act 121 of 1984, section 14 of Act 65 of 1986, section 5 of Act 108 of 1986, section 21 of Act 101 of 1990 and section 22 of Act 129 of 1991 5

17. (1) Section 22 of the principal Act is hereby amended—

(a) by the substitution for paragraph (a) of subsection (3) of the following paragraph: 10

“(a) For the purposes of this section the cost price at any date of any trading stock in relation to any person shall be the cost incurred by such person, whether in the current or any previous year of assessment, in acquiring such trading stock, plus, subject to the provisions of paragraph (b), any further costs incurred by him up to and including the said date in getting such trading stock into its then existing condition and location, but excluding any exchange difference as defined in section 24I(1) relating to the acquisition of such trading stock.”;

(b) by the deletion of paragraphs (c) and (d) of subsection (3); 20

(c) by the substitution for the words preceding the first proviso to subsection (4) of the following words:

“If any trading stock has been acquired by any person for no consideration or for a consideration which is not measurable in terms of money, such person shall for the purposes of subsection (3) be deemed to have acquired such trading stock at a cost equal to [the price which in the opinion of the Commissioner was] the current market price of such trading stock on the date on which it was acquired by such person;”; and 25

(d) by the substitution for the second proviso to subsection (8) of the following proviso: 30

“Provided further that where any trading stock (other than livestock or produce) of any company has on or after [12 June 1990] 21 June 1993 been distributed *in specie* (whether such distribution occurred by means of a dividend, including a liquidation dividend, a total or partial reduction of capital or a redemption of redeemable preference shares) to any [person by way of a dividend] shareholder of that company, there shall be included in the income of such company during the year of assessment in which such [dividend] trading stock was distributed an amount equal to the market value 40 of such trading stock.”.

(2) Subsection (1) shall be deemed to have come into operation as from the commencement of years of assessment ending on or after 21 June 1993 and shall apply to any trading stock distributed on or after that date. 45

Amendment of section 23 of Act 58 of 1962, as amended by section 18 of Act 65 of 1973, section 20 of Act 121 of 1984, section 23 of Act 129 of 1991 and section 20 of Act 141 of 1992 45

18. (1) Section 23 of the principal Act is hereby amended—

(a) by the substitution for the proviso to paragraph (b) of the following proviso: 50

“Provided that—

(a) such part shall not be deemed to have been occupied for the purposes of trade, unless such part is specifically equipped for purposes of the taxpayer’s trade and regularly and exclusively used for such purposes; and 55

(b) no deduction shall in any event be granted where the taxpayer’s trade constitutes any employment or office unless—

(i) his income from such employment or office is derived

van artikel 30 [of die ooreenstemmende bepalings van 'n vorige Inkomstebelastingwet] vasgestel.”.

Wysiging van artikel 22 van Wet 58 van 1962, soos gewysig deur artikel 8 van Wet 6 van 1963, artikel 14 van Wet 90 van 1964, artikel 21 van Wet 89 van 1969, artikel 23 van Wet 85 van 1974, artikel 20 van Wet 69 van 1975, artikel 15 van Wet 103 van 1976, artikel 20 van Wet 94 van 1983, artikel 19 van Wet 121 van 1984, artikel 14 van Wet 65 van 1986, artikel 5 van Wet 108 van 1986, artikel 21 van Wet 101 van 1990 en artikel 22 van Wet 129 van 1991

17. (1) Artikel 22 van die Hoofwet word hierby gewysig—
- 10 (a) deur paragraaf (a) van subartikel (3) deur die volgende paragraaf te vervang:
- 15 “(a) By die toepassing van hierdie artikel is die kosprys van handelsvoorraad op enige datum met betrekking tot 'n persoon die koste wat dié persoon óf in die lopende óf in 'n vorige jaar van aanslag, by die verkryging van bedoelde handelsvoorraad aangaan het, plus, behoudens die bepalings van paragraaf (b), enige verdere koste deur hom tot en met daardie datum aangegaan om bedoelde handelsvoorraad in die toestand waarin en op die plek waar dit dan is, te kry, maar uitgesonderd 'n valutaverskil soos omskryf in artikel 24I(1) met betrekking tot die verkryging van bedoelde handelsvoorraad.”;
- 20 (b) deur paragrawe (c) en (d) van subartikel (3) te skrap;
- 25 (c) deur die woorde wat die eerste voorbehoudbepaling by subartikel (4) voorafgaan deur die volgende woorde te vervang:
- 30 “Indien handelsvoorraad deur 'n persoon verkry is sonder vergoeding of teen 'n vergoeding wat nie in geld bepaal kan word nie, word so 'n persoon by die toepassing van subartikel (3) geag bedoelde handelsvoorraad te verkry het teen 'n koste gelyk aan [die prys wat volgens die ordeel van die Kommissaris] die heersende markprys van bedoelde handelsvoorraad [was] op die datum waarop bedoelde persoon dit verkry het;” en
- 35 (d) deur die tweede voorbehoudbepaling by subartikel (8) deur die volgende voorbehoudbepaling te vervang:
- 40 “Met dien verstande voorts dat waar enige handelsvoorraad (behalwe lewende hawe of produkte) van 'n maatskappy op of na [12 Junie 1990] 21 Junie 1993 [by wyse van 'n dividend] aan ['n persoon] 'n aandeelhouer van daardie maatskappy *in specie* uitgekeer is (hetsoy daardie uitkering plaasgevind het by wyse van 'n dividend, met inbegrip van 'n likwidasie-dividend, 'n algehele of gedeeltelike vermindering van kapitaal of 'n aflossing van aflosbare voorkeuraandele), daar by die inkomste van bedoelde maatskappy in die jaar van aanslag waarin die bedoelde [dividend] handelsvoorraad uitgekeer is 'n bedrag gelyk aan die markwaarde van bedoelde handelsvoorraad, ingesluit word.”.
- 45 (2) Subartikel (1) word geag in werking te getree het met ingang van die begin van jare van aanslag wat op of na 21 Junie 1993 eindig en is van toepassing op handelsvoorraad wat op of na daardie datum uitgekeer is.

Wysiging van artikel 23 van Wet 58 van 1962, soos gewysig deur artikel 18 van Wet 65 van 1973, artikel 20 van Wet 121 van 1984, artikel 23 van Wet 129 van 50 1991 en artikel 20 van Wet 141 van 1992

18. (1) Artikel 23 van die Hoofwet word hierby gewysig—
- 55 (a) deur die voorbehoudbepaling by paragraaf (b) deur die volgende voorbehoudbepaling te vervang:
- 55 “Met dien verstande dat—
- 55 (a) bedoelde gedeelte nie geag word vir bedryfsdoeleindes gekkupeer te wees nie, tensy bedoelde gedeelte spesifiek toegerus is vir doeleindes van die belastingpligtige se bedryf en gereeld en uitsluitlik vir daardie doeleindes gebruik word; en
- 60 (b) geen aftrekking in elk geval toegestaan word nie waar die

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- mainly from commission or other variable payments which are based on the taxpayer's work performance; and
- (ii) his duties are mainly performed otherwise than in an office which is provided to him by his employer;" and
- (b) by the substitution for the words preceding subparagraph (i) of paragraph (i) of the following words:
- "entertainment expenditure incurred by a taxpayer relating to any employment or office held by him in respect of which he derives remuneration as defined in paragraph 1 of the Fourth Schedule or any amount referred to in paragraph **[(iv) or]** (vii) of that definition, except—".
- (2) Subsection (1)(a) shall come into operation as from the commencement of years of assessment commencing on or after 1 March 1994.
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Insertion of sections 23D and 23E in Act 58 of 1962

19. (1) The following sections are hereby inserted in the principal Act after section 23C:

'Limitation of allowances granted in respect of certain assets

23D. (1) For the purposes of this section, 'asset' means—

- (a) any machinery, plant, implements, utensils or articles contemplated in section 11(e);
- (b) any building or improvements contemplated in section 13;
- (c) any ship contemplated in section 14; or
- (d) any aircraft contemplated in section 14bis.

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(2) Where any asset which has been let by a taxpayer to a lessee was acquired by the taxpayer on or after 21 June 1993, whether directly or indirectly from such lessee or a person who is a connected person in relation to such lessee, and a deduction was previously granted to such lessee or such connected person under section 11(e), 12B, 12C, 13, 14 or 14bis or section 12 prior to the repeal thereof by section 16 of the Income Tax Act, 1991 (Act No. 129 of 1991), or section 27(2)(d) prior to the deletion thereof by section 28(b) of that Act, whether in the current or any previous year of assessment, any deduction or allowance claimed by such lessor in respect of such asset in terms of section 11(e) or (o), 13, 14 or 14bis shall be calculated on the lesser of the cost or adjustable cost, as the case may be, of such asset to such lessee or such connected person or the market value thereof as determined on the date upon which the asset was acquired by the taxpayer.

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Provisions relating to leave pay

23E. (1) For the purposes of this section—

- 'employee' includes the holder of any office;
- 'leave pay' means any amount which a taxpayer has during any year of assessment become liable to pay to his employee in consequence of the employee having during such year become entitled to any period of leave which had not been taken by him during that year;
- 'leave pay provision' means an amount equal to the lesser of—
- (a) the amount included in the taxpayer's income in terms of the provisions of subsection (5); and
- (b) an amount determined in relation to all periods of leave to which the taxpayer's employees were entitled as at the end of the last year of assessment of the taxpayer ending before 1 January 1994, and calculated by applying, in the case of each such employee, the

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- belastingpligtige se bedryf 'n diens of amp uitmaak, tensy—
 (i) sy inkomste uit daardie diens of amp hoofsaaklik verkry word uit kommissie of ander wisselende betalings wat op die belastingpligtige se werkprestasie gebaseer is; en
 5 (ii) sy pligte hoofsaaklik verrig word andersins as in 'n kantoor wat aan hom voorsien word deur sy werkewer;”; en
 (b) deur die woorde wat subparagraph (i) van paragraaf (i) voorafgaan deur die volgende woorde te vervang:
 10 “onthaalokoste deur 'n belastingpligtige aangegaan met betrekking tot 'n diens of amp deur hom beklee ten opsigte waarvan hy besoldiging verkry soos in paragraaf 1 van die Vierde Bylae omskryf of 'n bedrag in paragraaf **[(iv) of] (vii)** van daardie omskrywing bedoel, behalwe—”.
- 15 (2) Subartikel (1)(a) tree in werking vanaf die begin van jare van aanslag beginnende op of na 1 Maart 1994.

Invoeging van artikels 23D en 23E in Wet 58 van 1962

19. (1) Die volgende artikels word hierby in die Hoofwet na artikel 23C ingevoeg:

- 20 **“Beperking van verminderings toegestaan ten opsigte van sekere bates**
- 23D. (1) By die toepassing van hierdie artikel beteken ‘bate’—**
 (a) enige masjinerie, installasie, gereedskap, werktuie of artikels beoog in artikel 11(e);
 (b) 'n gebou of verbeterings beoog in artikel 13;
 25 (c) 'n skip beoog in artikel 14; of
 (d) 'n vliegtuig beoog in artikel 14bis.
 (2) Waar 'n bate wat deur 'n belastingpligtige aan 'n huurder verhuur is, op of na 21 Junie 1993 deur die belastingpligtige, hetsy regstreeks of onregstreeks vanaf bedoelde huurder of 'n persoon wat 'n verbonde persoon met betrekking tot bedoelde huurder is, verkry is, en 'n aftrekking voorheen aan bedoelde huurder of bedoelde verbonde persoon ingevolge artikel 11(e), 12B, 12C, 13, 14 of 14bis of artikel 12 voor die herroeping daarvan deur artikel 16 van die Inkomstebelastingwet, 1991 (Wet No. 129 van 1991), of artikel 27(2)(d) voor die skrapping daarvan deur artikel 28(b) van daardie Wet, hetsy in die lopende of 'n vorige jaar van aanslag, toegestaan is, word enige aftrekking of verminderings deur bedoelde verhuurder ten opsigte van bedoelde bate ingevolge artikel 11(e) of (o), 13, 14 of 14bis geëis; bereken op die minste van die koste of veranderbare koste, na gelang van die geval, van bedoelde bate vir bedoelde huurder of bedoelde verbonde persoon of die markwaarde daarvan soos bepaal op die datum waarop die bate deur die belastingpligtige verkry is.

Bepalings met betrekking tot verlofgeld

- 23E. (1) By die toepassing van hierdie artikel beteken—**
 ‘verlofgeld’ 'n bedrag wat 'n belastingpligtige gedurende 'n jaar van aanslag verskuldig geword het om aan sy werknemer te betaal omrede die werknemer gedurende bedoelde jaar geregtig geword het op 'n tydperk van verlof wat nie deur hom gedurende daardie jaar geneem is nie;
 45 'verlofgeldvoorsiening' 'n bedrag gelyk aan die minste van—
 (a) die bedrag by die belastingpligtige se inkomste ingesluit ingevolge die bepalings van subartikel (5); en
 (b) 'n bedrag vasgestel met betrekking tot alle tydperke van verlof waarop die belastingpligtige se werknemers geregtig was soos aan die einde van die laaste jaar van aanslag van die belastingpligtige eindigende voor 1 Januarie 1994, en bereken deur die toepassing van, in die geval van elke bedoelde werknemer, die werknemer se skaal van verdienstes soos aan die einde van

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- employee's rate of earnings as at the end of such year to the period of leave to which such employee was so entitled.
- (2) For the purposes of this Act, where in consequence of any leave to which an employee of the taxpayer became entitled during any year of assessment of the taxpayer ending on or after 1 January 1994, the taxpayer has become liable to pay any amount of leave pay—
- (a) the taxpayer shall be deemed not to have incurred expenditure in respect of such leave pay until it is actually paid by him or becomes due and payable by him; and
 - (b) such leave pay shall be deemed to accrue to the employee concerned on the date upon which such expenditure is deemed to have been incurred by the taxpayer.
- (3) Where any taxpayer has in any return of income submitted by him to the Commissioner before 1 March 1993 claimed a deduction of an amount determined in accordance with a practice consistently applied by him and in the *bona fide* belief that such amount constituted leave pay which was lawfully allowable as a deduction in the determination of his taxable income (whether such amount exceeds or is less than the amount which was lawfully deductible), there shall be allowed as a deduction in the determination of his taxable income for such year and for each subsequent year of assessment ending before 1 January 1994 an amount determined in accordance with the said practice: Provided that where in his return of income for any year of assessment ending before 1 January 1994 the taxpayer has amended such practice and the deduction determined in accordance with such amended practice is less than the deduction which would have been determined in accordance with his previous practice, the amount to be allowed as a deduction under this subsection in that year of assessment and in each subsequent year of assessment ending before 1 January 1994 shall be determined in accordance with such amended practice.
- (4) Where in respect of any year of assessment of a taxpayer ending before 1 January 1994, the Commissioner has not prior to the date of commencement of the Income Tax Act, 1993, issued an assessment, a deduction in respect of leave pay shall not be granted for such year otherwise than as may be permitted under the provisions of subsection (3).
- (5) There shall be included in the income of any taxpayer in his first year of assessment ending on or after 1 January 1994 the sum of all amounts allowed to be deducted in the determination of his taxable income in all years of assessment ending before that date in respect of leave pay relating to all periods of leave to which his employees were entitled at the end of the last year of assessment ending before the said date.
- (6) Where an amount has under the provisions of subsection (5) been included in the income of any taxpayer, any amount of leave pay which becomes due and payable by him to an employee in respect of any period of leave taken into account in the determination of such amount shall, notwithstanding the provisions of subsection (3), be allowed to be deducted from his income in the year of assessment during which such leave pay becomes due and payable.
- (7) There shall in the case of any taxpayer to whom the provisions of subsection (5) are applicable, be allowed to be deducted in the determination of his taxable income for his first year of assessment ending on or after 1 January 1994 and for each of the four succeeding years of assessment (such succeeding years of assessment hereinafter being referred to as the second to fifth years, in chronological order) a deduction equal to—
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bedoelde jaar op die tydperk van verlof waarop bedoelde werknemer aldus geregtig was;
 'werknemer' ook die bekleer van 'n amp.

(2) By die toepassing van hierdie Wet, waar as gevolg van enige verlof waarop 'n werknemer van die belastingpligtige geregtig geword het gedurende 'n jaar van aanslag van die belastingpligtige eindigende op of na 1 Januarie 1994, die belastingpligtige aanspreeklik geword het om 'n bedrag verlofgeld te betaal—

- (a) word die belastingpligtige geag nie onkoste aan te gegaan het nie ten opsigte van bedoelde verlofgeld totdat dit werklik deur hom betaal word of deur hom verskuldig en betaalbaar geword het; en
- (b) word bedoelde verlofgeld geag toe te val aan die betrokke werknemer op die datum waarop bedoelde onkoste geag word aangegaan te gewees het deur die belastingpligtige.

(3) Waar 'n belastingpligtige in 'n opgawe van inkomste deur hom aan die Kommissaris voor 1 Maart 1993 verstrek 'n aftrekking geëis het van 'n bedrag vasgestel ooreenkomsdig 'n praktyk deurgaans deur hom toegepas en in die *bona fide*-oortuiging dat daardie bedrag verlofgeld uitgemaak het wat regmatig as 'n aftrekking toelaatbaar was by die vasstelling van sy belasbare inkomste (hetsy bedoelde bedrag die bedrag wat regmatig aftrekbaar is, oorskry of minder as dit is), word daar as 'n aftrekking toegelaat by die vasstelling van sy belasbare inkomste vir bedoelde jaar en vir elke daaropvolgende jaar van aanslag eindigende voor 1 Januarie 1994 'n bedrag vasgestel ooreenkomsdig genoemde praktyk: Met dien verstande dat waar in sy opgawe van inkomste vir 'n jaar van aanslag eindigende voor 1 Januarie 1994 die belastingpligtige daardie praktyk gewysig het en die aftrekking vasgestel ooreenkomsdig bedoelde gewysigde praktyk minder is as die aftrekking wat sou vasgestel gewees het ooreenkomsdig sy vorige praktyk, die bedrag toegestaan te word as 'n aftrekking ingevolge hierdie subartikel in daardie jaar van aanslag en in elke daaropvolgende jaar van aanslag eindigende voor 1 Januarie 1994 vasgestel word ooreenkomsdig bedoelde gewysigde praktyk.

(4) Waar ten opsigte van 'n jaar van aanslag van 'n belastingpligtige eindigende voor 1 Januarie 1994, die Kommissaris nie voor die datum van inwerkingtreding van die Inkomstebelastingwet, 1993, 'n aanslag uitgereik het nie, word 'n aftrekking ten opsigte van verlofgeld vir bedoelde jaar nie toegestaan nie anders as wat toegelaat mag word ingevolge die bepalings van subartikel (3).

(5) Daar word ingesluit by die inkomste van 'n belastingpligtige in sy eerste jaar van aanslag eindigende op of na 1 Januarie 1994 die som van alle bedrae toegelaat om afgetrek te word by die vasstelling van sy belasbare inkomste in alle jare van aanslag eindigende voor daardie datum ten opsigte van verlofgeld met betrekking tot alle tydperke van verlof waarop sy werknemers geregtig was aan die einde van die laaste jaar van aanslag eindigende voor genoemde datum.

(6) Waar 'n bedrag ingevolge die bepalings van subartikel (5) by die inkomste van 'n belastingpligtige ingesluit is, word enige bedrag verlofgeld wat deur hom verskuldig en betaalbaar geword het aan 'n werknemer ten opsigte van 'n tydperk van verlof in verrekening gebring by die vasstelling van daardie bedrag, ondanks die bepalings van subartikel (3), toegelaat om afgetrek te word van sy inkomste in die jaar van aanslag waarin daardie verlofgeld verskuldig en betaalbaar word.

(7) Daar word in die geval van 'n belastingpligtige ten opsigte van wie die bepalings van subartikel (5) van toepassing is, toegelaat om afgetrek te word by die vasstelling van sy belasbare inkomste vir sy eerste jaar van aanslag eindigende op of na 1 Januarie 1994 en vir elk van die vier daaropvolgende jare van aanslag (welke daaropvolgende jare hieronder die tweede tot vyfde jare in tydorde genoem word) 'n aftrekking gelyk aan—

- (a) in the said first year, 100 per cent;
 (b) in the second year, 85 per cent;
 (c) in the third year, 70 per cent;
 (d) in the fourth year, 50 per cent; and
 (e) in the fifth year, 25 per cent,
 of the amount of the leave pay provision determined in relation to the taxpayer: Provided that—
 (i) the deduction so allowed in any year of assessment shall be included in the taxpayer's taxable income in the following year of assessment; and
 (ii) no deduction shall be allowed under this subsection if the taxpayer has during the current or any previous year of assessment commencing on or after 1 January 1994 ceased to carry on trade.”.
- (2) Section 23E of the principal Act, as inserted by subsection (1), shall come into operation on the date of commencement of this Act. 15

Amendment of section 24B of Act 58 of 1962, as inserted by section 9 of Act 101 of 1978 and substituted by section 13 of Act 104 of 1979

20. Section 24B of the principal Act is hereby amended by the insertion after subsection (7) of the following subsection:
“(7A) The provisions of this section shall not apply in respect of any gain realised, loss sustained or premium or other consideration paid during any year of assessment ending on or after 1 January 1994.”.

Insertion of section 24I in Act 58 of 1962

21. The following section is hereby inserted in the principal Act after section 24H: 25

“Gains or losses on foreign exchange transactions

24I. (1) For the purposes of this section—

‘acquisition rate’ means the exchange rate in respect of an exchange item obtained by dividing the amount of the expenditure incurred for the acquisition of such exchange item by the foreign currency amount in respect of such exchange item;
 ‘disposal rate’ means the exchange rate in respect of an exchange item obtained by dividing the amount received or accrued in respect of the disposal of such exchange item by the foreign currency amount in respect of such exchange item;
 ‘exchange difference’ means the foreign exchange gain or foreign exchange loss in respect of an exchange item during any year of assessment determined by multiplying such exchange item by the difference between—

- (a) the ruling exchange rate on transaction date in respect of such exchange item during that year of assessment, and—
 (i) the ruling exchange rate at which such exchange item is realised during that year of assessment; or
 (ii) the ruling exchange rate at which such exchange item is translated at the end of that year of assessment; or
 (b) the ruling exchange rate at which such exchange item was translated at the end of the immediately preceding year of assessment or at which it would have been translated had this section been applicable at the end of that immediately preceding year of assessment, and—
 (i) the ruling exchange rate at which such exchange item is realised during that year of assessment; or

- (a) in genoemde eerste jaar, 100 persent;
 (b) in die tweede jaar, 85 persent;
 (c) in die derde jaar, 70 persent;
 (d) in die vierde jaar, 50 persent; en
 (e) in die vyfde jaar, 25 persent,
- 5 van die bedrag van die verlofgeldvoorsiening met betrekking tot die belastingpligtige vasgestel: Met dien verstande dat—
 (i) die aftrekking aldus toegelaat in 'n jaar van aanslag by die belastingpligtige se belasbare inkomste ingesluit word in die daaropvolgende jaar van aanslag; en
 10 (ii) geen aftrekking ingevolge hierdie subartikel toegelaat word nie indien die belastingpligtige gedurende die lopende of 'n vorige jaar van aanslag beginnende op of na 1 Januarie 1994 opgehou het om 'n bedryf te beoefen.".
- 15 (2) Artikel 23E van die Hoofwet, soos deur subartikel (1) ingevoeg, tree in werking op die datum van inwerkingtreding van hierdie Wet.

Wysiging van artikel 24B van Wet 58 van 1962, soos ingevoeg deur artikel 9 van Wet 101 van 1978 en vervang deur artikel 13 van Wet 104 van 1979

- 20 **20.** Artikel 24B van die Hoofwet word hierby gewysig deur na subartikel (7) die volgende subartikel in te voeg:
 "(7A) Die bepalings van hierdie artikel is nie van toepassing nie ten opsigte van enige wins gemaak, verlies gely of premie of ander vergoeding betaal gedurende 'n jaar van aanslag wat op of na 1 Januarie 1994 eindig.".

Invoeging van artikel 24I in Wet 58 van 1962

- 25 **21.** Die volgende artikel word hierby in die Hoofwet na artikel 24H ingevoeg:

"Winste of verliese op buitelandse valutatransaksies

- 24I.(1)** By die toepassing van hierdie artikel beteken—
 'buitelandse valuta' enige valuta wat nie in die Republiek 'n wettige betaalmiddel is nie;
 30 'buitelandse valuta-opsiekontrak' 'n ooreenkoms ingevolge waarvan 'n persoon die reg verkry of verleën om van of aan enige ander persoon 'n sekere bedrag van 'n genoemde buitelandse valuta op of voor 'n toekomstige vervaldatum teen 'n gespesifieerde wisselkoers te koop of te verkoop;
 35 'gerealiseer', met betrekking tot 'n valuta-item, waar bedoelde valuta-item—
 (a) 'n lening of voorskot of skuld in 'n buitelandse valuta is, wanneer en vir sover betaling ten opsigte van bedoelde lening, voorskot of skuld ontvang of gemaak is, of wanneer en vir sover bedoelde lening, voorskot of skuld op enige ander wyse vereffen of vervreem word;
 40 (b) 'n valutatermynkontrak is, wanneer betaling ten opsigte van bedoelde valutatermynkontrak ontvang of gemaak is; of
 (c) 'n buitelandse valuta-opsiekontrak is, wanneer betaling ten opsigte van die reg wat ingevolge bedoelde buitelandse valuta-opsiekontrak uitgeoefen is, ontvang of gemaak word, of wanneer bedoelde buitelandse valuta-opsiekontrak verstryk sonder dat bedoelde reg uitgeoefen is;
 45 'heersende wisselkoers', met betrekking tot 'n valuta-item, waar bedoelde valuta-item—
 (a) 'n lening of voorskot of skuld in buitelandse valuta is, op—
 (i) transaksiedatum, die kontantkoers op bedoelde datum, of in die geval waar 'n verwante of ooreenstemmende valutatermynkontrak aangegaan is om bedoelde lening, voorskot of skuld te dek en die termynkoers gebruik is om bedoelde lening, voorskot of skuld vir rekeningkundige doeleindes te boek te stel in ooreenstemming met algemeen aanvaarde

(ii) the ruling exchange rate at which such exchange item is translated at the end of that year of assessment;	
'exchange item' means an amount in a foreign currency—	
(a) owing by a person in respect of a loan or advance or a debt incurred by such person;	5
(b) owing to a person in respect of a loan or advance or a debt payable by another person to such person;	
(c) owed by or to a person in respect of a forward exchange contract; or	
(d) in respect of which a person has the right or contingent obligation to buy or sell it in terms of a foreign currency option contract; 'foreign currency' means any currency which is not legal tender in the Republic;	10
'foreign currency option contract' means any agreement in terms of which any person acquires or grants the right to buy from or to sell to any other person a certain amount of a nominated foreign currency on or before a future expiry date at a specified exchange rate;	15
'forward exchange contract' means any agreement in terms of which any person agrees with another person to exchange an amount of currency for another currency at some future date at a specified exchange rate;	20
'forward rate' means the specified exchange rate as referred to in the definition of 'forward exchange contract';	
'intrinsic value', in relation to a foreign currency option contract, means the value for the holder or writer thereof, as the case may be, determined by applying the difference between—	25
(a) the spot rate on translation date or the date on which the foreign currency option contract is realised, as the case may be; and	
(b) the option strike rate,	
to the amount of foreign currency as specified in such foreign currency option contract: Provided that such foreign currency option contract shall have a nil value for the holder or writer thereof if such holder thereof would have sustained a loss had he exercised his right in terms of such foreign currency option contract on such translation date or date realised due to the unfavourable difference between the option strike rate and the spot rate on such translation date or date realised;	30
'market value', in relation to a foreign currency option contract, means—	35
(a) in the case of a person who for accounting purposes uses a market-related valuation method in terms of a practice consistently applied by him to determine the value of all his foreign currency option contracts, the market-related value so determined; or	40
(b) in the case of any other person, the intrinsic value of such foreign currency option contract;	45
'option strike rate' means the specified exchange rate as referred to in the definition of 'foreign currency option contract';	
'premium or discount on a forward exchange contract' means the amount obtained by applying the difference between the forward rate in respect of a forward exchange contract and the spot rate on the date on which such forward exchange contract was entered into, to the foreign currency amount specified in such forward exchange contract;	50
'realised' means, in relation to an exchange item, where such exchange item is—	
(a) a loan or advance or debt in any foreign currency, when and to the extent to which payment is received or made in respect of such loan, advance or debt, or when and to the extent to which such loan, advance or debt is settled or disposed of in any other manner;	55
(b) a forward exchange contract, when payment is received or made in respect of such forward exchange contract; or	
(c) a foreign currency option contract, when payment is received or made in respect of the right in terms of such foreign currency option contract having been exercised, or when such foreign	60

- rekeningkundige praktyk, die termynkoers ingevolge bedoelde valutatermynkontrak;
- (ii) die datum waarop dit omgerekken word, die kontantkoers op bedoelde datum, of in die geval waar 'n verwante of ooreenstemmende valutatermynkontrak aangegaan is om bedoelde lening, voorskot of skuld te dek en die termynkoers gebruik is om bedoelde lening, voorskot of skuld vir rekeningkundige doeleindes om te reken in ooreensteming met algemeen aanvaarde rekeningkundige praktyk, die termynkoers ingevolge bedoelde valutatermynkontrak; of
- (iii) die datum waarop dit gerealiseer word, die kontantkoers op bedoelde datum:
- Met dien verstande dat waar die koers wat ten opsigte van 'n lening of voorskot of skuld ingevolge hierdie omskrywing voorgeskryf die kontantkoers is op transaksiedatum of die kontantkoers is op die datum waarop bedoelde lening of voorskot of skuld gerealiseer is, en enige vergoeding ten opsigte van die verkryging of vervreemding van bedoelde lening of voorskot of skuld betaal of betaalbaar of ontvang of ontvangbaar vasgestel is deur 'n koers toe te pas anders as bedoelde kontantkoers op transaksiedatum of datum gerealiseer, bedoelde kontantkoers geag word die verkrygingskoers of vervreemdingskoers, na gelang van die geval, te wees;
- (b) 'n valutatermynkontrak is, op—
- (i) transaksiedatum, die termynkoers ingevolge bedoelde valutatermynkontrak;
- (ii) die datum waarop dit omgerekken word, die markverwante termynkoers wat vir die oorblywende tydperk van bedoelde valutatermynkontrak beskikbaar is, of in die geval waar die termynkoers ingevolge bedoelde valutatermynkontrak gebruik is om 'n lening, voorskot of skuld soos beoog in paragraaf (a)(ii) om te reken, die termynkoers ingevolge bedoelde kontrak;
- (iii) die datum waarop dit gerealiseer word, die kontantkoers op bedoelde datum; of
- (c) 'n buitelandse valuta-opsiekontrak is, op—
- (i) transaksiedatum, 'n nulkoers;
- (ii) die datum waarop dit omgerekken word, die koers verkry deur die markwaarde van bedoelde buitelandse valuta-opsiekontrak op daardie datum deur die buitelandse valutabedrag soos in bedoelde buitelandse valuta-opsiekontrak gespesifiseer, te deel;
- (iii) die datum waarop dit gerealiseer word, die koers verkry deur die markwaarde van bedoelde buitelandse valuta-opsiekontrak op daardie datum deur die buitelandse valutabedrag soos in bedoelde buitelandse valuta-opsiekontrak gespesifiseer, te deel;
- (iv) die datum waarop dit vervreem word, die koers verkry deur die bedrag ontvang of toegeval as gevolg van die vervreemding van bedoelde buitelandse valuta-opsiekontrak deur die buitelandse valutabedrag soos in bedoelde buitelandse valuta-opsiekontrak gespesifiseer, te deel;
- 55 'intrinsieke waarde', met betrekking tot 'n buitelandse valuta-opsiekontrak, die waarde vir die houer of skrywer daarvan, na gelang van die geval, vasgestel deur die verskil tussen—
- (a) die kontantkoers op omrekeningsdatum of die datum waarop die buitelandse valuta-opsiekontrak gerealiseer word, na gelang van die geval; en
- (b) die opsie-uitoefeningskoers,
- toe te pas op die buitelandse valutabedrag soos in bedoelde buitelandse valuta-opsiekontrak gespesifiseer: Met dien verstande dat bedoelde buitelandse valuta-opsiekontrak 'n nulwaarde het vir die

<p>currency option contract expires without such right having been exercised;</p> <p>'ruling exchange rate' means, in relation to an exchange item, where such exchange item is—</p> <p>(a) a loan or advance or debt in a foreign currency on—</p> <ul style="list-style-type: none"> (i) transaction date, the spot rate on such date, or in the case where a related or matching forward exchange contract has been entered into to hedge such loan, advance or debt and the forward rate has been used to record for accounting purposes such loan, advance or debt in accordance with generally accepted accounting practice, the forward rate in terms of such forward exchange contract; (ii) the date it is translated, the spot rate on such date, or in the case where a related or matching forward exchange contract has been entered into to hedge such loan, advance or debt and the forward rate has been used to translate for accounting purposes such loan, advance or debt in accordance with generally accepted accounting practice, the forward rate in terms of such forward exchange contract; or (iii) the date it is realised, the spot rate on such date: <p>Provided that where the rate prescribed in respect of a loan or advance or debt in terms of this definition is the spot rate on transaction date or the spot rate on the date on which such loan or advance or debt is realised, and any consideration paid or payable or received or receivable in respect of the acquisition or disposal of such loan or advance or debt was determined by applying a rate other than such spot rate on transaction date or date realised, such spot rate shall be deemed to be the acquisition rate or disposal rate, as the case may be;</p> <p>(b) a forward exchange contract on—</p> <ul style="list-style-type: none"> (i) transaction date, the forward rate in terms of such forward exchange contract; (ii) the date it is translated, the market-related forward rate available for the remaining period of such forward exchange contract, or in the case where the forward rate in terms of such forward exchange contract has been used to translate a loan, advance or debt as contemplated in paragraph (a)(ii), the forward rate in terms of such contract; (iii) the date it is realised, the spot rate on such date; or <p>(c) a foreign currency option contract on—</p> <ul style="list-style-type: none"> (i) transaction date, a nil rate; (ii) the date it is translated, the rate obtained by dividing the market value of such foreign currency option contract on that date by the foreign currency amount as specified in such foreign currency option contract; (iii) the date it is realised, the rate obtained by dividing the market value of such foreign currency option contract on that date by the foreign currency amount as specified in such foreign currency option contract; (iv) the date it is disposed of, the rate obtained by dividing the amount received or accrued as a result of the disposal of such foreign currency option contract by the foreign currency amount as specified in such foreign currency option contract; <p>'spot rate' means the appropriate quoted exchange rate for the delivery of currency within a period of two business days;</p> <p>'transaction date' means, in relation to—</p> <p>(a) a loan or advance owing by a person, the date on which the amount payable in respect of such loan or advance was received by such person;</p> <p>(b) a debt owing by a person, the date on which such debt was actually incurred;</p> <p>(c) a loan or advance owing to a person, the date on which the amount payable in respect of such loan or advance was paid to</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p> <p>50</p> <p>55</p> <p>60</p>
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houer of skrywer daarvan indien bedoelde houer daarvan 'n verlies sou gely het indien hy sy reg ingevolge bedoelde buitelandse valuta-opsiekontrak op bedoelde omrekeningsdatum of datum ge realiseer, uitgeoefen het vanweë die ongunstige verskil tussen die opsie-uitoefeningskoers en die kontantkoers op bedoelde omrekeningsdatum of datum ge realiseer;

5 'kontantkoers' die toepaslike genoteerde wisselkoers vir die lewering van valuta binne 'n tydperk van twee besigheidsdae;

10 'markwaarde', met betrekking tot 'n buitelandse valuta-opsiekontrak—

(a) in die geval van 'n persoon wat vir rekeningkundige doeleindes 'n markverwante waardasiemetode gebruik ingevolge 'n praktyk wat deurgaans deur hom toegepas word om die waarde van al sy buitelandse valuta-opsiekontrakte vas te stel, die markverwante waarde aldus vasgestel; of

15 (b) in die geval van enige ander persoon, die intrinsieke waarde van bedoelde buitelandse valuta-opsiekontrak;

20 'omreken', die herstatering van 'n valuta-item in die valuta van die Republiek aan die einde van 'n jaar van aanslag deur die heersende wisselkoers op bedoelde valuta-item toe te pas;

25 'oorgangsvalutaverskil' die buitelandse valutawins of buitelandse valutaverlies ten opsigte van 'n valuta-item (behalwe 'n valuta-item in paragraaf (b) van die omskrywing van 'valuta-item' beoog wat van 'n kapitale aard is) vasgestel deur bedoelde valuta-item te vermenigvuldig met die verskil tussen—

(a) die heersende wisselkoers op transaksiedatum ten opsigte van bedoelde valuta-item gedurende enige jaar van aanslag wat die eerste jaar van aanslag wat op of na 1 Januarie 1994 eindig, voorafgaan; en

30 (b) die heersende wisselkoers waarteen bedoelde valuta-item aan die einde van die jaar van aanslag wat die eerste jaar van aanslag wat op of na 1 Januarie 1994 eindig, onmiddellik voorafgaan, omgerek sou geword het,

35 indien die bepalings van hierdie artikel vir daardie jaar van aanslag van toepassing was: Met dien verstande dat enige buitelandse valutawins of buitelandse valutaverlies ingevolge hierdie omskrywing ten opsigte van bedoelde valuta-item vasgestel, op so 'n wyse aangepas word dat enige buitelandse valutawins of buitelandse valutaverlies wat ingevolge enige ander artikel van hierdie Wet ten opsigte van bedoelde valuta-item in berekening geneem is by die vasstelling van belasbare inkomste gedurende enige jaar van aanslag wat die eerste jaar van aanslag wat op of na 1 Januarie 1994 eindig, voorafgaan, nie meer as een keer by inkomste ingesluit of as 'n aftrekking toegelaat word nie;

40 'opsie-uitoefeningskoers' die gespesifiseerde wisselkoers soos in die omskrywing van 'buitelandse valuta-opsiekontrak' bedoel;

45 'premie of diskonto op 'n valutatermykontrak' die bedrag verkry deur die verskil tussen die termynkoers ten opsigte van 'n valutatermykontrak en die kontantkoers op die datum waarop bedoelde valutatermykontrak aangegaan is, toe te pas op die bedrag buitelandse valuta in bedoelde valutatermykontrak gespesifiseer;

50 'termynkoers' die gespesifiseerde wisselkoers soos in die omskrywing van 'valutatermykontrak' bedoel;

55 'transaksiedatum', met betrekking tot—

(a) 'n lening of voorskot deur 'n persoon verskuldig, die datum waarop die bedrag betaalbaar ten opsigte van bedoelde lening of voorskot deur bedoelde persoon ontvang is;

(b) 'n skuld deur 'n persoon verskuldig, die datum waarop bedoelde skuld werklik aangegaan is;

60 (c) 'n lening of voorskot aan 'n persoon verskuldig, die datum waarop die bedrag betaalbaar ten opsigte van bedoelde lening of voorskot aan 'n ander persoon betaal is of die datum waarop

<p>another person or the date on which such loan or advance was acquired by such person in any other manner;</p> <p>(d) a debt owing to a person, the date on which the amount payable in respect of such debt accrued to such person or the date on which such debt was acquired by such person in any other manner;</p> <p>(e) a forward exchange contract, the date on which such contract was entered into; and</p> <p>(f) a foreign currency option contract, the date on which such contract was entered into or acquired;</p> <p>'transitional exchange difference' means the foreign exchange gain or foreign exchange loss in respect of an exchange item (other than an exchange item contemplated in paragraph (b) of the definition of 'exchange item' which is of a capital nature) determined by multiplying such exchange item by the difference between—</p> <p>(a) the ruling exchange rate on transaction date in respect of such exchange item during any year of assessment preceding the first year of assessment ending on or after 1 January 1994; and</p> <p>(b) the ruling exchange rate at which such exchange item would have been translated at the end of the year of assessment immediately preceding the first year of assessment ending on or after 1 January 1994,</p> <p>if the provisions of this section had been applicable to that year of assessment: Provided that any foreign exchange gain or foreign exchange loss determined in terms of this definition in respect of such exchange item, shall be adjusted in such a manner that any foreign exchange gain or foreign exchange loss taken into account in terms of any other section of this Act in respect of such exchange item in the determination of taxable income during any year of assessment preceding the first year of assessment ending on or after 1 January 1994, shall not be included in income or allowed as a deduction more than once;</p> <p>'translate' means the restatement of an exchange item in the currency of the Republic at the end of any year of assessment by applying the ruling exchange rate to such exchange item.</p> <p>(2) In determining the taxable income of any person derived from carrying on any trade by him within the Republic in respect of any year of assessment ending on or after 1 January 1994, there shall be included in or deducted from the income so derived, as the case may be, any transitional exchange difference (but subject to the provisions of subsection (3)) and any exchange difference—</p> <p>(a) arising from a transaction entered into by such person in the course of such trade; or</p> <p>(b) arising from a loan or advance owing by such person or a debt</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p>
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- bedoelde lening of voorskot deur bedoelde persoon op enige ander wyse verkry is;
- (d) 'n skuld aan 'n persoon verskuldig, die datum waarop die bedrag betaalbaar ten opsigte van bedoelde skuld aan bedoelde persoon toegeval het of die datum waarop bedoelde skuld deur bedoelde persoon op enige ander wyse verkry is;
- (e) 'n valutatermynkontrak, die datum waarop bedoelde kontrak aangegaan is; en
- (f) 'n buitelandse valuta-opsiekontrak, die datum waarop bedoelde kontrak aangegaan of verkry is;
- 'valuta-item' 'n bedrag in 'n buitelandse valuta—
- (a) deur 'n persoon verskuldig ten opsigte van 'n lening of voorskot of 'n skuld deur bedoelde persoon aangegaan;
- (b) aan 'n persoon verskuldig ten opsigte van 'n lening of voorskot of 'n skuld deur 'n ander persoon aan bedoelde persoon betaalbaar;
- (c) deur of aan 'n persoon ten opsigte van 'n valutatermynkontrak verskuldig; of
- (d) ten opsigte waarvan 'n persoon die reg of voorwaardelike aanspreeklikheid het om dit ingevolge 'n buitelandse valuta-opsiekontrak te koop of te verkoop;
- 'valutatermynkontrak' 'n ooreenkoms ingevolge waarvan 'n persoon met 'n ander persoon ooreenkom om 'n bedrag valuta vir 'n ander valuta op 'n toekomstige datum teen 'n gespesifiseerde wisselkoers te verruil;
- 'valutaverskil' die buitelandse valutawins of buitelandse valutaverlies ten opsigte van 'n valuta-item gedurende 'n jaar van aanslag vasgestel deur bedoelde valuta-item te vermenigvuldig met die verskil tussen—
- (a) die heersende wisselkoers op transaksiedatum ten opsigte van bedoelde valuta-item gedurende daardie jaar van aanslag, en—
- (i) die heersende wisselkoers waarteen bedoelde valuta-item gerealiseer word gedurende daardie jaar van aanslag; of
- (ii) die heersende wisselkoers waarteen bedoelde valuta-item omgereken word aan die einde van daardie jaar van aanslag; of
- (b) die heersende wisselkoers waarteen bedoelde valuta-item omgereken is aan die einde van die onmiddellik voorafgaande jaar van aanslag of waarteen dit omgereken sou geword het indien hierdie artikel aan die einde van daardie onmiddellik voorafgaande jaar van aanslag van toepassing was, en
- (i) die heersende wisselkoers waarteen bedoelde valuta-item gerealiseer word gedurende daardie jaar van aanslag; of
- (ii) die heersende wisselkoers waarteen bedoelde valuta-item omgereken word aan die einde van daardie jaar van aanslag;
- 'verkrygingskoers' die wisselkoers ten opsigte van 'n valuta-item verkry deur die bedrag van die onkoste aangegaan vir die verkryging van bedoelde valuta-item deur die buitelandse valutabedrag ten opsigte van bedoelde valuta-item te deel;
- 'vervreemdingskoers' die wisselkoers ten opsigte van 'n valuta-item verkry deur die bedrag ontvang of toegeval ten opsigte van die vervreemding van bedoelde valuta-item deur die buitelandse valutabedrag ten opsigte van bedoelde valuta-item te deel.
- (2) By die vasstelling van die belasbare inkomste deur 'n persoon verkry uit die beoefening van 'n bedryf deur hom in die Republiek ten opsigte van 'n jaar van aanslag wat op of na 1 Januarie 1994 eindig, word daar by of van die aldus verkreeë inkomste ingesluit of afgetrek, na gelang van die geval, enige oorgangsvalutaverskil (maar behoudens die bepalings van subartikel (3)) en enige valutaverskil—
- (a) wat ontstaan het uit 'n transaksie wat deur bedoelde persoon aangegaan is in die loop van bedoelde bedryf; of
- (b) wat ontstaan het uit 'n lening of voorskot deur bedoelde persoon

- incurred by such person, where such loan or advance has been utilized or such debt has been incurred in order to finance expenditure incurred by a connected person in relation to such person in the course of the carrying on of any trade within the Republic by such connected person.
- (3) For the purposes of subsection (2) any transitional exchange difference in respect of an exchange item—
- (a) which is realised in the first year of assessment ending on or after 1 January 1994, shall be included in or deducted from, as the case may be, the income of such person in such first year of assessment; or
 - (b) which is not so realised in such first year of assessment, shall be included in or deducted from, as the case may be, the income of such person—
 - (i) to the extent of 50 per cent of such transitional exchange difference in such first year of assessment; and
 - (ii) to the extent of 50 per cent of such transitional exchange difference in the year of assessment succeeding such first year of assessment.
- (4) In determining the taxable income of any person derived from carrying on any trade by him within the Republic, there shall in respect of any year of assessment ending on or after 1 January 1994 be included in or deducted from the income so derived, as the case may be—
- (a) any premium or like consideration received or receivable by, or paid or payable by, such person in terms of a foreign currency option contract entered into by such person in the course of such trade; or
 - (b) any consideration paid or payable by such person in respect of a foreign currency option contract acquired by such person in the course of such trade.
- (5) Where during any year of assessment any premium or discount on a forward exchange contract is included in any exchange difference in respect of any loan, advance or debt, where such exchange difference arose by reason of such loan, advance or debt having been—
- (a) translated at the forward rate as contemplated in paragraph (a)(ii) of the definition of 'ruling exchange rate'; and
 - (b) (i) recorded during that year of assessment at the spot rate on transaction date as contemplated in paragraph (a)(i) of that definition; or
 - (ii) translated at the end of the immediately preceding year of assessment at the spot rate on translation date as contemplated in paragraph (a)(ii) of that definition; or
 - (iii) translated at the end of the immediately preceding year of assessment at the forward rate as contemplated in paragraph (a)(ii) of that definition, but such forward rate differs from the forward rate contemplated in paragraph (a) of this definition,
- such premium or discount on such forward exchange contract which is so included in such exchange difference, shall be deemed to have been incurred or accrued, as the case may be, on a day to day basis during the period of such forward exchange contract and such premium or discount shall, for the purposes of subsection (2), be included in or deducted from a person's income on such basis.
- (6) Any inclusion in or deduction from income in terms of this section in respect of an exchange difference, transitional exchange difference or a premium or other consideration in respect of or in terms of a foreign currency option contract, shall be in lieu of any deduction or inclusion which may otherwise be allowed or included under any other provision of this Act.

- verskuldig of 'n skuld deur bedoelde persoon aangegaan waar bedoelde lening of voorskot aangewend is of bedoelde skuld aangegaan is ten einde uitgawes aangegaan deur 'n verbonde persoon met betrekking tot bedoelde persoon in die loop van die beoefening van 'n bedryf in die Republiek deur bedoelde verbonde persoon te finansier.
- (3) By die toepassing van subartikel (2) word enige oorgangsalutaverskil ten opsigte van 'n valuta-item—
- (a) wat gerealiseer word in die eerste jaar van aanslag wat op of na 1 Januarie 1994 eindig, ingesluit by of afgetrek van, na gelang van die geval, die inkomste van bedoelde persoon in bedoelde eerste jaar van aanslag; of
 - (b) wat nie aldus in bedoelde eerste jaar van aanslag gerealiseer word nie, ingesluit by of afgetrek van, na gelang van die geval, die inkomste van bedoelde persoon—
 - (i) tot die bedrag van 50 persent van bedoelde oorgangsalutaverskil in bedoelde eerste jaar van aanslag; en
 - (ii) tot die bedrag van 50 persent van bedoelde oorgangsalutaverskil in die jaar van aanslag wat volg op bedoelde eerste jaar van aanslag.
- (4) By die vasstelling van die belasbare inkomste deur 'n persoon verkry uit die beoefening deur hom van 'n bedryf in die Republiek, word daar ten opsigte van enige jaar van aanslag wat op of na 1 Januarie 1994 eindig, by of van die aldus verkreë inkomste, na gelang van die geval, ingesluit of afgetrek—
- (a) enige premie of soortgelyke vergoeding ontvang of ontvangbaar deur, of betaal of betaalbaar deur, bedoelde persoon ingevolge 'n buitelandse valuta-opsiekontrak deur bedoelde persoon in die loop van bedoelde bedryf aangegaan; of
 - (b) enige vergoeding betaal of betaalbaar deur bedoelde persoon ten opsigte van 'n buitelandse valuta-opsiekontrak deur bedoelde persoon in die loop van bedoelde bedryf verkry.
- (5) Waar gedurende enige jaar van aanslag 'n premie of diskonto op 'n valutaternynkontrak in 'n valutaverskil ten opsigte van 'n lening, voorskot of skuld ingesluit is, waar bedoelde valutaverskil ontstaan het vanweë die feit dat bedoelde lening, voorskot of skuld—
- (a) teen die termynkoers soos beoog in paragraaf (a)(ii) van die omskrywing van 'heersende wisselkoers' omgereken is; en
 - (b) (i) gedurende daardie jaar van aanslag teen die kontantkoers op transaksiedatum soos beoog in paragraaf (a)(i) van daardie omskrywing te boek gestel is; of
 - (ii) aan die einde van die onmiddellik voorafgaande jaar van aanslag teen die kontantkoers op omrekeningsdatum soos beoog in paragraaf (a)(ii) van daardie omskrywing omgereken is; of
 - (iii) aan die einde van die onmiddellik voorafgaande jaar van aanslag teen die termynkoers soos beoog in paragraaf (a)(ii) van daardie omskrywing omgereken is, maar bedoelde termynkoers van die termynkoers beoog in paragraaf (a) van hierdie omskrywing verskil,
- word bedoelde premie of diskonto op bedoelde valutaternynkontrak wat aldus by bedoelde valutaverskil ingesluit is, geag aangegaan te gewees het of toe te geval het, na gelang van die geval, op 'n-dag-tot-dag-grondslag gedurende die tydperk van bedoelde valutaternynkontrak en word bedoelde premie of diskonto, by die toepassing van subartikel (2), op bedoelde grondslag by 'n persoon se inkomste ingesluit of afgetrek.
- (6) Enige insluiting in of aftrekking van inkomste ingevolge hierdie artikel ten opsigte van 'n valutaverskil, oorgangsalutaverskil of 'n premie of ander vergoeding ten opsigte van of ingevolge 'n buitelandse valuta-opsiekontrak, geskied in plaas van enige aftrekking of insluiting wat andersins ingevolge enige ander bepaling van hierdie Wet toegestaan of ingesluit mag word.

- (7) Notwithstanding the provisions of subsections (2) and (4), but subject to the provisions of section 37E—
- (a) any exchange difference arising from a loan, advance or debt having been utilized by a person in respect of—
 - (i) the acquisition, installation, erection or construction of any machinery, plant, implement, utensil, building or improvements to any building, as the case may be; or
 - (ii) the devising, developing, creation, production, acquisition or restoration of any invention, patent, design, trade mark, copyright or other similar property or knowledge contemplated in section 11(gA), as the case may be;
 - (b) any exchange difference arising from a forward exchange contract or a foreign currency option contract which has been entered into by a person contemplated in paragraph (a) to serve as a hedge in respect of a loan, advance or debt contemplated in paragraph (a), to the extent to which the amount of such exchange difference does not exceed the amount of the exchange difference contemplated in paragraph (a); and
 - (c) any premium or other consideration paid or payable in respect of or in terms of a foreign currency option contract entered into or acquired by a person contemplated in paragraph (a) in order to serve as a hedge in respect of a loan, advance or debt contemplated in paragraph (a),
- shall be taken into account in the determination of the taxable income of such person in the year of assessment during which such machinery, plant, implement, utensil, building, improvements to any building, invention, patent, design, trade mark, copyright or other similar property or knowledge was or is brought into use for the purposes of such person's trade.
- (8) Any foreign exchange loss sustained in respect of a transaction entered into by a person, or any premium or other consideration paid in respect of or in terms of a foreign currency option contract entered into or acquired by a person, shall not be allowed as a deduction from such person's income under subsection (2) or (4), as the case may be, if such transaction was entered into or such foreign currency option contract was entered into or acquired solely or mainly to enjoy a reduction in tax by way of a deduction from income.”.

Substitution of section 25 of Act 58 of 1962

22. The following section is hereby substituted for section 25 of the principal Act:

“Income of beneficiaries and estates of deceased persons

25. (1) Any income received by or accrued to or in favour of any person in his capacity as the executor of the estate of a deceased person, and any amount so received or accrued which would have been income in the hands of the deceased person had it been received by or accrued to or in favour of such deceased person during his lifetime, shall, to the extent to which such income or amount has been derived for the immediate or future benefit of any ascertained heir or legatee of such deceased person, be deemed to be income received by or accrued to such heir or legatee, and shall, to the extent to which such income or amount is not so derived, be deemed to be income of the estate of such deceased person.

(2) Any deduction or allowance which may be granted under the provisions of this Act in the determination of the taxable income derived by way of any income or amount referred to in subsection (1) shall, to the extent to which such income or amount is under the provisions of that subsection deemed to be income which has accrued

- (7) Ondanks die bepalings van subartikels (2) en (4), maar behoudens die bepalings van artikel 37E word—
- (a) enige valutaverskil wat ontstaan uit 'n lening, voorskot of skuld wat deur 'n persoon aangewend word ten opsigte van—
 - (i) die verkryging, installasie, oprigting of konstruksie van enige masjinerie, installasie, gereedskap, werktuig, gebou of verbeterings aan 'n gebou, na gelang van die geval; of
 - (ii) die uitdink, ontwikkeling, skepping, voortbrenging, verkryging of herstel van enige uitvinding, patent, model, handelsmerk, outeursreg of ander soortgelyke eiendom of kennis beoog in artikel 11(gA), na gelang van die geval;
 - (b) enige valutaverskil wat ontstaan uit 'n valutatermynkontrak of 'n buitelandse valuta-opsiekontrak wat deur 'n persoon beoog in paragraaf (a) aangegaan is om as dekking te dien ten opsigte van 'n lening, voorskot of skuld beoog in paragraaf (a), vir sover die bedrag van bedoelde valutaverskil nie die bedrag van die valutaverskil beoog in paragraaf (a) oorskry nie; en
 - (c) enige premie of ander vergoeding betaal of betaalbaar ten opsigte van of ingevolge 'n buitelandse valuta-opsiekontrak aangegaan of verkry deur 'n persoon beoog in paragraaf (a) om as dekking te dien ten opsigte van 'n lening, voorskot of skuld in paragraaf (a) beoog,
- in berekening gebring by die vasstelling van die belasbare inkomste van bedoelde persoon in die jaar van aanslag waartydens bedoelde masjinerie, installasie, gereedskap, werktuig, gebou, verbeterings aan enige gebou, uitvinding, patent, model, handelsmerk, outeursreg of ander soortgelyke eiendom of kennis in gebruik geneem was of is vir doeleindeste van bedoelde persoon se bedryf.
- (8) Enige buitelandse valutaverlies gely ten opsigte van 'n transaksie deur 'n persoon aangegaan, of enige premie of ander vergoeding betaal ten opsigte van of ingevolge 'n buitelandse valuta-opsiekontrak deur 'n persoon aangegaan of verkry, word nie as 'n aftrekking van bedoelde persoon se inkomste ingevolge subartikel (2) of (4), na gelang van die geval, toegestaan nie, indien bedoelde transaksie aangegaan is of bedoelde buitelandse valuta-opsiekontrak aangegaan is of verkry uitsluitlik of hoofsaaklik om 'n belastingvermindering te geniet by wyse van 'n aftrekking van inkomste.”.

Vervanging van artikel 25 van Wet 58 van 1962

22. Artikel 25 van die Hoofwet word hierby deur die volgende artikel 40 vervang—

“Inkomste van begunstigdes en boedels van oorledenes

25.(1) Inkomste ontvang deur of toegeval aan of ten gunste van 'n persoon in sy hoedanigheid van eksekuteur van die boedel van 'n oorledene, en 'n bedrag aldus ontvang of toegeval wat inkomste in die hande van die oorledene sou gewees het indien dit gedurende die oorledene se leeftyd deur hom ontvang was of aan of ten gunste van hom toegeval het, word, vir sover dié inkomste of bedrag vir die onmiddellike of toekomstige voordeel van 'n vasgestelde erfgenaam of legataris van bedoelde oorledene verkry is, geag inkomste te wees wat deur bedoelde erfgenaam of legataris ontvang is of aan hom toegeval het, en word, vir sover bedoelde inkomste of bedrag nie so verkry is nie, geag die inkomste van die boedel van bedoelde oorledene te wees.

(2) Enige aftrekking of vermindering wat ingevolge die bepalings van hierdie Wet toegestaan kan word by die vasstelling van die belasbare inkomste verkry by wyse van enige inkomste of bedrag bedoel in subartikel (1), word, vir sover bedoelde inkomste of bedrag ingevolge die bepalings van daardie subartikel geag word inkomste te wees wat aan 'n erfgenaam of legataris of die boedel van

to an heir or legatee or the estate of such deceased person, be deemed to be a deduction or allowance which may be made in the determination of the taxable income derived by such heir or legatee or such estate, as the case may be.”.

Amendment of section 27 of Act 58 of 1962, as amended by section 17 of Act 113 of 1977, section 11 of Act 101 of 1978, section 19 of Act 104 of 1980, section 21 of Act 96 of 1981, section 15 of Act 96 of 1985, section 18 of Act 85 of 1987, section 22 of Act 90 of 1988, section 28 of Act 129 of 1991 and section 23 of Act 141 of 1992

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23. Section 27 of the principal Act is hereby amended—

- (a) by the substitution for the proviso to paragraph (a) of subsection (2) of the following proviso:

“Provided that the amounts allowed as deductions under this paragraph shall not in the aggregate exceed an amount [equal] which bears to the taxable income of such agricultural co-operative for the year of assessment (as calculated before allowing any deductions under this paragraph and sections 11bis, [13(5)] 13bis(7) and 21ter and before setting off any balance of assessed loss brought forward from a previous year of assessment) the same ratio as the aggregate value of the business conducted by such agricultural co-operative with its members during such year bears to the aggregate value of all business conducted by it during such year;”;

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- (b) by the substitution for paragraph (a) of subsection (5) of the following paragraph:

“(a) an allowance may in the appropriate circumstances be granted under subsection (2)(b) to the new co-operative in respect of such building or any improvements (other than repairs) thereto if [the Commissioner is satisfied that] such allowance would have been granted to the other co-operative if the amalgamation had not been effected;”; and

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- (c) by the substitution for the definition of “primary process” in subsection (9) of the following definition:

“‘primary process’, in relation to any product produced in the course of pastoral, agricultural or other farming operations, means the first process to which such product is subjected by an agricultural co-operative in order to render such product marketable or to convert such product into a marketable commodity, and includes any further process carried on by such co-operative which is [shown to the satisfaction of the Commissioner to be] so connected with the said first process that such first process and such further process or processes may be regarded as one process and to be necessary to convert such product into a marketable commodity;”.

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Amendment of section 28 of Act 58 of 1962, as amended by section 17 of Act 90 of 1962, section 22 of Act 55 of 1966, section 24 of Act 89 of 1969, section 21 of Act 88 of 1971, section 19 of Act 65 of 1973, section 16 of Act 103 of 1976, section 19 of Act 91 of 1982, section 22 of Act 94 of 1983, section 17 of Act 65 of 1986, section 23 of Act 90 of 1988, section 13 of Act 70 of 1989, section 25 of Act 101 of 1990 and section 29 of Act 129 of 1991

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24. Section 28 of the principal Act is hereby amended—

- (a) by the substitution for item (A) of subparagraph (i) of paragraph (b) of subsection (1) of the following item:

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“(A) amounts proved to the satisfaction of the Commissioner to have been derived by the taxpayer from the investment of funds

bedoelde oorledene toegeval het, geag 'n aftrekking of vermindering te wees wat toegestaan kan word by die vasstelling van die belasbare inkomste deur daardie erfgenaam of legataris of bedoelde boedel verkry, na gelang van die geval.”.

5 **Wysiging van artikel 27 van Wet 58 van 1962, soos gewysig deur artikel 17 van Wet 113 van 1977, artikel 11 van Wet 101 van 1978, artikel 19 van Wet 104 van 1980, artikel 21 van Wet 96 van 1981, artikel 15 van Wet 96 van 1985, artikel 18 van Wet 85 van 1987, artikel 22 van Wet 90 van 1988, artikel 28 van Wet 129 van 1991 en artikel 23 van Wet 141 van 1992**

10 10 **23. Artikel 27 van die Hoofwet word hierby gewysig—**

(a) deur die voorbehoudsbepaling by paragraaf (a) van subartikel (2) deur die volgende voorbehoudsbepaling te vervang:

“Met dien verstande dat die bedrae wat as aftrekkings ingevolge hierdie paragraaf toegelaat word in totaal 'n bedrag is wat hoogstens **[gelyk is aan]** in dieselfde verhouding staan tot die belasbare inkomste van bedoelde landboukoöperasie vir die jaar van aanslag (soos bereken voordat enige aftrekkings ingevolge hierdie paragraaf en artikels 11bis, **[13(5)]** 13bis(7) en 21ter toegelaat word en voordat enige balans van vasgestelde verlies wat van 'n vorige jaar van aanslag oorgedra is, in vergelyking gebring word) as wat die totale waarde van die besigheid deur bedoelde landboukoöperasie gedoen met sy lede gedurende bedoelde jaar tot die totale waarde van al sy besigheid deur hom gedoen gedurende bedoelde jaar staan;”;

25 (b) deur paragraaf (a) van subartikel (5) deur die volgende paragraaf te vervang:

“(a) kan in die paslike omstandighede 'n vermindering ingevolge subartikel (2)(b) aan die nuwe koöperasie ten opsigte van bedoelde gebou of verbeterings (behalwe herstelwerk) daarvan toegestaan word indien **[die Kommissaris oortuig is dat]** sodanige vermindering aan die ander koöperasie toegestaan sou gewees het indien die amalgamasie nie bewerkstellig was nie;”;

35 (c) deur die omskrywing van “primère proses” in subartikel (9) deur die volgende omskrywing te vervang:

“‘primère proses’, met betrekking tot 'n produk wat in die loop van veeboerdery-, landbou- of ander boerderybedrywighede geproduseer word, die eerste proses waaraan dié produk deur 'n landboukoöperasie onderwerp word ten einde daardie produk bemarkbaar te maak of om daardie produk in 'n bemarkbare handelsartikel te omskep, en ook 'n verdere proses, deur so 'n koöperasie uitgevoer, **[ten opsigte waarvan tot bevrediging van die Kommissaris, bewys word dat dit]** wat sodanig met bedoelde eerste proses verband hou dat daardie eerste proses en bedoelde verdere proses of prosesse beskou kan word as een proses en nodig is ten einde bedoelde produk in 'n bemarkbare handelsartikel te omskep;”.

Wysiging van artikel 28 van Wet 58 van 1962, soos gewysig deur artikel 17 van Wet 90 van 1962, artikel 22 van Wet 55 van 1966, artikel 24 van Wet 89 van 1969, artikel 21 van Wet 88 van 1971, artikel 19 van Wet 65 van 1973, artikel 16 van Wet 103 van 1976, artikel 19 van Wet 91 van 1982, artikel 22 van Wet 94 van 1983, artikel 17 van Wet 65 van 1986, artikel 23 van Wet 90 van 1988, artikel 13 van Wet 70 van 1989, artikel 25 van Wet 101 van 1990 en artikel 29 van Wet 129 van 1991

55 55 **24. Artikel 28 van die Hoofwet word hierby gewysig—**

(a) deur item (A) van subparagraph (i) van paragraaf (b) van subartikel (1) deur die volgende item te vervang:

“(A) bedrae wat tot bevrediging van die Kommissaris bewys word deur die belastingpligtige verkry te gewees het uit die belegging

- attributable to any long-term insurance business carried on by him in the Republic with any benefit fund, pension fund, provident fund or retirement annuity fund or to any long-term insurance business carried on by the taxpayer in the territory or in any country the territory of which formerly formed part of the Republic with any fund the receipts and accruals of which are exempt from tax under the provisions of section 10(1)(dA);”; and
- (b) by the insertion after subsection (1B) of the following subsection:
- “(1C) The provisions of subsection (1) shall—
- (a) in the first and second years of assessment of the taxpayer commencing on or after 1 July 1993, be applied subject to the provisions of section 29(17); and
- (b) not apply in any succeeding year of assessment.”.

Insertion of section 29 in Act 58 of 1962

25. (1) The following section is hereby inserted in the principal Act after section 28bis: 15

“Taxable income of companies carrying on long-term insurance business

29. (1) For the purposes of this section—

‘Insurance Act’ means the Insurance Act, 1943 (Act No. 27 of 1943); ‘insurer’ means any company carrying on long-term insurance business as defined in section 1 of the Insurance Act; ‘market value’, in relation to any asset, means the sum which a person having the right freely to dispose of such asset might reasonably expect to obtain from a sale of such asset in the open market; ‘owner’, in relation to a policy, means the person who is entitled to enforce any benefit provided for in the policy; ‘policy’ means a policy as defined in section 1 of the Insurance Act, the assumption of obligations under which constitutes long-term insurance business as so defined; ‘policyholder fund’ means any fund contemplated in subsection (4)(a), (b) or (c); ‘prescribed value’, in relation to the assets required to be held at any time by an insurer in a policyholder fund, means an amount equal to the net liabilities of the insurer in respect of the business conducted by it in the fund concerned in the Republic or in any country the territory of which formerly formed part of the Republic, determined in the manner as contemplated in section 1(2)(a) of the Insurance Act, but subject to such modifications as may from time to time be determined for the purposes of this section by the Chief Actuary of the Financial Services Board.

(2) The taxable income derived by any insurer shall be determined in accordance with the provisions of this Act, but subject to the provisions of this section.

(3) Every insurer shall, not later than the commencement of its first year of assessment commencing on or after 1 July 1996, establish four separate funds as contemplated in subsection (4), and shall thereafter maintain such funds in accordance with the provisions of this section.

(4) The funds referred to in subsection (3) shall be—

(a) a fund, to be known as the untaxed policyholder fund, in which shall be placed assets having a market value equal to the prescribed value determined in relation to, and liabilities (other than those taken into account in the determination of such prescribed value) relating to—

(i) business carried on by the insurer with, and any policy of

van fondse afkomstig van langtermynversekeringsbesigheid deur die belastingpligtige in die Republiek met 'n bystandsfonds, pensioenfonds, voorsorgsfonds of uittredingannuïteitsfonds gedryf of van langtermynversekeringsbesigheid deur die belastingpligtige in die gebied of in 'n land waarvan die gebied voorheen deel van die Republiek uitgemaak het, gedryf met 'n fonds waarvan die ontvangste en toevalings ingevolge die bepalings van artikel 10(1)(dA) van belasting vrygestel is;'; en

5 (b) deur na subartikel (1B) die volgende subartikel in te voeg:

10 “(1C) Die bepalings van subartikel (1) word—

 (a) in die eerste en tweede jare van aanslag van die belastingpligtige beginnende op of na 1 Julie 1993, behoudens die bepalings van artikel 29(17) toegepas; en

 (b) nie in enige daaropvolgende jaar van aanslag toegepas nie.”.

15 Invoeging van artikel 29 in Wet 58 van 1962

25. (1) Die volgende artikel word hierby in die Hoofwet na artikel 28bis ingevoeg:

“Belasbare inkomste van maatskappye wat langtermynversekeringsbesigheid dryf

20 **29. (1) By die toepassing van hierdie artikel beteken—**
 ‘eienaar’, met betrekking tot ‘n polis, die persoon wat geregtig is om ‘n voordeel waarvoor in die polis voorsiening gemaak word, af te dwing;

25 ‘markwaarde’, met betrekking tot ‘n bate, die som wat ‘n persoon wat die reg het om bedoelde bate vrylik te vervreem, redelikerwys kan verwag om te verkry uit die verkoop van bedoelde bate op die ope mark;

30 ‘polis’ ‘n polis soos in artikel 1 van die Versekeringswet omskryf, waarkragtens die aanvaarding van verpligtinge langtermynversekeringsbesigheid soos aldus omskryf, uitmaak;

35 ‘polishouerfonds’ ‘n fonds beoog in subartikel (4)(a), (b) of (c); ‘versekeraar’ ‘n maatskappy wat langtermynversekeringsbesigheid soos omskryf in artikel 1 van die Versekeringswet dryf; ‘Versekeringswet’ die Versekeringswet, 1943 (Wet No. 27 van 1943); ‘voorgeskrewe waarde’, met betrekking tot die bates wat vereis word te eniger tyd deur ‘n versekeraar in ‘n polishouerfonds gehou moet word, ‘n bedrag gelyk aan die netto verpligtinge van die versekeraar ten opsigte van die besigheid deur hom in die betrokke fonds gedryf in die Republiek of in ‘n land waarvan die gebied voorheen deel van die Republiek uitgemaak het, vasgestel op die wyse soos beoog in artikel 1(2)(a) van die Versekeringswet, maar behoudens sodanige veranderings as wat van tyd tot tyd vir die doeleindes van hierdie artikel deur die Hoofaktuaris van die Raad op Finansiële Dienste vasgestel mag word.

40 (2) Die belasbare inkomste wat deur ‘n versekeraar verkry word, word ooreenkomsdig die bepalings van hierdie Wet, maar behoudens die bepalings van hierdie artikel, vasgestel.

45 (3) Elke versekeraar stig nie later nie as die aanvang van sy eerste jaar van aanslag wat op of na 1 Julie 1996 begin, vier afsonderlike fondse soos in subartikel (4) beoog, en hou bedoelde fondse daarna ooreenkomsdig die bepalings van hierdie artikel in stand.

50 (4) Die fondse in subartikel (3) bedoel, is—

55 (a) ‘n fonds, wat die onbelaste polishouerfonds heet, waarin bates geplaas word met ‘n markwaarde gelyk aan die voorgeskrewe waarde vasgestel met betrekking tot, en laste (behalwe dié wat by die vasstelling van bedoelde voorgeskrewe waarde in aanmerking geneem is) wat betrekking het op—

 (i) besigheid wat deur die versekeraar gedryf word met ‘n

<p>which the owner is, any pension fund, provident fund, retirement annuity fund or benefit fund;</p> <p>(ii) any policy of which the owner is a person or body the entire receipts and accruals of whom or of which are exempt from tax under any provision of section 10: Provided that an insurer shall not deal with a policy in terms of the provisions of this subparagraph unless it has satisfied itself beyond all reasonable doubt that the owner of such policy is a person or body contemplated herein;</p> <p>(iii) any annuity contracts entered into by it in respect of which annuities are being paid;</p> <p>(b) a fund, to be known as the individual policyholder fund, in which shall be placed assets having a market value equal to the prescribed value determined in relation to, and liabilities (other than those taken into account in the determination of such prescribed value) relating to, any policy (other than a policy contemplated in paragraph (a)) of which the owner is any person other than a company;</p> <p>(c) a fund, to be known as the company policyholder fund, in which shall be placed assets having a market value equal to the prescribed value determined in relation to, and liabilities (other than those taken into account in the determination of such prescribed value) relating to, any policy (other than a policy contemplated in paragraph (a)) of which the owner is a company; and</p> <p>(d) a fund, to be known as the corporate fund, in which shall be placed all the assets (if any) held by the insurer, and all liabilities owed by it, other than those contemplated in paragraphs (a), (b) and (c) and those relating to business conducted by it elsewhere than in the Republic or any country the territory of which formerly formed part of the Republic.</p> <p>(5) For the purposes of subsection (4), where the owner of a policy is the trustee of any trust or where two or more owners jointly own a policy—</p> <p>(a) if all the beneficiaries in such trust or all such owners are funds, persons or bodies contemplated in subsection (4)(a), the owner of such policy shall be deemed to be such a fund, person or body, as the case may be; or</p> <p>(b) where paragraph (a) is not applicable and all the beneficiaries in such trust or all such owners are persons other than a company, the owner of such policy shall be deemed to be a person other than a company; or</p> <p>(c) where paragraphs (a) and (b) are not applicable, the owner of such policy shall be deemed to be a company.</p> <p>(6) Every insurer shall within a period of six months after the end of every year of assessment redetermine the prescribed value in relation to each of its policyholder funds as at the last day of such year, and—</p> <p>(a) where the market value of the assets actually held by it in any such fund exceeds the prescribed value, it shall, subject to the provisions of subsection (8), within the said period transfer from such fund to its corporate fund assets having a market value equal to such excess; or</p> <p>(b) where the market value of the assets actually held by it in any such fund is less than the prescribed value, it shall within the said period transfer from its corporate fund to such fund assets having a market value equal to the shortfall.</p> <p>(7)(a) An insurer who becomes aware that, in consequence of a change of ownership of any policy issued by it, the assets held by it in relation to such policy should in terms of the provisions of subsection (4) be held in a policyholder fund other than the policyholder fund in which such assets are actually held, may at its option forthwith</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p> <p>50</p> <p>55</p> <p>60</p>
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- pensioenfonds, voorsorgsfonds, uittredingannuïteitsfonds of bystandsfasfonds, en enige polis waarvan die eienaar 'n pensioenfonds, voorsorgsfonds, uittredingannuïteitsfonds of bystandsfasfonds is;
- (ii) enige polis waarvan die eienaar 'n persoon of liggaaam is wie se totale ontvangste en toevallings ingevolge 'n bepaling van artikel 10 van belasting vrygestel is: Met dien verstande dat 'n versekeraar nie met 'n polis ingevolge die bepalings van hierdie subparagraaf handel nie tensy hy homself bo alle redelike twyfel tevrede gestel het dat die eienaar van bedoelde polis 'n hierin beoogde persoon of liggaaam is;
- (iii) enige jaargeldkontrakte deur hom gesluit ten opsigte waarvan jaargelde betaal word;
- (b) 'n fonds, wat die individuele polishouerfonds heet, waarin bates geplaas word met 'n markwaarde gelyk aan die voorgeskrewe waarde vasgestel met betrekking tot, en laste (behalwe dié wat by die vasstelling van bedoelde voorgeskrewe waarde in aanmerking geneem is) wat betrekking het op, 'n polis (behalwe 'n polis beoog in paragraaf (a)) waarvan die eienaar 'n persoon behalwe 'n maatskappy is;
- (c) 'n fonds, wat die maatskappypolishouerfonds heet, waarin bates geplaas word met 'n markwaarde gelyk aan die voorgeskrewe waarde vasgestel met betrekking tot, en laste (behalwe dié wat by die vasstelling van bedoelde voorgeskrewe waarde in aanmerking geneem is) wat betrekking het op, 'n polis (behalwe 'n polis beoog in paragraaf (a)) waarvan die eienaar 'n maatskappy is; en
- (d) 'n fonds, wat die korporatiewe fonds heet, waarin al die bates (as daar is) wat deur die versekeraar gehou word, en alle laste wat deur hom verskuldig is, behalwe dié in paragrawe (a), (b) en (c) beoog en dié wat betrekking het op besigheid wat deur hom gedryf word elders as in die Republiek of 'n land waarvan die gebied voorheen deel van die Republiek uitgemaak het, geplaas word.
- (5) By die toepassing van subartikel (4), waar die eienaar van 'n polis die trustee van 'n trust is of waar twee of meer eienaars gesamentlik 'n polis besit, word—
- (a) indien al die begunstigdes in bedoelde trust of al bedoelde eienaars in subartikel (4)(a) beoogde fondse, persone of liggame is, die eienaar van bedoelde polis geag so 'n fonds, persoon of liggaaam, na gelang van die geval, te wees; of
- (b) waar paragraaf (a) nie van toepassing is nie en al die begunstigdes in bedoelde trust of al bedoelde eienaars persone behalwe 'n maatskappy is, die eienaar van bedoelde polis geag 'n persoon behalwe 'n maatskappy te wees; of
- (c) waar paragrawe (a) en (b) nie van toepassing is nie, die eienaar van bedoelde polis geag 'n maatskappy te wees.
- (6) Elke versekeraar moet binne 'n tydperk van ses maande na die einde van elke jaar van aanslag die voorgeskrewe waarde met betrekking tot elkeen van sy polishouerfondse soos op die laaste dag van bedoelde jaar herbepaal, en—
- (a) waar die markwaarde van die bates werklik deur hom in so 'n fonds gehou die voorgeskrewe waarde oorskry, moet hy, behoudens die bepaling van subartikel (8), binne genoemde tydperk bates met 'n markwaarde gelyk aan bedoelde oorskot vanaf bedoelde fonds na sy korporatiewe fonds oorplaas; of
- (b) waar die markwaarde van die bates werklik deur hom in so 'n fonds gehou minder is as die voorgeskrewe waarde, moet hy binne genoemde tydperk bates met 'n markwaarde gelyk aan dié tekort vanaf sy korporatiewe fonds na bedoelde fonds oorplaas.
- (7)(a) 'n Versekeraar wat daarvan bewus word dat, as gevolg van 'n verandering van eiendomsreg van 'n polis wat deur hom uitgereik is, die bates wat met betrekking tot bedoelde polis deur hom gehou word ingevolge die bepaling van subartikel (4) in 'n ander polishouerfonds gehou behoort te word as die polishouerfonds waarin

transfer from such lastmentioned fund to such firstmentioned fund assets having a market value equal to the prescribed value determined on the date of such transfer in relation to the said policy.

(b) Any transfer of an asset effected by an insurer between one policyholder fund and another policyholder fund otherwise than in terms of the provisions of paragraph (a), shall be effected by way of a sale of such asset at the market value thereof and shall for the purposes of this section be treated as a purchase or sale of such asset, as the case may be, in each such fund.

(8) An insurer shall, in addition to assets having a market value equal to the prescribed value, be permitted to retain in each of its policyholder funds at the end of any year of assessment assets having a market value not exceeding the sum of—

- (a) 80 per cent of the residual surplus arising in the fund concerned during such year;
- (b) 60 per cent of the residual surplus so arising in the year of assessment immediately preceding the year referred to in paragraph (a);
- (c) 40 per cent of the residual surplus so arising in the year of assessment immediately preceding the year referred to in paragraph (b); and
- (d) 20 per cent of the residual surplus so arising in the year of assessment immediately preceding the year referred to in paragraph (c):

Provided that where in any case the year of assessment first mentioned in paragraph (b), (c) or (d) is a year of assessment which commenced before 1 July 1993, the provisions of that paragraph shall not apply.

(9) For the purposes of subsection (8), the residual surplus arising in any fund during a year of assessment shall be an amount determined in accordance with the formula—

$$S = A - B + C - D$$

in which formula—

- (a) 'S' represents the residual surplus to be determined;
- (b) 'A' represents the amount of the excess (if any) contemplated in subsection (6)(a) determined in respect of the fund concerned at the end of the said year of assessment;
- (c) 'B' represents the amount of the excess (if any) contemplated in subsection (6)(a) determined in respect of the fund concerned at the end of the immediately preceding year of assessment;
- (d) 'C' represents the amount (if any) actually transferred from the fund concerned to the corporate fund in respect of the said immediately preceding year of assessment in terms of the provisions of subsection (6)(a); and
- (e) 'D' represents the amount (if any) actually transferred from the corporate fund to the fund concerned in respect of the said immediately preceding year of assessment in terms of the provisions of subsection (6)(b).

(10)(a) Where—

- (i) the market value of the assets actually held by an insurer in its individual policyholder fund or its company policyholder fund at the end of any year of assessment is less than the prescribed value in relation to the fund concerned and the insurer is required in terms of the provisions of subsection (6)(b) to transfer assets from its corporate fund to make good the shortfall; and
- (ii) the taxable income derived by the insurer in its corporate fund in such year, as determined before deducting the transfer contemplated in subparagraph (i), is less than the amount of such transfer,

bedoelde bates werklik gehou word, kan volgens sy keuse onmiddellik vanaf bedoelde laasgenoemde fonds na bedoelde eersgenoemde fonds bates oorplaas met 'n markwaarde gelyk aan die voorgeskrewe waarde met betrekking tot genoemde polis soos op die datum van bedoelde oorplasing vasgestel.

(b) 'n Oorplasing van 'n bate tussen een polishouerfonds en 'n ander polishouerfonds wat anders as ingevolge die bepalings van paragraaf (a) deur 'n versekeraar bewerkstellig word, geskied by wyse van 'n verkoop van bedoelde bate teen die markwaarde daarvan en word by die toepassing van hierdie artikel as 'n aankoop of verkoop, na gelang van die geval, in elke sodanige fonds behandel.

(8) 'n Versekeraar word aan die einde van 'n jaar van aanslag toegelaat om, benewens bates met 'n markwaarde gelyk aan die voorgeskrewe waarde, bates in elkeen van sy polishouerfondse oor te hou met 'n markwaarde wat nie meer is nie as die som van—

- (a) 80 persent van die residu-oorskot wat gedurende bedoelde jaar in die betrokke fonds ontstaan het;
- (b) 60 persent van die residu-oorskot wat in die jaar van aanslag wat die in paragraaf (a) bedoelde jaar onmiddellik voorafgegaan het, aldus ontstaan het;
- (c) 40 persent van die residu-oorskot wat in die jaar van aanslag wat die in paragraaf (b) bedoelde jaar onmiddellik voorafgegaan het, aldus ontstaan het; en
- (d) 20 persent van die residu-oorskot wat in die jaar van aanslag wat die in paragraaf (c) bedoelde jaar onmiddellik voorafgegaan het, aldus ontstaan het:

Met dien verstande dat waar in enige geval die jaar van aanslag wat eerste in paragraaf (b), (c) of (d) genoem word, 'n jaar van aanslag is wat voor 1 Julie 1993 begin het, die bepalings van daardie paragraaf nie van toepassing is nie.

(9) By die toepassing van subartikel (8) word die residu-oorskot wat gedurende 'n jaar van aanslag in 'n fonds ontstaan, vasgestel ooreenkomsdig die formule—

$$S = A - B + C - D$$

in welke formule—

- (a) 'S' die residu-oorskot voorstel wat vasgestel staan te word;
- (b) 'A' die bedrag van die in subartikel (6)(a) beoogde oorskot (as daar is) voorstel wat aan die einde van genoemde jaar van aanslag ten opsigte van die betrokke fonds vasgestel is;
- (c) 'B' die bedrag van die in subartikel (6)(a) beoogde oorskot (as daar is) voorstel wat aan die einde van die onmiddellik voorafgaande jaar van aanslag ten opsigte van die betrokke fonds vasgestel is;
- (d) 'C' die bedrag (as daar is) voorstel wat werklik vanaf die betrokke fonds na die korporatiewe fonds oorgeplaas is ten opsigte van genoemde onmiddellik voorafgaande jaar van aanslag ingevolge die bepalings van subartikel (6)(a); en
- (e) 'D' die bedrag (as daar is) voorstel wat werklik vanaf die korporatiewe fonds na die betrokke fonds oorgeplaas is ten opsigte van genoemde onmiddellik voorafgaande jaar van aanslag ingevolge die bepalings van subartikel (6)(b).

(10)(a) Waar—

- (i) die markwaarde van die bates wat werklik deur 'n versekeraar in sy individuele polishouerfonds of sy maatskappypolishouerfonds aan die einde van 'n jaar van aanslag gehou word, minder is as die voorgeskrewe waarde met betrekking tot die betrokke fonds en die versekeraar ingevolge die bepalings van subartikel (6)(b) verplig is om bates vanaf sy korporatiewe fonds oor te plaas om die tekort te vergoed; en
- (ii) die belasbare inkomste wat in bedoelde jaar deur die versekeraar in sy korporatiewe fonds verkry is, soos vasgestel voor die aftrekking van die in subparagraaf (i) beoogde oorplasing, minder is as die bedrag van bedoelde oorplasing,

the insurer may designate so much of the amount of such transfer as exceeds its taxable income (determined as contemplated in subparagraph (ii)) to be a special transfer for the purposes of subsection (14).

(b) Where any amount has been designated as a special transfer under the provisions of paragraph (a), so much of any subsequent transfer made from the insurer's individual policyholder fund or company policyholder fund, as the case may be, to its corporate fund under the provisions of subsection (6)(a) as does not exceed the amount of the said special transfer, shall be a special transfer for the purposes of subsection (14).

(11)(a) An insurer may as at the commencement of the first year of assessment in which it establishes separate funds as contemplated in subsection (3) calculate in respect of each of its policyholder funds, in a manner determined for the purposes of this section by the Chief Actuary of the Financial Services Board, an amount representing unrecouped new business expenses.

(b) The amount calculated by an insurer under paragraph (a) shall be advised to the Commissioner in the return of income rendered by the insurer in respect of the said first year of assessment.

(c) So much of any amount transferred by an insurer from any policyholder fund to its corporate fund as does not exceed the sum of—

(i) 12,5 per cent of the amount calculated under paragraph (a) in relation to such policyholder fund; and

(ii) any amount carried forward from the preceding year of assessment in terms of the provisions of paragraph (d), shall for the purposes of subsection (14) constitute a special transfer.

(d) Where in relation to any year of assessment the sum referred to in paragraph (c) exceeds the amount transferred from the policyholder fund concerned to the corporate fund, the excess shall be carried forward and be included for the purposes of determining the amount which may constitute a special transfer in relation to the succeeding year of assessment.

(e) The amounts constituting special transfers in relation to any policyholder fund in terms of the provisions of this subsection shall not in the aggregate exceed the amount calculated under paragraph (a) in respect of that fund.

(12) There shall be exempt from tax—

(a) any income received by or accrued to an insurer from assets held by it in, and business conducted by it in relation to, its untaxed policyholder fund; and

(b) any amount transferred to that fund in terms of subsection (6)(b).

(13) The taxable income derived by an insurer in respect of its individual policyholder fund, its company policyholder fund and its corporate fund shall be determined separately in accordance with the provisions of this Act as if each such fund had been a separate taxpayer.

(14) In the determination of the taxable income derived by an insurer in respect of its individual policyholder fund, its company policyholder fund and its corporate fund—

(a) the amount to be allowed as a deduction in respect of selling expenses shall be the annual average of such expenses incurred during the current year of assessment and the immediately preceding four years of assessment;

(b) any amount received or accrued from a source outside the Republic in respect of business conducted by the insurer in the Republic or in any country the territory of which formerly formed part of the Republic, shall be deemed to have been received or accrued from a source within the Republic;

kan die versekeraar soveel van die bedrag van bedoelde oorplasing as wat sy belasbare inkomste (vasgestel soos in subparagraaf (ii) beoog) te bowe gaan, as 'n spesiale oordrag vir doeleindeste van subartikel (14) benoem.

5 (b) Waar 'n bedrag kragtens die bepalings van paragraaf (a) as 'n spesiale oordrag benoem is, maak soveel van enige daaropvolgende oordrag wat vanaf die versekeraar se individuele polishouerfonds of maatskappypolishouerfonds, na gelang van die geval, ingevolge die bepalings van subartikel (6)(a) na sy korporatiewe fonds gedoen word as wat die bedrag van genoemde spesiale oordrag nie te bowe gaan nie, by die toepassing van subartikel (14) 'n spesiale oordrag uit.

10 15 (11)(a) 'n Versekeraar kan aan die begin van die eerste jaar van aanslag waarin hy aparte fondse stig soos in subartikel (3) beoog, ten opsigte van elk van sy polishouerfondse 'n bedrag verteenwoordigend van ongedelde nuwe besigheidsuitgawes vasstel op die wyse wat vir die doeleindeste van hierdie artikel deur die Hoofaktuaris van die Raad op Finansiële Dienste bepaal word.

20 (b) Die bedrag wat kragtens paragraaf (a) deur 'n versekeraar vasgestel word, word aan die Kommissaris meegeleid in die opgawe van inkomste wat ten opsigte van genoemde eerste jaar van aanslag deur die versekeraar verstrek word.

25 (c) Soveel van enige bedrag wat deur 'n versekeraar vanaf 'n polishouerfonds na sy korporatiewe fonds oorgeplaas word as wat nie meer is nie as die som van—

30 (i) 12,5 persent van die bedrag wat kragtens paragraaf (a) met betrekking tot bedoelde polishouerfonds bereken is; en
(ii) enige bedrag wat ingevolge die bepalings van paragraaf (d) vanaf die voorafgaande jaar van aanslag oorgedra is,
maak by die toepassing van subartikel (14) 'n spesiale oordrag uit.

35 (d) Waar met betrekking tot 'n jaar van aanslag die in paragraaf (c) bedoelde som die bedrag wat vanaf die betrokke polishouerfonds na die korporatiewe fonds oorgedra word, te bowe gaan, word die oorskot oorgedra en ingesluit vir die doeleindeste van die vasstelling van die bedrag wat met betrekking tot die daaropvolgende jaar van aanslag 'n spesiale oordrag mag uitmaak.

40 (e) Die bedrae wat ingevolge die bepalings van hierdie subartikel spesiale oordragte met betrekking tot 'n polishouerfonds uitmaak, gaan nie in totaal die bedrag wat ingevolge paragraaf (a) ten opsigte van daardie fonds bereken is, te bowe nie.

45 (12) Daar word van belasting vrygestel—
(a) enige inkomste ontvang deur of toegeval aan 'n versekeraar vanaf bates deur hom gehou in, en besigheid deur hom gedryf met betrekking tot, sy onbelaste polishouerfonds; en
(b) enige bedrag wat ingevolge subartikel (6)(a) na daardie fonds oorgeplaas is.

50 (13) Die belasbare inkomste deur 'n versekeraar verkry ten opsigte van sy individuele polishouerfonds, sy maatskappypolishouerfonds en sy korporatiewe fonds word afsonderlik ooreenkomstig die bepalings van hierdie Wet vasgestel asof elke bedoelde fonds 'n afsonderlike belastingpligtige was.

55 (14) By die vasstelling van die belasbare inkomste wat deur 'n versekeraar verkry word ten opsigte van sy individuele polishouerfonds, sy maatskappypolishouerfonds en sy korporatiewe fonds—
(a) is die bedrag wat ten opsigte van verkoopsuitgawes as aftrekking toegelaat word, die jaarlikse gemiddelde van bedoelde uitgawes wat gedurende die lopende en die onmiddellik voorafgaande vier jare van aanslag aangegaan is;

60 (b) word 'n bedrag ontvang of toegeval uit 'n bron buite die Republiek ten opsigte van besigheid gedryf deur die versekeraar in die Republiek of in 'n land waarvan die gebied voorheen deel van die Republiek uitgemaak het, geag uit 'n bron binne die Republiek ontvang of toegeval te gewees het;

- (c) there shall be exempt from tax income derived by the insurer from assets held by it in the Republic in respect of business conducted by it in Namibia;
- (d) any amount transferred in terms of the provisions of subsection (6) shall be deducted from the income of the fund from which it is transferred and included in the income of the fund to which it is transferred;
- (e) the amount of any transfer contemplated in subsection (7)(a) and of any special transfer contemplated in subsection (10) or (11) shall not be deducted from the income of the fund from which it is transferred and shall not be included in the income of the fund to which it is transferred; and
- (f) premiums and reinsurance claims received and claims and reinsurance premiums paid shall be disregarded.
- (15) Where any insurer is in its first year of assessment to which the provisions of this section apply entitled in terms of section 20(1)(a) to set off a balance of assessed loss carried forward from the preceding year of assessment, such balance of assessed loss shall be allowed to be set off against the income derived in its individual policyholder fund, its company policyholder fund and its corporate fund in the ratio which the assets held in each such fund at the commencement of such first year of assessment bears to the total assets held in the said funds.
- (16) In the allocation of any asset, expenditure or liability to any fund contemplated in subsection (4), an insurer shall, when establishing such fund and at all times thereafter—
- (a) to the extent to which such asset, expenditure or liability relates exclusively to business conducted by it in any one fund, allocate such asset, expenditure or liability to that fund; and
- (b) to the extent to which such asset, liability or expenditure does not relate exclusively to business conducted by it in any one fund, allocate such asset, expenditure or liability in a manner which is consistent with and appropriate to the manner in which its business is conducted.
- (17) Notwithstanding the provisions of this section and of section 28, the tax payable by an insurer in respect of its first and second years of assessment commencing on or after 1 July 1993, shall be equal to the greater of the tax payable in respect of the year concerned as determined by applying the provisions of section 28 and—
- (a) in respect of the said first year, an amount equal to two-thirds of the tax payable as determined by applying the provisions of section 28 and one-third of the tax payable as determined by applying the provisions of this section; and
- (b) in respect of the said second year, an amount equal to one-third of the tax payable as determined by applying the provisions of section 28 and two-thirds of the tax payable as determined by applying the provisions of this section.
- (18) For the purposes of subsection (17), the tax payable on taxable income determined in terms of section 28 in respect of any year of assessment ending during the period of 12 months ending on 31 March of any calendar year shall be calculated at the highest marginal rate of tax fixed under section 5(2) for the year of assessment ending on the last day of February of that calendar year in respect of taxable income received by or accrued to a married person.
- (19) An insurer who as at the commencement of its first year of assessment commencing on or after 1 July 1993 has not established the

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- (c) word daar van belasting vrygestel inkomste verkry deur die versekeraar uit bates deur hom in die Republiek gehou ten opsigte van besigheid deur hom in Namibië gedryf;
- (d) word 'n bedrag wat ingevolge die bepalings van subartikel (6) oorgeplaas is, afgetrek van die inkomste van die fonds waaruit dit oorgeplaas is en ingerekken by die inkomste van die fonds waarna dit oorgeplaas is;
- (e) word die bedrag van enige oorplasing in subartikel (7)(a) beoog en van enige spesiale oorplasing in subartikel (10) of (11) beoog, nie afgetrek van die inkomste van die fonds waaruit dit oorgeplaas is nie en nie by die inkomste ingerekken van die fonds waarna dit oorgeplaas is nie; en
- (f) word premies en herversekeringseise ontvang en eise en herversekeringspremies betaal, buite rekening gelaat.
- 15 (15) Waar 'n versekeraar in sy eerste jaar van aanslag waarop die bepalings van hierdie artikel van toepassing is, ingevolge artikel 20(1)(a) geregtig is om 'n balans van 'n vasgestelde verlies wat van die vorige jaar van aanslag oorgedra is in vergelyking te bring, word bedoelde balans van die vasgestelde verlies toegelaat om in vergelyking gebring te word teen die inkomste verkry in sy individuele polishouerfonds, sy maatskappypolishouerfonds en sy korporatiewe fonds in die verhouding waarin die bates wat aan die begin van bedoelde eerste jaar van aanslag in elke fonds gehou is, tot die totale bates wat in genoemde fondse gehou is, staan.
- 20 (16) By die toedeling van enige bate, onkoste of las aan 'n in subartikel (4) beoogde fonds, moet 'n versekeraar wanneer hy bedoelde fonds stig en te alle tye daarna—
- (a) vir sover bedoelde bate, onkoste of las uitsluitlik betrekking het op besigheid wat in 'n enkele fonds deur hom gedryf word, bedoelde bate, onkoste of las aan daardie fonds toedeel; en
- 25 (b) vir sover bedoelde bate, onkoste of las nie uitsluitlik betrekking het op besigheid wat in 'n enkele fonds deur hom gedryf word nie, bedoelde bate, onkoste of las toedeel op 'n wyse wat konsekwent is met en toepaslik is op die wyse waarop sy besigheid gedryf word.
- 30 (17) Ondanks die bepalings van hierdie artikel en van artikel 28, is die belasting deur 'n versekeraar betaalbaar ten opsigte van sy eerste en tweede jare van aanslag wat op of na 1 Julie 1993 begin, gelyk aan die grootste van die belasting betaalbaar ten opsigte van die betrokke jaar soos vasgestel deur die toepassing van die bepalings van artikel 28 en—
- (a) ten opsigte van genoemde eerste jaar, 'n bedrag gelyk aan twee derdes van die belasting betaalbaar soos vasgestel deur die toepassing van die bepalings van artikel 28 en een derde van die belasting betaalbaar soos vasgestel deur die toepassing van die bepalings van hierdie artikel; en
- 35 (b) ten opsigte van genoemde tweede jaar, 'n bedrag gelyk aan een derde van die belasting betaalbaar soos vasgestel deur die toepassing van die bepalings van artikel 28 en twee derdes van die belasting betaalbaar soos vasgestel deur die toepassing van die bepalings van hierdie artikel.
- 40 (18) By die toepassing van subartikel (17) word die belasting betaalbaar op belasbare inkomste wat ingevolge artikel 28 vasgestel is ten opsigte van 'n jaar van aanslag wat eindig gedurende die tydperk van 12 maande eindigende op 31 Maart van 'n kalenderjaar, bereken teen die hoogste marginale skaal van belasting wat ingevolge artikel 5(2) vir die jaar van aanslag eindigende op die laaste dag van Februarie van daardie kalenderjaar vasgestel is ten opsigte van belasbare inkomste ontvang deur of toegeval aan 'n getrouwe persoon.
- 45 (19) 'n Versekeraar wat aan die begin van sy eerste jaar van aanslag wat op of na 1 Julie 1993 begin, nog nie die in subartikel (4)

separate funds contemplated in subsection (4) shall as at the commencement of that year determine the prescribed value required in respect of each of its policyholder funds, and shall be deemed for the purposes of applying this section in that year and in any succeeding year of assessment in which it has not yet established such funds, to have established and maintained such funds in accordance with the provisions of this section.

- (20) For the purposes of subsection (19)—
- (a) an appropriate portion of all the assets and liabilities of an insurer shall be deemed to have been placed by it in each of its funds in accordance with the provisions of this section;
 - (b) an appropriate portion of any income received by or accrued to an insurer and any expenditure incurred by it shall be deemed to have been received by or to have accrued to, or to have been incurred by, as the case may be, each of its funds; and
 - (c) any amount which would have been required to be transferred in terms of the provisions of subsection (6)(a) or (b) had such separate funds been so established and maintained, shall be deemed to have been so transferred.”.

(2) Subsection (1) shall be deemed to have come into operation on 20 17 March 1993.

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Amendment of section 30 of Act 58 of 1962

26. Section 30 of the principal Act is hereby amended by the substitution for the proviso of the following proviso:

“Provided that if satisfactory accounts [**satisfactory to the Commissioner**] can reasonably be furnished, the Commissioner or the taxpayer may claim that the actual taxable income derived from sources within the Republic or loss incurred within the Republic shall be assessed in the manner otherwise provided in this Act.”.

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Amendment of section 32 of Act 58 of 1962

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27. Section 32 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) The provisions of this section shall not apply to any person so carrying on business who renders accounts which [**in the opinion of the Commissioner**] satisfactorily disclose the taxable income derived by such person from the business carried on by him in the Republic.”.

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Amendment of section 33 of Act 58 of 1962, as amended by section 26 of Act 85 of 1974

28. Section 33 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

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“(1) Any person (not being a person ordinarily resident in the Republic or a domestic company) who embarks passengers or loads livestock, mails or goods in the Republic, as an owner or charterer of any ship or aircraft, shall be deemed to have derived therefrom (apart from any taxable income derived by him from other sources) a taxable income of [**R20 for every R200**] 10 per cent of the amount payable to him or to any agent on his behalf, whether the amount be payable in or outside the Republic, in respect of passengers, livestock, mails and goods so embarked or loaded, but the provisions of this section shall not apply to any such person who renders accounts which [**in the opinion of the Commissioner**] satisfactorily disclose the taxable income derived by him from the embarking of passengers or the loading of livestock, mails and goods as aforesaid.”.

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5 beoogde afsonderlike fondse gestig het nie, stel aan die begin van daardie jaar die voorgeskrewe waarde vas wat ten opsigte van elkeen van sy polisjouerfondse vereis word, en word by die toepassing van hierdie artikel in daardie jaar en enige daaropvolgende jaar waarin hy nog nie bedoelde fondse gestig het nie, geag bedoelde fondse ooreenkomstig die bepalings van hierdie artikel te gestig en in stand te gehou het.

- 10 (20) By die toepassing van subartikel (19)—
- (a) word 'n toepaslike deel van al die bates en laste van 'n versekeraar geag deur hom in elkeen van sy fondse geplaas te gewees het ooreenkomstig die bepalings van hierdie artikel;
 - (b) word 'n toepaslike deel van enige inkomste deur 'n versekeraar ontvang of aan hom toegeval en enige onkoste deur hom aangegaan, geag ontvang te gewees het deur of toe te geval het aan, of aangegaan te gewees het, na gelang van die geval, deur, elkeen van sy fondse; en
 - (c) word 'n bedrag wat ingevolge die bepalings van subartikel (6)(a) of (b) oorgeplaas sou moes word indien bedoelde afsonderlike fondse aldus gestig en in stand gehou was, geag aldus oorgeplaas te gewees het.”.

15 (2) Subartikel (1) word geag op 17 Maart 1993 in werking te getree het.

Wysiging van artikel 30 van Wet 58 van 1962

- 20 26. Artikel 30 van die Hoofwet word hierby gewysig deur die voorbehoudsbepaling deur die volgende voorbehoudsbepaling te vervang:
- 25 “Met dien verstande dat indien bevredigende rekenings [wat die Kommissaris bevredigend vind] redelikerwys verstrek kan word, die Kommissaris of die belastingpligtige kan eis dat die werklike belasbare inkomste uit bronne in die Republiek verkry of verliese in die Republiek gely, op die wyse andersins in hierdie Wet bepaal, vasgestel moet word.”.

30 Wysiging van artikel 32 van Wet 58 van 1962

27. Artikel 32 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:
- 35 “(3) Die bepalings van hierdie artikel is nie van toepassing nie op 'n persoon wat aldus besigheid dryf en rekenings verstrek wat [volgens die oordeel van die Kommissaris] die belasbare inkomste deur so 'n persoon verkry uit die besigheid deur hom in die Republiek gedryf, op bevredigende wyse aantoon.”.

Wysiging van artikel 33 van Wet 58 van 1962, soos gewysig deur artikel 26 van Wet 85 van 1974

- 40 28. Artikel 33 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:
- 45 “(1) 'n Persoon (behalwe iemand wat gewoonlik in die Republiek woonagtig is of 'n binnelandse maatskappy) wat as 'n eienaar of bevrugter van 'n skip of vliegtuig in die Republiek passasiers inskeep of lewende hawe, posstukke of goedere oplaai, word geag daaruit (afgesien van belasbare inkomste deur hom uit ander bronne verkry) 'n belasbare inkomste te verkry het van [R20 op elke R200] 10 persent van die bedrag aan hom of aan 'n agent ten behoeve van hom betaalbaar, hetsy in of buite die Republiek, ten opsigte van passasiers, lewende hawe, posstukke en goedere aldus ingeskeep of opgelaaai, maar die bepalings van hierdie artikel is nie van toepassing nie op so 'n persoon deur wie rekenings verstrek word wat [volgens die oordeel van die Kommissaris] die belasbare inkomste deur hom uit die inskeep van passasiers of die oplaai van lewende hawe, posstukke en goedere soos voormeld verkry, op bevredigende wyse aantoon.”.

Amendment of section 36 of Act 58 of 1962, as amended by section 12 of Act 72 of 1963, section 15 of Act 90 of 1964, section 20 of Act 88 of 1965, section 23 of Act 55 of 1966, section 16 of Act 95 of 1967, section 14 of Act 76 of 1968, section 26 of Act 89 of 1969, section 21 of Act 65 of 1973, section 28 of Act 85 of 1974, section 20 of Act 104 of 1980, section 25 of Act 94 of 1983, section 16 of Act 96 of 1985, section 14 of Act 70 of 1989, section 26 of Act 101 of 1990, section 30 of Act 129 of 1991 and section 24 of Act 141 of 1992

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29. Section 36 of the principal Act is hereby amended by the substitution for subsection (7C) of the following subsection:

“(7C) Subject to the provisions of subsections (7E), (7F) and (7G), the amounts to be deducted under section 15(a) from income derived from the working of any producing mine shall be the amount of capital expenditure incurred.”.

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Substitution of section 37E of Act 58 of 1962, as inserted by section 3 of Act 136 of 1991 and amended by section 26 of Act 141 of 1992

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30.(1) The following section is hereby substituted for section 37E of the principal Act:

“Application of certain provisions where taxpayer carries on value-added process

37E. (1) For the purposes of this section—

‘commencement date’ means 12 September 1991;	20
‘committee’ means the committee appointed in terms of subsection (2);	
‘intermediate product’ means any substance or material which is produced by any person in order to be subjected to further processing by any other person;	25
‘local country’ means the Republic, Botswana, Lesotho, Namibia, Swaziland or any country the territory of which formerly formed part of the Republic;	
‘value-added process’ means any process approved by the committee whereby any raw material or any intermediate product is processed to yield any intermediate product or final product, if in the opinion of the committee—	30
(a) such process will add at least 35 per cent to the value of the raw material or intermediate product processed, such added value being determined in accordance with the formula—	35

$$\frac{A - (B + C)}{A} \times 100$$

in which formula—

(i) ‘A’ represents the ex-factory price of the intermediate product or final product produced by the taxpayer;	40
(ii) ‘B’ represents the cost of raw materials and intermediate products used by him in the production of such intermediate product or final product; and	
(iii) ‘C’ represents the cost of electricity consumed by him in such production;	45
(b) such process will be carried on on a scale which makes it internationally competitive; and	
(c) where the taxpayer intends acquiring any imported capital goods for use in such process, he will make use of any foreign term credits which may be available for the purpose of financing the acquisition of such capital goods,	50
but excludes any process which is either a simple purification process in consequence of which the raw material or intermediate product in question remains unchanged except for the removal of impurities or a physical process resulting merely in a change of shape and any process	55

Wysiging van artikel 36 van Wet 58 van 1962, soos gewysig deur artikel 12 van Wet 72 van 1963, artikel 15 van Wet 90 van 1964, artikel 20 van Wet 88 van 1965, artikel 23 van Wet 55 van 1966, artikel 16 van Wet 95 van 1967, artikel 14 van Wet 76 van 1968, artikel 26 van Wet 89 van 1969, artikel 21 van Wet 65 van 1973, 5 artikel 28 van Wet 85 van 1974, artikel 20 van Wet 104 van 1980, artikel 25 van Wet 94 van 1983, artikel 16 van Wet 96 van 1985, artikel 14 van Wet 70 van 1989, artikel 26 van Wet 101 van 1990, artikel 30 van Wet 129 van 1991 en artikel 24 van Wet 141 van 1992

29. Artikel 36 van die Hoofwet word hierby gewysig deur subartikel (7C) deur 10 die volgende subartikel te vervang:

“(7C) Behoudens die bepalings van subartikels (7E), (7F) en (7G), is die bedrae wat ingevolge artikel 15(a) afgetrek moet word van inkomste verkry uit die eksploring van ‘n produserende myn die bedrag van kapitaaluitgawe aangegaan.”.

15 Vervanging van artikel 37E van Wet 58 van 1962, soos ingevoeg deur artikel 3 van Wet 136 van 1991 en gewysig deur artikel 26 van Wet 141 van 1992

30. (1) Artikel 37E van die Hoofwet word hierby deur die volgende artikel vervang:

20 “Toepassing van sekere bepalings waar belastingpligtige toegevoegde-waarde-proses bedryf

37E. (1) By die toepassing van hierdie artikel beteken—

‘aanvangsdatum’ 12 September 1991;

‘komitee’ die komitee ingevolge subartikel (2) aangestel;

25 ‘plaaslike land’ die Republiek, Botswana, Lesotho, Namibië, Swaziland of enige land waarvan die gebied voorheen deel van die Republiek uitgemaak het;

‘toegevoegdewaarde-proses’ ‘n proses deur die komitee goedgekeur waarby ‘n grondstof of ‘n tussenproduk verwerk word om ‘n tussenproduk of finale produk op te lewer, indien volgens die oordeel van die komitee—

30 (a) die proses minstens 35 persent sal toevoeg tot die waarde van die grondstof of tussenproduk wat verwerk word, dié toegevoegde waarde bereken te word ooreenkomsdig die formule—

$$\frac{A-(B+C)}{A} \times \frac{100}{1}$$

35 in welke formule—

(i) ‘A’ die eks-fabrieksprys van die tussenproduk of finale produk wat deur die belastingpligtige geproduseer word, voorstel;

40 (ii) ‘B’ die koste van grondstowwe en tussenprodukte wat deur hom in die produksie van die tussenproduk of finale produk gebruik word, voorstel; en

(iii) ‘C’ die koste van elektrisiteit wat deur hom in die produksie verbruik word, voorstel;

45 (b) die proses op so ‘n skaal beoefen sal word wat dit internasionaal mededingend maak; en

(c) waar die belastingpligtige van voorneme is om ingevoerde kapitaalgoedere vir gebruik in die proses te verkry, hy gebruik sal maak van enige buitelandse termynkrediete wat beskikbaar mag wees vir die doeleindes van die finansiering van die verkryging van daardie kapitaalgoedere,

50 maar sluit dit ‘n proses uit wat of ‘n eenvoudige reinigingsproses is as gevolg waarvan die betrokke grondstof of tussenproduk onveranderd bly behalwe dat onsuwerhede verwyder word of ‘n fisiese proses is wat slegs op ‘n vormverandering uitloop en ‘n proses wat ‘n mynwerksaamheid is of ‘n werksaamheid wat normaalweg in die loop van mynwerksaamhede beoefen word;

55 ‘tussenproduk’ ‘n stof of materiaal wat deur ‘n persoon geproduseer

which is a mining operation or any operation which is normally carried on in the course of mining operations.	
(2) The Minister of Finance shall with the concurrence of the Minister of Trade and Industry appoint a committee which shall have power to—	5
(a) approve any process as a value-added process for the purposes of this section, subject to such requirements and conditions as the committee considers necessary to ensure that the provisions of this section are applied in such a manner as to promote the carrying on of value-added processes;	10
(b) direct that where the provisions of this section are applicable to any taxpayer, the taxpayer shall be excluded from such further assistance from the State as the committee may determine; and	15
(c) perform such other functions as are assigned to it under the provisions of this section.	
(3) In deciding whether a process is to be approved as a value-added process, the committee shall have regard to—	
(a) the degree to which the production of an intermediate product will encourage further processing of such intermediate product by industries situated in a local country;	20
(b) the effect on the Exchequer;	
(c) the degree of preference which will be granted to products and skills from a local country; and	
(d) the effect of such process on small and medium size enterprises in a local country.	25
(4) Where any taxpayer incurs expenditure for the purpose of his trade on or in connection with—	
(a) any new or unused machinery or plant referred to in section 12C(1)(a) which the committee is satisfied will—	30
(i) be brought into use by the taxpayer within a period determined by the committee; and	
(ii) be used by the taxpayer directly in a value-added process carried on by him; or	
(b) any building referred to in section 13(1)(b) which the committee is satisfied will—	35
(i) be brought into use by the taxpayer within a period determined by the committee; and	
(ii) be used by the taxpayer for the purpose of carrying on therein any value-added process,	
the provisions of sections 11(bA), 12C and 13(1) shall, notwithstanding the fact that such machinery, plant or building may not have been brought into use or used as contemplated in those sections, be applied in accordance with the provisions of subsection (5), but subject to the provisions of subsection (6).	40
(5) Where any expenditure referred to in subsection (4)—	45
(a) constitutes an amount of interest or related finance charges referred to in section 11(bA) which has been incurred by the taxpayer in respect of the cost of any machinery or plant referred to in subsection (4)(a) or any building referred to in subsection (4)(b), the deduction under section 11(bA) shall be allowed in the year of assessment in which such expenditure is incurred;	50
(b) constitutes the whole or a portion of the cost to the taxpayer of any machinery or plant referred to in subsection (4)(a), the deduction under section 12C shall be allowed in the year of assessment in which such expenditure is incurred and in each of the four succeeding years of assessment; or	55
(c) constitutes the whole or a portion of the cost to the taxpayer of any building referred to in subsection (4)(b), the deduction under section 13(1) shall be allowed in the year of assessment in which such expenditure is incurred and in each applicable succeeding year of assessment.	60

word sodat dit deur iemand anders aan verdere verwerking onderwerp kan word.

(2) Die Minister van Finansies stel met die instemming van die Minister van Handel en Nywerheid 'n komitee aan wat geregtig is om—

- (a) 'n toegevoegdewaarde-proses goed te keur by die toepassing van hierdie artikel, behoudens die vereistes en voorwaardes wat die komitee nodig ag om te verseker dat die bepalings van hierdie artikel op so 'n wyse toegepas word om die beoefening van toegevoegdewaarde-prosesse te bevorder;
- (b) te gelas dat waar die bepalings van hierdie artikel op 'n belastingpligtige van toepassing is, die belastingpligtige uitgesluit word uit sodanige verdere bystand van die Staat as wat die komitee mag bepaal; en
- (c) die ander werksaamhede te verrig wat kragtens die bepalings van hierdie artikel aan hom toegeken word.

(3) Wanneer die komitee besluit of 'n proses as 'n toegevoegdewaarde-proses goedgekeur moet word, neem die komitee in ag—

- (a) die mate waarin die produksie van 'n tussenproduk verdere verwerking van die tussenproduk deur nywerhede wat in 'n plaaslike land geleë is, sal aanmoedig;
- (b) die uitwerking op die Skatkis;
- (c) die mate van voorkeur wat aan produkte en kundigheid uit 'n plaaslike land verleen sal word; en
- (d) die uitwerking van bedoelde proses op klein- en middelslagondernemings in 'n plaaslike land.

(4) Waar 'n belastingpligtige onkoste aangaan vir die doeleinnes van sy bedryf op of ten opsigte van—

- (a) enige nuwe of ongebruikte masjinerie of installasie bedoel in artikel 12C(1)(a) wat die komitee oortuig is—
 - (i) deur die belastingpligtige in gebruik geneem sal word binne 'n tydperk deur die komitee bepaal; en
 - (ii) deur die belastingpligtige gebruik sal word regstreeks in 'n toegevoegdewaarde-proses deur hom uitgevoer; of
- (b) enige gebou bedoel in artikel 13(1)(b) wat die komitee oortuig is—
 - (i) deur die belastingpligtige in gebruik geneem sal word binne 'n tydperk deur die komitee bepaal; en
 - (ii) deur die belastingpligtige gebruik sal word vir die doeleinnes van die uitvoer van 'n toegevoegdewaarde-proses daarin,

word die bepalings van artikels 11(bA), 12C en 13(1), ondanks die feit dat bedoelde masjinerie, installasie of gebou nie in gebruik geneem is of gebruik mag gewees het nie soos in daardie artikels beoog, toegepas ooreenkomsdig die bepalings van subartikel (5), maar behoudens die bepalings van subartikel (6).

(5) Waar enige onkoste in subartikel (4) bedoel—

- (a) 'n bedrag aan rente of verwante finansieringskoste bedoel in artikel 11(bA) uitmaak wat deur die belastingpligtige aangegaan is ten opsigte van die koste van enige masjinerie of installasie bedoel in subartikel (4)(a) of 'n gebou bedoel in subartikel (4)(b), word die aftrekking kragtens artikel 11(bA) toegelaat in die jaar van aanslag waarin bedoelde onkoste aangegaan word;
- (b) die geheel of 'n gedeelte van die koste vir die belastingpligtige uitmaak van enige masjinerie of installasie bedoel in subartikel (4)(a), word die aftrekking kragtens artikel 12C toegelaat in die jaar van aanslag waarin bedoelde onkoste aangegaan is en in elkeen van die daaropvolgende vier jare van aanslag; of
- (c) die geheel of 'n gedeelte van die koste vir die belastingpligtige uitmaak van 'n gebou bedoel in subartikel (4)(b), word die aftrekking kragtens artikel 13(1) toegelaat in die jaar van aanslag waarin bedoelde onkoste aangegaan is en in elke toepaslike daaropvolgende jaar van aanslag.

- (6) The provisions of this section shall apply to any taxpayer who on the commencement date has not yet commenced the erection of a value-added plant, if the process to be carried on by the taxpayer is approved by the committee as a value-added process within two years (or such shorter period as the committee in any case determines) after the commencement date. 5
- (7) For the purposes of subsection (6), a taxpayer shall be deemed to have commenced the erection of a value-added plant on the date upon which he concludes an agreement for the acquisition of any machinery or plant referred to in subsection (4)(a) or on the date upon which he concludes an agreement for the erection of a building referred to in subsection (4)(b), whichever date is the earlier. 10
- (8) Where a taxpayer fails to comply with any of the requirements or conditions imposed by the committee, no deduction shall be granted under the provisions of this section unless the committee otherwise directs. 15
- (9) Where the sum of the deductions to which the taxpayer is entitled in any year of assessment under the provisions of sections 11(bA), 12C and 13(1), as applied in terms of the provisions of this section, in respect of expenditure referred to in subsection (4) exceeds the taxable income of the taxpayer for such year as determined before allowing the said deductions, the Commissioner may on application made to him by the taxpayer— 20
- (a) disallow as a deduction in the determination of the taxpayer's taxable income for such year an amount equal to so much of such sum as would, had such amount been allowed as a deduction, have created or increased an assessed loss as defined in section 20(2); and 25
 - (b) issue, subject to such terms and conditions as he may determine, to the taxpayer a negotiable tax credit certificate for such amount as, having regard to the rate of normal tax applicable to the taxpayer in such year, represents the amount of normal tax which would be payable in respect of a taxable income equal to the amount disallowed under the provisions of paragraph (a). 30
- (10) A negotiable tax credit certificate issued to any taxpayer under the provisions of subsection (9) or (11) may be disposed of by such taxpayer or subsequent holder to any other taxpayer, and may in such case be utilized by such other taxpayer in payment of any normal tax, secondary tax on companies or provisional tax due by him. 35
- (11) Where a negotiable tax credit certificate is utilized by any taxpayer and the value thereof is in excess of the amount of normal tax, secondary tax on companies or provisional tax due by such taxpayer, the Commissioner shall not be required to make a refund of such excess if such excess exceeds R5 000, but he may issue to such taxpayer a replacement negotiable tax credit certificate in respect of such excess. 40
- (12) The utilization by the taxpayer of a negotiable tax credit certificate or a refund by the Commissioner of any excess of a negotiable tax credit certificate shall be treated as a drawback from revenue charged to the State Revenue Fund. 45
- (13) For the purposes of section 8(4)(a), any amount disallowed under subsection (9)(a) shall be deemed to be an amount allowed to be deducted or set off as contemplated in that section.”. 50
- (2) Subsection (1) shall be deemed to have come into operation on 12 September 1992.

- (6) Die bepalings van hierdie artikel is van toepassing op 'n belastingpligtige wat op die aanvangsdatum nog nie met die oprigting van 'n toegevoegdewaarde-installasie begin het nie, indien die proses wat uitgevoer staan te word deur die komitee as 'n toegevoegdewaarde-proses goedgekeur is binne twee jaar (of die korter tydperk wat die komitee in enige geval bepaal) na die aanvangsdatum.
- (7) By die toepassing van subartikel (6) word 'n belastingpligtige geag die oprigting van 'n toegevoegdewaarde-installasie te begin het op die datum waarop hy 'n ooreenkoms aangaan vir die verkryging van enige masjinerie of installasie bedoel in subartikel (4)(a) of op die datum waarop hy 'n ooreenkoms aangaan vir die oprigting van 'n gebou bedoel in subartikel (4)(b), watter datum ook al die vroegste is.
- (8) Waar 'n belastingpligtige versuim om aan die vereistes of voorwaardes wat deur die komitee opgelê is, te voldoen, word geen aftrekking ingevolge die bepalings van hierdie artikel toegelaat nie tensy die komitee anders gelas.
- (9) Waar die som van die aftrekkings waarop die belastingpligtige ingevolge die bepalings van artikels 11(bA), 12C en 13(1), soos toegepas ingevolge die bepalings van hierdie artikel, in 'n jaar van aanslag geregtig is ten opsigte van onkoste bedoel in subartikel (4), die belasbare inkomste van die belastingpligtige vir bedoelde jaar, soos vasgestel voor die toestaan van genoemde aftrekkings, oorskry, kan die Kommissaris op aansoek deur die belastingpligtige aan hom gedoen—
- (a) as 'n aftrekking by die vasstelling van die belastingpligtige se belasbare inkomste vir bedoelde jaar 'n bedrag van die hand wys gelyk aan soveel van bedoelde bedrag as wat, indien bedoelde bedrag as 'n aftrekking toegelaat was, 'n aangeslane verlies soos omskryf in artikel 20(2) sou veroorsaak of vermeerder het; en
- (b) 'n verhandelbare belastingkreditsertifikaat aan die belastingpligtige vir bedoelde bedrag uitrek onderworpe aan die bedinge en voorwaardes wat hy mag bepaal, as wat, in ag genome die skaal van normale belasting van toepassing op die belastingpligtige in bedoelde jaar, die bedrag aan normale belasting verteenwoordig wat betaalbaar sal wees ten opsigte van 'n belasbare inkomste gelyk aan die bedrag van die hand gewys kragtens die bepalings van paragraaf (a).
- (10) 'n Verhandelbare belastingkreditsertifikaat uitgereik aan 'n belastingpligtige kragtens die bepalings van subartikel (9) of (11), kan deur die belastingpligtige of daaropvolgende houer van die hand gesit word aan 'n ander belastingpligtige, en kan in bedoelde geval deur bedoelde ander belastingpligtige aangewend word by die betaling van enige normale belasting, sekondêre belasting op maatskappye of voorlopige belasting deur hom verskuldig.
- (11) Waar 'n verhandelbare belastingkreditsertifikaat deur 'n belastingpligtige aangewend word en die waarde daarvan die bedrag normale belasting, sekondêre belasting op maatskappye of voorlopige belasting deur hom verskuldig, te bove gaan, is die Kommissaris nie verplig om 'n terugbetaling van bedoelde oorskot te maak nie indien bedoelde oorskot R5 000 te bove gaan, maar kan hy 'n vervangende verhandelbare belastingkreditsertifikaat ten opsigte van bedoelde oorskot aan bedoelde belastingpligtige uitrek.
- (12) Die aanwending deur die belastingpligtige van 'n verhandelbare belastingkreditsertifikaat of 'n terugbetaling deur die Kommissaris van enige oorskot van 'n verhandelbare belastingkreditsertifikaat word behandel as 'n terugtrekking van inkomste ten laste van die Staatsinkomstefonds.
- (13) By die toepassing van artikel 8(4)(a) word enige bedrag wat kragtens subartikel (9)(a) van die hand gewys is, geag 'n bedrag te wees wat toegelaat is om afgetrek of verreken te word soos beoog in daardie artikel.”.
- (2) Subartikel (1) word geag op 12 September 1992 in werking te getree het.

Insertion of section 40B in Act 58 of 1962

31. The following section is hereby inserted in Part II of Chapter II of the principal Act after section 40A:

"Conversion of co-operative to company"

40B. Where any co-operative incorporated under the Co-operatives Act, 1981 (Act No. 91 of 1981), is incorporated as a company in accordance with the provisions of section 161A or 161C of that Act, such co-operative and such company shall for the purposes of this Act be deemed to be and to have been one and the same company.".

Amendment of section 56 of Act 58 of 1962, as amended by section 18 of Act 90 of 1964, section 25 of Act 55 of 1966, section 33 of Act 89 of 1969, section 38 of Act 85 of 1974, section 21 of Act 113 of 1977, section 13 of Act 101 of 1978, section 23 of Act 96 of 1981, section 31 of Act 94 of 1983, section 4 of Act 30 of 1984, section 28 of Act 121 of 1984, section 18 of Act 96 of 1985, section 21 of Act 85 of 1987, section 26 of Act 90 of 1988 and section 28 of Act 141 of 1992 10
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32.(1) Section 56 of the principal Act is hereby amended—

- (a) by the deletion of paragraph (f) of subsection (1); and
- (b) by the substitution for paragraph (h) of subsection (1) of the following paragraph:

"(h) by or to any person (including any government) referred to in section 10(1)(a), (b), (cA), (cB), (cC), (cD), (cE), (cF), (cI), (cJ), (cL), (d), [or] (e) or (fA);".

(2) Subsection (1)(a) shall be deemed to have come into operation on 21 June 1993 and shall apply to any insurance policy ceded on or after that date. 20

Amendment of section 64A of Act 58 of 1962, as inserted by section 4 of Act 136 of 1991 and substituted by section 29 of Act 141 of 1992 25

33. Section 64A of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for the words preceding the proviso to paragraph (a) of the definition of "leviable amount" of the following words:

"in relation to a [deposit-taking institution] bank as defined in section 1(1) of the [Deposit-taking Institutions] Banks Act, 1990 (Act No. 94 of 1990), an amount equal to 50 per cent of the minimum share capital and unimpaired reserve funds required to be maintained by the [deposit-taking institution] bank and determined in respect of each calendar quarter, in accordance with the provisions of section 70(2)(b) of the said Act.:"; and 30
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- (b) by the substitution for paragraph (a) of subsection (2) of the following paragraph:

"(a) in the case of a [deposit-taking institution] bank within the meaning of the [Deposit-taking Institutions] Banks Act, 1990 (Act No. 94 of 1990), or a permanent society registered in terms of the Mutual Building Societies Act, 1965 (Act No. 24 of 1965), the leivable amount as determined in relation to every calendar quarter commencing on or after 1 October 1991; and". 40
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Addition of Part VII to Chapter II of Act 58 of 1962

34. (1) The following Part is hereby added to Chapter II of the principal Act:

Invoeging van artikel 40B in Wet 58 van 1962

31. Die volgende artikel word hierby in Deel II van Hoofstuk II van die Hoofwet na artikel 40A ingevoeg:

“Omskakeling van koöperasie in maatskappy

5 **40B.** Waar 'n koöperasie wat ingevolge die Koöperasiewet, 1981 (Wet No. 91 van 1981), ingelyf is, ooreenkomsdig die bepalings van artikel 161A of 161C van daardie Wet as 'n maatskappy ingelyf word, word bedoelde koöperasie en bedoelde maatskappy by die toepassing van hierdie Wet geag een en dieselfde maatskappy te wees en te gewees het.”.

10 Wysiging van artikel 56 van Wet 58 van 1962, soos gewysig deur artikel 18 van Wet 90 van 1964, artikel 25 van Wet 55 van 1966, artikel 33 van Wet 89 van 1969, artikel 38 van Wet 85 van 1974, artikel 21 van Wet 113 van 1977, artikel 13 van Wet 101 van 1978, artikel 23 van Wet 96 van 1981, artikel 31 van Wet 94 van 15 1983, artikel 4 van Wet 30 van 1984, artikel 28 van Wet 121 van 1984, artikel 18 van Wet 96 van 1985, artikel 21 van Wet 85 van 1987, artikel 26 van Wet 90 van 1988 en artikel 28 van Wet 141 van 1992

20 32. (1) Artikel 56 van die Hoofwet word hierby gewysig—
 (a) deur paragraaf (f) van subartikel (1) te skrap; en
 (b) deur paragraaf (h) van subartikel (1) deur die volgende paragraaf te vervang:
 “(h) deur of aan enige persoon (insluitende enige regering) in artikel 10(1)(a), (b), (cA), (cB), (cC), (cD), (cE), (cF), (cI), (cJ), (cL), (d), ~~(e)~~ of (fA) bedoel;”.

25 (2) Subartikel (1)(a) word geag op 21 Junie 1993 in werking te getree het en is van toepassing op enige assuransiepolis wat op of na daardie datum gesedeer is.

Wysiging van artikel 64A van Wet 58 van 1962, soos ingevoeg deur artikel 4 van Wet 136 van 1991 en vervang deur artikel 29 van Wet 141 van 1992

30 33. Artikel 64A van die Hoofwet word hierby gewysig—
 (a) deur in subartikel (1) die woorde wat die voorbehoudsbepaling by paragraaf (a) van die omskrywing van "hefbare bedrag" voorafgaan deur die volgende woorde te vervang:
 “met betrekking tot 'n **[depositonemende instelling]** bank soos omskryf in artikel 1(1) van die **[Wet op Depositonemende Instellings]** Bankwet, 1990 (Wet No. 94 van 1990), 'n bedrag gelyk aan 35 50 persent van die minimum aandelekapitaal en onaangetaste reserwefonds wat vereis word om deur die **[depositonemende instelling]** bank gehandhaaf te word en wat, ten opsigte van elke kalenderkwartaal, ooreenkomsdig die bepalings van artikel 70(2)(b) van genoemde Wet vasgestel word;”; en

40 (b) deur paragraaf (a) van subartikel (2) deur die volgende paragraaf te vervang:
 “(a) in die geval van 'n **[depositonemende instelling]** bank ooreenkomsdig die bedoeling van die **[Wet op Depositonemende Instellings]** Bankwet, 1990 (Wet No. 94 van 1990), of 'n permanente vereniging wat ingevolge die Wet op Onderlinge Bouverenings, 1965 (Wet No. 24 van 1965), geregistreer is, die hefbare bedrag soos vasgestel met betrekking tot elke kalenderkwartaal wat op of na 1 Oktober 1991 'n aanvang neem; en”.

50 Byvoeging van Deel VII by Hoofstuk II van Wet 58 van 1962

34. (1) Die volgende Deel word hierby by Hoofstuk II van die Hoofwet gevoeg:

"PART VII"***Secondary Tax on Companies*****Levy and recovery of secondary tax on companies****64B.(1) For the purposes of this section—**

'declared', in relation to any dividend (including a dividend *in specie*), means the approval of the payment or distribution thereof by the directors of the company or by some other person under authority conferred by the memorandum and articles of association of the company;

'dividend cycle' means—

- (a) in relation to the first dividend declared by a company on or after 17 March 1993, the period commencing on the later of—
 - (i) 1 September 1992; and
 - (ii) the day following the date of declaration of the last dividend (other than a dividend *in specie* or a dividend payable on a preference share) declared by the company prior to 17 March 1993,
 and ending on the date on which such first dividend accrues to the shareholder concerned; and
- (b) in relation to any subsequent dividend declared by that company, the period commencing immediately after the previous dividend cycle of the company and ending on the date on which such dividend accrues to the shareholder concerned.

(2) There shall be levied and paid for the benefit of the State Revenue Fund a tax, to be known as the secondary tax on companies, which is calculated at the rate of 15 per cent of the net amount, as determined in terms of subsection (3), of any dividend declared by any company on or after 17 March 1993.

(3) The net amount of any dividend referred to in subsection (2) shall be the amount by which such dividend declared by a company exceeds the sum of any dividends (other than any dividends contemplated in subsection (5)(b), (c) and (d)) which have during the dividend cycle in relation to such firstmentioned dividend accrued to the company: Provided that—

- (a) where the sum of such dividends accrued exceeds such dividend declared, the excess shall be carried forward and be deemed to be a dividend which accrued to the company during the succeeding dividend cycle of the company; and
- (b) in the determination of the net amount of any dividend distributed in the course of the liquidation or winding up of a company, there shall be allowed as a deduction any dividend contemplated in subsection (5)(c) which has during the current or any previous dividend cycle accrued to the company.

(4)(a) Where any dividend is declared by a company subject to the condition that it will be payable to shareholders registered in the company's share register on a specified date, such dividend or interim dividend shall for the purposes of this section be deemed to accrue to the shareholders on that date.

(b) Any interim dividend declared by a company otherwise than as contemplated in paragraph (a), shall for the purposes of this section be deemed to accrue to the shareholders on the date upon which it is declared.

(c) Where any cash or assets is or are given—

- (i) by a company to shareholders of that company otherwise than by way of a formal declaration of a dividend; or

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"DEEL VII"***Sekondêre Belasting op Maatskappye*****Heffing en verhaling van sekondêre belasting op maatskappye****64B. (1) By die toepassing van hierdie artikel beteken—**

'dividendsiklus'—

- (a) met betrekking tot die eerste dividend verklaar deur 'n maatskappy op of na 17 Maart 1993, die tydperk beginnende op die laatste van—

(i) 1 September 1992; en

(ii) die dag volgend op die datum van verklaring van die laaste dividend (anders as 'n dividend *in specie* of 'n dividend betaalbaar op 'n voorkeuraandeel) deur die maatskappy voor 17 Maart 1993 verklaar,

en eindigende op die datum waarop bedoelde eerste dividend aan die betrokke aandeelhouer toeval; en

- (b) met betrekking tot 'n daaropvolgende dividend deur daardie maatskappy verklaar, die tydperk beginnende onmiddellik na die vorige dividendsiklus van die maatskappy en eindigende op die datum waarop bedoelde dividend aan die betrokke aandeelhouer toeval;

'verklaar', met betrekking tot 'n dividend (met inbegrip van 'n dividend *in specie*), die goedkeuring van die betaling of uitkering daarvan deur die direkteure van die maatskappy of deur 'n ander persoon kragtens magtiging deur die akte van oprigting en statute van die maatskappy verleent.

(2) Daar word ten bate van die Staatsinkomstefonds 'n belasting gehef en betaal, bekend as die sekondêre belasting op maatskappye, wat bereken word teen die koers van 15 persent van die netto bedrag, soos vasgestel ingevolge subartikel (3), van 'n dividend deur 'n maatskappy op of na 17 Maart 1993 verklaar.

(3) Die netto bedrag van 'n dividend bedoel in subartikel (2) is die bedrag waarmee daardie dividend deur 'n maatskappy verklaar die som van enige dividende (behalwe enige dividende beoog in subartikel (5)(b), (c) en (d)) wat gedurende die dividendsiklus met betrekking tot bedoelde eersgenoemde dividend aan die maatskappy toeval, oorskry: Met dien verstande dat—

- (a) waar die som van bedoelde dividende toegeval bedoelde dividend verklaar, oorskry, die oorskot oorgedra word en geag word 'n dividend te wees wat aan die maatskappy toegeval het gedurende die daaropvolgende dividendsiklus van die maatskappy; en

- (b) by die vasstelling van die netto bedrag van 'n dividend uitgekeer in die loop van die likwidasie van 'n maatskappy, daar as 'n aftrekking toegelaat word 'n dividend beoog in subartikel (5)(c) wat gedurende die lopende of 'n vorige dividendsiklus aan die maatskappy toegeval het.

(4)(a) Waar 'n dividend deur 'n maatskappy verklaar is onderworpe aan die voorwaarde dat dit betaalbaar sal wees aan aandeelhouders geregistreer in die maatskappy se aandeleregister op 'n bepaalde datum, word daardie dividend of tussentydse dividend by die toepassing van hierdie artikel geag toe te val aan die aandeelhouders op daardie datum.

(b) Enige tussentydse dividend deur 'n maatskappy verklaar op 'n ander wyse as in paragraaf (a) beoog, word by die toepassing van hierdie artikel geag toe te val aan die aandeelhouders op die datum waarop dit verklaar is.

(c) Waar enige kontant of bates gegee is—

- (i) deur 'n maatskappy aan aandeelhouders van daardie maatskappy anders as by wyse van 'n formele verklaring van 'n dividend; of

- (ii) by the liquidator of a company to the shareholders of that company in the course of the winding up or liquidation of that company,
and the amount of such cash or the value of such assets, in whole or in part constitutes a dividend, such dividend shall for the purposes of this section be deemed to have been declared by the company and to have accrued to the shareholders on the date on which the shareholders became entitled to such cash or assets.
- (5) There shall be exempt from the secondary tax on companies—
(a) dividends declared by any company the entire receipts and accruals of which, or so much of the receipts and accruals of which as are derived otherwise than from investments, are exempt from tax under the provisions of section 10;
(b) any dividend declared by a fixed property company contemplated in section 11(s) which may be allowed as a deduction in the determination of the taxable income of such company in terms of the provisions of that section;
(c) so much of any dividend distributed in the course of the liquidation or winding up of a company, as is shown by the company to be a distribution of profits derived during any year of assessment which ended not later than 31 March 1993, other than any such profits derived by way of the revaluation of trading stock held by such company; and
(d) so much of any dividend declared by a unit portfolio referred to in paragraph (e) of the definition of ‘company’ in section 1 as represents a distribution of interest or of dividends referred to in section 11(s) received by or accrued to such unit portfolio.
- (6)(a) If any dividend subject to the payment of secondary tax on companies has been declared by a company which derives profits from sources within and outside the Republic, the secondary tax on companies in respect of that dividend shall be calculated on an amount which bears to the net amount of that dividend the same ratio as the sum of the net annual profits of the company derived from sources within the Republic bears to the total sum of its net annual profits derived from all sources.
- (b) For the purposes of paragraph (a)—
(i) the net annual profits of a company shall be determined by excluding profits derived by way of dividends; and
(ii) the said ratio shall, subject to the provisions of paragraph (c), be determined on the basis of the last year of assessment of the company which ended prior to the declaration of the dividend concerned.
- (c) If the Commissioner is in any case satisfied that the ratio determined in the manner contemplated in paragraph (b)(ii) does not reasonably represent the ratio in which the company’s profits are normally derived from sources within and outside the Republic, he may direct that such ratio be determined in such other manner as appears to him to be fair and reasonable.
- (d) Any exercise by the Commissioner of his discretion under paragraph (c) shall be subject to objection and appeal.
- (7) The secondary tax on companies shall be paid to the Commissioner by the company liable therefor—
(a) where such tax is payable in respect of any dividend declared on or before 30 June 1993—
(i) if a year of assessment of the company ended during the period from 1 December 1992 to 31 March 1993, by not later than 31 December 1993; and

- (ii) deur die likwidateur van 'n maatskappy aan die aandeelhouers van daardie maatskappy in die loop van die likwidasie van daardie maatskappy,
- en die bedrag van bedoelde kontant of die waarde van bedoelde bates, in geheel of gedeeltelik 'n dividend uitmaak, word bedoelde dividend by die toepassing van hierdie artikel geag verklaar te gewees het deur die maatskappy en toe te geval het aan die aandeelhouers op die datum waarop die aandeelhouers op bedoelde kontant of bates geregtig geword het.
- (5) Daar word van die sekondêre belasting op maatskappye vrygestel—
- (a) dividende uitgekeer deur 'n maatskappy waarvan die ontvangstes en toevallings geheel en al, of soveel van die ontvangstes en toevallings wat anders as wat by wyse van beleggings verkry is, ingevolge die bepalings van artikel 10 van belasting vrygestel is;
- (b) 'n dividend verklaar deur 'n vaste-eiendomsmaatskappy beoog in artikel 11(s) wat as 'n aftrekking toegelaat kan word by die vasstelling van die belasbare inkomste van bedoelde maatskappy ingevolge die bepalings van daardie artikel;
- (c) soveel van 'n dividend uitgekeer in die loop van die likwidasie van 'n maatskappy, as wat deur die maatskappy aangetoon word om 'n uitkering van winste te wees wat verkry is gedurende 'n jaar van aanslag wat nie later as 31 Maart 1993 geëindig het nie, behalwe as enige bedoelde winste wat by wyse van 'n herwaardasie van handelsvoorraad deur bedoelde maatskappy gehou, verkry is; en
- (d) soveel van 'n dividend verklaar deur 'n effektegroep soos bedoel in paragraaf (e) van die omskrywing van 'maatskappy' in artikel 1, as wat 'n verdeling van rente of dividende soos bedoel in artikel 11(s) ontvang deur of toegeval aan daardie effektegroep, verteenwoordig.
- (6)(a) Indien 'n dividend onderworpe aan die betaling van sekondêre belasting op maatskappye verklaar is deur 'n maatskappy wat winste verkry uit bronne binne en buite die Republiek, word die sekondêre belasting op maatskappye ten opsigte van daardie dividend bereken op 'n bedrag wat tot die netto bedrag van daardie dividend in dieselfde verhouding staan as wat die totaal van die netto jaarlikse winste van die maatskappy uit winste uit bronne binne die Republiek verkry, staan tot die totale som van sy netto jaarlikse winste uit alle bronne verkry.
- (b) By die toepassing van paragraaf (a) word—
- (i) die netto jaarlikse winste van 'n maatskappy vasgestel deur die uitsluiting van winste verkry by wyse van dividende; en
- (ii) genoemde verhouding, behoudens die bepalings van paragraaf (c), vasgestel op die grondslag van die laaste jaar van aanslag van die maatskappy wat voor die uitkering van die betrokke dividend geëindig het.
- (c) Indien die Kommissaris in enige geval oortuig is dat die verhouding wat op die wyse beoog in paragraaf (b)(ii) vasgestel is, nie redelikerwys die verhouding waarin die maatskappy se winste gewoonweg verkry word uit bronne binne en buite die Republiek verteenwoordig nie, kan hy gelas dat bedoelde verhouding vasgestel word op die ander wyse wat vir hom redelik en billik blyk te wees.
- (d) Enige uitoefening deur die Kommissaris van sy diskresie kragtens paragraaf (c) is aan beswaar en appèl onderhewig.
- (7) Die sekondêre belasting op maatskappye word aan die Kommissaris betaal deur die maatskappy wat daarvoor aanspreeklik is—
- (a) waar bedoelde belasting betaalbaar is ten opsigte van 'n dividend op of voor 30 Junie 1993 verklaar—
- (i) indien 'n jaar van aanslag van die maatskappy geëindig het gedurende die tydperk vanaf 1 Desember 1992 tot 31 Maart 1993, teen nie later nie as 31 Desember 1993; en

- (ii) in any other case, by not later than 31 July 1993; and
- (b) where such tax is payable in respect of any dividend declared after 30 June 1993, by not later than the last day of the month following the month in which the dividend cycle relevant to such dividend ends,
- and each payment of such tax shall be accompanied by a return in such form as the Commissioner may require: Provided that—
- (i) the Commissioner may in any case extend the applicable date of payment; and
- (ii) for the purposes of paragraph (b) the expression ‘month’ means any of the twelve portions into which any calendar year is divided.
- (8) Where the Commissioner is satisfied that any amount of secondary tax on companies has not been paid in full, he may estimate the unpaid amount and issue to the company concerned a notice of assessment of the unpaid amount.
- (9) If any company fails to pay any amount of secondary tax on companies in full within the period concerned contemplated in subsection (7), interest shall be paid by such company on the balance of the tax outstanding at the prescribed rate reckoned from the end of the period concerned.
- (10) Where any company has declared a dividend prior to 17 March 1993 and—
- (a) in the case of a company which is listed on a recognized stock exchange or a subsidiary (as defined in section 1 of the Companies Act, 1973 (Act No. 61 of 1973)), of any such company, it had not prior to that date paid the dividend to the shareholders concerned or publicly announced the declaration thereof; or
- (b) in the case of any other company, it had not prior to that date paid the dividend to the shareholders concerned, such dividend shall for the purposes of this section be deemed to have been declared by the company on the said date: Provided that the provisions of this subsection shall not apply to any such dividend in respect of which the company had prior to the said date taken reasonable steps to pay.
- (11) The provisions of this Act relating to the assessment and recovery of normal tax shall *mutatis mutandis* apply for the purposes of the assessment and recovery of secondary tax on companies.
- (12)(a) Any company which on 17 March 1993 was engaged in mining for gold, may by notice in writing furnished to the Commissioner not later than 31 August 1993, elect to be exempt from the payment of secondary tax on companies.
- (b) Any company which after 17 March 1993 commences mining for gold may by notice in writing furnished to the Commissioner not later than six months after the date on which it so commences, elect to be exempt from the payment of secondary tax on companies.
- (c) An election made in terms of paragraph (a) or (b) shall, subject to the provisions of paragraph (e), be binding upon the company in respect of all future dividends declared by it.
- (d) The exemption under this subsection shall apply to all dividends declared by the company concerned, whether payable out of profits derived from mining for gold or otherwise.
- (e) Where any company which has made an election in terms of paragraph (a) or (b) ceases mining for gold during any year of assessment, the exemption under this subsection shall not apply to any dividend declared by such company during any subsequent year of assessment.

- (ii) in enige ander geval, teen nie later nie as 31 Julie 1993; en
- (b) waar bedoelde belasting betaalbaar is ten opsigte van 'n dividend na 30 Junie 1993 verklaar, teen nie later nie as die laaste dag van die maand wat op die maand volg waarin die dividend-siklus toepaslik op bedoelde dividend eindig,
- en elke betaling van bedoelde belasting gaan vergesel van 'n opgawe in die vorm wat die Kommissaris vereis: Met dien verstande dat—
- (i) die Kommissaris in enige geval die toepaslike datum van betaling kan verleng; en
- (ii) by die toepassing van paragraaf (b) die uitdrukking 'maand' enigeen van die twaalf dele waarin 'n kalenderjaar ingedeel is, beteken.
- (8) Waar die Kommissaris oortuig is dat 'n bedrag aan sekondêre belasting op maatskappye nie ten volle betaal is nie, kan hy die onbetaalde bedrag skat en aan die betrokke maatskappy 'n kennisgewing van aanslag vir die onbetaalde gedeelte uitreik.
- (9) Indien 'n maatskappy versuim om 'n bedrag aan sekondêre belasting op maatskappye ten volle te betaal binne die betrokke tydperk beoog in subartikel (7), word rente deur bedoelde maatskappy betaal op die uitstaande balans van die belasting teen die voorgeskrewe koers bereken vanaf die einde van die betrokke tydperk.
- (10) Waar 'n maatskappy 'n dividend voor 17 Maart 1993 verklaar het en—
- (a) in die geval van 'n maatskappy wat op 'n erkende effektebeurs genoteer is of 'n filiaal (soos omskryf in artikel 1 van die Maatskappywet, 1973 (Wet No. 61 van 1973)), van so 'n maatskappy, hy nie voor daardie datum die dividend aan die betrokke aandeelhouers betaal het of die verklaring daarvan in die openbaar aangekondig het nie; of
- (b) in die geval van enige ander maatskappy, hy nie voor daardie datum die dividend aan die betrokke aandeelhouers betaal het nie,
- word bedoelde dividend by die toepassing van hierdie artikel geag verklaar te gewees het deur die maatskappy op genoemde datum: Met dien verstande dat die bepalings van hierdie subartikel nie van toepassing is nie op 'n bedoelde dividend ten opsigte waarvan die maatskappy voor genoemde datum redelike stappe gedoen het om te betaal.
- (11) Die bepalings van hierdie Wet met betrekking tot die aanslag en verhaling van normale belasting is *mutatis mutandis* van toepassing vir die doeleindeste van die aanslag en verhaling van sekondêre belasting op maatskappye.
- (12)(a) Enige maatskappy wat op 17 Maart 1993 betrokke was by die myn van goud, kan by skriftelike kennisgewing aan die Kommissaris nie later nie as 31 Augustus 1993 verstrek, kies om vrygestel te wees van die betaling van sekondêre belasting op maatskappye.
- (b) 'n Maatskappy wat na 17 Maart 1993 begin met die myn van goud, kan by skriftelike kennisgewing aan die Kommissaris verstrek nie later nie as ses maande na die datum waarop dit aldus begin het, kies om vrygestel te wees van die betaling van sekondêre belasting op maatskappye.
- (c) 'n Keuse gedoen ingevolge paragraaf (a) of (b) is, behoudens die bepalings van paragraaf (e), bindend vir die maatskappy ten opsigte van alle toekomstige dividende deur hom verklaar.
- (d) Die vrystelling kragtens hierdie subartikel is van toepassing op alle dividende deur die betrokke maatskappy verklaar, hetsy betaalbaar uit winste verkry uit die myn van goud of andersins.
- (e) Waar 'n maatskappy wat 'n keuse gedoen het ingevolge paragraaf (a) of (b) ophou om vir goud te myn gedurende enige jaar van aanslag, is die vrystelling kragtens hierdie subartikel nie van toepassing nie op 'n dividend deur bedoelde maatskappy verklaar gedurende 'n daaropvolgende jaar van aanslag.

(13) In the determination of the net amount of any dividend declared by a company which carries on long-term insurance business, the amount to be taken into account in terms of subsection (3) in respect of dividends accrued to the company shall be limited—

- (a) where the company has established or deemed to have established separate funds as contemplated in section 29, to dividends accrued on shares constituting an asset in its corporate fund; or
- (b) where the company has not established such separate funds, to an amount which bears to the total dividends which accrued to the company during the dividend cycle concerned the same ratio as the company's free reserves (calculated as provided in subsection (14) as at the end of the last year of assessment of the insurer which ended prior to the declaration of the firstmentioned dividend) bears to the market value of the total assets held by the insurer as at the end of that year.

(14) For the purposes of subsection (13) the free reserves of an insurer shall be the amount by which the market value of the total assets held by the insurer exceeds the prescribed value determinable in terms of section 29 in relation to business and policies contemplated in subsection (4)(a), (b) and (c) of that section.

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Certain amounts distributed deemed to be dividends

64C. (1) For the purposes of this section 'recipient', in relation to any company, means—

- (a) any shareholder of such company;
- (b) any relative of such shareholder; or
- (c) any trust of which such shareholder or relative is a beneficiary.

(2) For the purposes of section 64B any amount which is in terms of subsection (3) deemed to have been distributed by a company to a recipient, shall, subject to the provisions of subsection (4), be deemed to be a dividend declared by such company, notwithstanding the fact that such amount may have been so distributed by way of a loan or credit to the recipient or that the recipient may in consequence of such distribution have assumed any other form of obligation to make a future payment to the company.

(3) For the purposes of subsection (2) an amount shall be deemed to have been distributed by a company to a recipient if—

- (a) any cash or asset is distributed by the company to or for the benefit of such recipient;
- (b) the recipient is released from any obligation measurable in money which is owed to the company by the recipient;
- (c) any debt owed by the recipient to any third party is paid or settled by the company; or
- (d) any amount is used or applied by the company in any other manner for the benefit of the recipient.

(4) The provisions of subsection (3) shall not apply—

- (a) where the distribution of such amount constitutes a dividend or would have constituted a dividend but for the provisions of paragraphs (e) to (h), inclusive, of the definition of "dividend" in section 1;
- (b) where such amount distributed constitutes remuneration in the hands of the recipient or the settlement of any debt owed by the company to the recipient;
- (c) to so much of any such amount distributed as exceeds the company's profits and reserves which are available for distribution, including any amount deemed in terms of the definition of 'dividend' in section 1 to be a profit available for distribution:

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(13) By die vasstelling van die netto bedrag van 'n dividend verklaar deur 'n maatskappy wat langtermynversekeringsbesigheid dryf, word die bedrag wat ingevolge subartikel (3) in berekening gebring moet word ten opsigte van dividende toegeval aan die maatskappy beperk—

- 10 (a) waar die maatskappy afsonderlike fondse gestig het of geag word te gestig het soos beoog in artikel 29, tot dividende toeval op aandele wat 'n bate in sy korporatiewe fonds uitmaak; of

15 (b) waar die maatskappy nie bedoelde afsonderlike fondse gestig het nie, tot 'n bedrag wat tot die totale dividende wat aan die maatskappy toegeval het gedurende die betrokke dividendsiklus in dieselfde verhouding staan as wat die maatskappy se vrye reserwes (bereken soos bepaal in subartikel (14) aan die einde van die laaste jaar van aanslag van die versekeraar wat geëindig het voor die verklaring van eersgenoemde dividend) staan tot die markwaarde van die totale bates wat deur die versekeraar gehou word aan die einde van daardie jaar.

20 (14) By die toepassing van subartikel (13) is die vrye reserwes van 'n versekeraar die bedrag waarmee die markwaarde van die totale bates deur die versekeraar gehou, die voorgeskrewe waarde vasstelbaar ingevolge artikel 29 met betrekking tot besigheid en polissoos beoog in subartikel (4)(a), (b) en (c) van daardie artikel oorskry.

Sekere bedrae uitgekeer, geag dividende te wees

64C. (1) By die toepassing van hierdie artikel beteken 'ontvanger', met betrekking tot 'n maatskappy—

- (a) 'n aandeelhouer van bedoelde maatskappy;
 - (b) 'n familielid van bedoelde aandeelhouer; of
 - (c) 'n trust waarvan bedoelde aandeelhouer of familielid 'n begunstigde is.

(2) By die toepassing van artikel 64B word enige bedrag wat ingevolge subartikel (3) geag word deur 'n maatskappy aan 'n ontvanger uitgekeer te gewees het, behoudens die bepalings van subartikel (4) geag 'n dividend te wees deur bedoelde maatskappy verklaar, ondanks die feit dat bedoelde bedrag aldus by wyse van 'n lening of krediet aan die ontvanger uitgekeer mag gewees het of dat die ontvanger ten gevolge van bedoelde uitkering enige ander vorm van verpligting mag aanvaar het om 'n toekomstige betaling aan die maatskappy te doen.

(3) By die toepassing van subartikel (2) word 'n bedrag deur 'n maatskappy aan 'n ontvanger geag uitgekeer te gewees het indien—
(a) enige kontant of bate deur die maatskappy aan of tot voordeel

- (b) die ontvanger onthef word van enige verpligting meetbaar in geld wat deur die ontvanger aan die maatskappy verskuldig is;

(c) enige skuld deur die ontvanger aan 'n derde party verskuldig deur die maatskappy betaal of vereffen word; of

(d) 'n bedrag deur die maatskappy op enige ander wyse tot voordeel van die ontvanger gebruik of aangewend is.

50 (4) Die bepalings van subartikel (3) is nie van toepassing nie—
(a) waar die uitkering van bedoelde bedrag 'n dividend uitmaak, of

- 'n dividend sou uitgemaak het indien dit nie vir die bepalings van paragrawe (e) tot en met (h) van die omskrywing van 'dividend' in artikel 1 was nie;

55 (b) waar bedoelde bedrag uitgekeer besoldiging in die hande van die ontvanger uitmaak of die vereffening van 'n skuld deur die maatskappy aan die ontvanger verskuldig, uitmaak;

- (c) op soveel van enige bedoelde bedrag uitgekeer as wat die maatskappy se winste en reserves wat vir uitkering beskikbaar is, oorskry, met inbegrip van enige bedrag wat ingevolge die omskrywing van 'dividend' in artikel 1 geag word 'n wins

<p>Provided that any prohibition or limitation on any such distribution contained in the company's memorandum and articles of association or founding statement or any agreement shall be disregarded in the application of this paragraph;</p> <p>(d) to any loan granted in respect of which a market-related rate of interest is payable by the recipient;</p> <p>(e) to any loan granted to the recipient if the recipient is an employee of the company and such loan is granted under, and in compliance with the normal terms and conditions of, a loan scheme generally available to employees of the company who are not shareholders;</p> <p>(f) to any loan or credit granted to a shareholder of the company during any year of assessment, if—</p> <ul style="list-style-type: none"> (i) such loan or credit is repaid or otherwise extinguished by not later than the end of the immediately succeeding year of assessment; (ii) the amount thereof is not included in any subsequent loan or credit granted to the shareholder; and (iii) the provisions of this paragraph have not been applied in the case of the company in any previous year of assessment; <p>(g) to a loan made by any company to any other company, if such loan is utilized by such other company in the Republic and the equity share capital of—</p> <ul style="list-style-type: none"> (i) one of such companies is held by the other such company; or (ii) both such companies is held by the same person or persons; and <p>(h) to so much of any amount distributed as constitutes a profit of a capital nature, if the liquidation or winding up of the distributing company is commenced within such reasonable period as the Commissioner may allow.</p> <p>(5) Where any loan granted by a company to a shareholder—</p> <p>(a) was deemed to be a dividend declared by the company in terms of this section; and</p> <p>(b) is thereafter wholly or partly repaid by the shareholder, the amount so repaid shall for the purposes of section 64B be deemed to be a dividend which accrued to the company concerned on the date <u>on which such amount was repaid.</u>".</p> <p>(2) Subsection (1) shall be deemed to have come into operation on 17 March 1993.</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p>
<p>Amendment of section 75 of Act 58 of 1962, as amended by section 40 of Act 101 of 1990, section 34 of Act 129 of 1991 and section 30 of Act 141 of 1992</p>	<p>40</p>
<p>35. Section 75 of the principal Act is hereby amended by the substitution in paragraph (f) of subsection (1) for the expression "five years" of the expression "four years".</p>	<p>40</p>
<p>Amendment of section 83 of Act 58 of 1962, as amended by section 21 of Act 90 of 1964, section 22 of Act 103 of 1976, section 15 of Act 104 of 1979, section 19 of Act 96 of 1985, section 16 of Act 70 of 1989 and section 36 of Act 129 of 1991</p>	<p>45</p>
<p>36. Section 83 of the principal Act is hereby amended—</p> <p>(a) by the substitution for subsection (9) of the following subsection:</p> <p style="padding-left: 2em;">“(9) At least [ten] 21 business days (or such shorter number of business days as may be agreed upon by the Commissioner and the</p>	<p>50</p>

- beskikbaar vir uitkering te wees: Met dien verstande dat enige verbod of beperking op enige bedoelde uitkering in die maatskappy se akte van oprigting en statute of stigtingsverklaring of in enige ooreenkoms vervat, by die toepassing van hierdie paragraaf verontgaam word;
- (d) op enige lening toegestaan ten opsigte waarvan 'n markverwante rentekoers deur die ontvanger betaalbaar is;
- (e) op enige lening aan die ontvanger toegestaan indien die ontvanger 'n werknemer van die maatskappy is en bedoelde lening toegestaan is kragtens en ooreenkomsdig die normale bedinge en voorwaardes van 'n leningskema wat algemeen beskikbaar is aan die werknemers van die maatskappy wat nie aandeelhouers is nie;
- (f) op enige lening of krediet aan 'n aandeelhouer van die maatskappy toegestaan gedurende 'n jaar van aanslag, indien—
 (i) bedoelde lening of krediet terugbetaal of andersins uitgewis word nie later nie as die einde van die onmiddellik daaropvolgende jaar van aanslag;
 (ii) die bedrag daarvan nie ingesluit word in enige daaropvolgende lening of krediet aan die aandeelhouer toegestaan nie; en
 (iii) die bepalings van hierdie paragraaf nie in die geval van die maatskappy in 'n vorige jaar van aanslag toegepas is nie;
- (g) op enige lening deur een maatskappy aan 'n ander maatskappy gemaak, indien bedoelde lening binne die Republiek deur bedoelde ander maatskappy aangewend word en die ekwiteitaandelekapitaal van—
 (i) een van bedoelde maatskappye deur die ander bedoelde maatskappy gehou word; of
 (ii) beide bedoelde maatskappye deur dieselfde persoon of persone gehou word; en
- (h) op soveel van enige bedrag uitgekeer as wat 'n wins van 'n kapitale aard uitmaak, indien die likwidasie of ontbinding van die uitkerende maatskappy 'n aanvang geneem het binne sodanige redelike tydperk as wat die Kommissaris toelaat.
- (5) Waar 'n lening wat deur 'n maatskappy aan 'n aandeelhouer toegestaan is—
 (a) ingevolge hierdie artikel geag is om 'n dividend te wees wat deur die maatskappy verklaar is; en
 (b) daarna geheel of gedeeltelik deur die aandeelhouer terugbetaal word,
 word die bedrag aldus terugbetaal by die toepassing van artikel 64B geag 'n dividend te wees wat aan die betrokke maatskappy toegeval het op die datum waarop bedoelde bedrag terugbetaal is."
- 45 (2) Subartikel (1) word geag op 17 Maart 1993 in werking te getree het.

Wysiging van artikel 75 van Wet 58 van 1962, soos gewysig deur artikel 40 van Wet 101 van 1990, artikel 34 van Wet 129 van 1991 en artikel 30 van Wet 141 van 1992

35. Artikel 75 van die Hoofwet word hierby gewysig deur in paragraaf (f) van 50 subartikel (1) die uitdrukking "vyf jaar" deur die uitdrukking "vier jaar" te vervang.

Wysiging van artikel 83 van Wet 58 van 1962, soos gewysig deur artikel 21 van Wet 90 van 1964, artikel 22 van Wet 103 van 1976, artikel 15 van Wet 104 van 1979, artikel 19 van Wet 96 van 1985, artikel 16 van Wet 70 van 1989 en artikel 55 36 van Wet 129 van 1991

36. Artikel 83 van die Hoofwet word hierby gewysig—

(a) deur subartikel (9) deur die volgende subartikel te vervang:

"(9) Ten minste [tien dae] 21 besigheidsdae (of die korter getal besigheidsdae soos deur die Kommissaris en die belastingpligtige

taxpayer or his duly authorised representative) before the date fixed for the hearing of an appeal the Commissioner shall send to the [person who made the objection] taxpayer or to his duly authorised [attorney or] representative a written notice of the time and place appointed for the hearing of such appeal.”; and

- (b) by the substitution for subsection (18) of the following subsection:

“(18) Any decision of the court under this section shall, subject to the provisions of [sections 86 and] section 86A, be final.”.

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Amendment of section 83A of Act 58 of 1962, as inserted by section 37 of Act 129 of 1991

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37. Section 83A of the principal Act is hereby amended—

- (a) by the substitution for subsection (3) of the following subsection:

“(3) The Board shall consist of an advocate or attorney referred to in subsection (4), who shall be the Chairman of the Board, and, if the Chairman, the Commissioner or the taxpayer considers it necessary, an accountant or a representative of the commercial community referred to in section 83(2).”; and

- (b) by the substitution in paragraph (b) of subsection (7) for the expression “30 days” of the expression “21 business days”.

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Repeal of section 86 of Act 58 of 1962

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38. Section 86 of the principal Act is hereby repealed.

Amendment of section 86A of Act 58 of 1962, as inserted by section 24 of Act 103 of 1976

39. Section 86A of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:

“(1) The appellant in a special court or the Commissioner may in the manner hereinafter provided appeal under this section against any decision of that court [in any case in which judgment is delivered on or after the date of commencement of section 24 of the Income Tax Act, of 1976].”; and

- (b) by the deletion of paragraph (c) of subsection (20).

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Substitution of section 88 of Act 58 of 1962, as substituted by section 17 of Act 70 of 1989

40. The following section is hereby substituted for section 88 of the principal Act:

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“Payment of tax pending appeal

88. The obligation to pay and the right to receive and recover any tax chargeable under this Act shall not, unless the Commissioner so directs, be suspended by any appeal or pending the decision of a court of law under section [86 or] 86A, but if any assessment is altered on appeal or in conformity with any such decision or a decision by the Commissioner to concede the appeal to the special board or the special court or such court of law, a due adjustment shall be made, amounts paid in excess being refunded with interest at the prescribed rate, such interest being calculated from the date proved to the satisfaction of the Commissioner to be the date on which such excess was received and amounts short-paid being recoverable with interest calculated as provided in section 89.”.

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of sy behoorlik gemagtigde verteenwoordiger ooreengekom is) voor die datum bepaal vir die verhoor van 'n appèl stuur die Kommissaris aan die [persoon wat die beswaar gemaak het] belastingpligte of aan sy behoorlik gemagtigde [prokureur of] verteenwoordiger, 'n skriftelike kennisgewing van die tyd en plek vir die verhoor van sodanige appèl vasgestel."; en

(b) deur subartikel (18) deur die volgende subartikel te vervang:

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"(18) 'n Beslissing van die hof ingevolge hierdie artikel is, behoudens die bepalings van [artikels 86 en] artikel 86A, afdoende."

Wysiging van artikel 83A van Wet 58 van 1962, soos ingevoeg deur artikel 37 van Wet 129 van 1991

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37. Artikel 83A van die Hoofwet word hierby gewysig—

(a) deur subartikel (3) deur die volgende subartikel te vervang:

"(3) Die Raad bestaan uit 'n advokaat of prokureur in subartikel (4) bedoel, wat die Voorsitter van die Raad is, en, indien die Voorsitter, die Kommissaris of die belastingpligte dit goed ag, 'n rekenmeester of 'n verteenwoordiger van die handelstand soos in artikel 83(2) bedoel."; en

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(b) deur in paragraaf (b) van subartikel (7) die uitdrukking "30 dae" deur die uitdrukking "21 besigheidsdae" te vervang.

Herroeping van artikel 86 van Wet 58 van 1962

38. Artikel 86 van die Hoofwet word hierby herroep.

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Wysiging van artikel 86A van Wet 58 van 1962, soos ingevoeg deur artikel 24 van Wet 103 van 1976

39. Artikel 86A van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Die appellant in 'n spesiale hof of die Kommissaris kan ingevolge hierdie artikel op die hieronder voorgeskrewe wyse appelleer teen 'n beslissing van daardie hof [in 'n saak waarin uitspraak gelewer word op of na die datum van inwerkintreding van artikel 24 van die Inkomstebelastingwet, 1976]."; en

(b) deur paragraaf (c) van subartikel (20) te skrap.

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Vervanging van artikel 88 van Wet 58 van 1962, soos vervang deur artikel 17 van Wet 70 van 1989

40. Artikel 88 van die Hoofwet word hierby deur die volgende artikel vervang:

"Betaling van belasting hangende appèl"

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88. Die verpligting om 'n belasting hefbaar ingevolge hierdie Wet te betaal, en die reg om dit te ontvang en te in, word nie, tensy die Kommissaris aldus beveel, deur 'n appèl of hangende die beslissing van 'n gereghof ingevolge artikel [86 of] 86A opgeskort nie, maar indien 'n aanslag op appèl of ooreenkomsdig so 'n beslissing of 'n beslissing van die Kommissaris om die appèl na die spesiale raad of die spesiale hof of bedoelde gereghof toe te gee, verander word, vind 'n behoorlike aansuiwering plaas waarby bedrae wat te veel betaal is, terugbetaal word met rente teen die voorgeskrewe koers bereken vanaf die datum wat, na tot bevrediging van die Kommissaris bewys word, die datum is waarop die bedrae wat te veel betaal is, ontvang is, en bedrae wat te min betaal is met rente, bereken volgens voorskrif van artikel 89, verhaal kan word."

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Amendment of section 89ter of Act 58 of 1962, as inserted by section 14 of Act 6 of 1963 and amended by section 22 of Act 90 of 1964, section 22 of Act 95 of 1967, section 37 of Act 89 of 1969, section 36 of Act 94 of 1983 and section 33 of Act 121 of 1984

41. Section 89ter of the principal Act is hereby amended by the insertion after subsection (1) of the following subsections: 5

“(1A) Where, in addition to any amount of tax or additional tax which is payable by any person in terms of this Act, an amount of penalty is payable by him in terms of the provisions of the Fourth or Seventh Schedule, or interest is payable by him in terms of any provision of this Act, any payment made by that person on or after 1 April 1994 in respect of such tax, additional tax, penalty or interest which is less than the total amount due by him in respect of such tax, additional tax, penalty and interest shall for the purposes of this Act be deemed to be made—

- (a) in respect of such penalty;
- (b) to the extent to which such payment exceeds the amount of such penalty, in respect of such interest; and
- (c) to the extent to which such payment exceeds the sum of the amounts of such penalty and interest, in respect of such tax or additional tax.

(1B)(a) Any practice generally applied by the Commissioner prior to 1 April 1994 in the allocation of payments shall be deemed to have had the force of law. 20

(b) Any agreement concluded prior to 1 April 1994 between the Commissioner and a taxpayer which provides for the allocation of any payment contemplated in subsection (1A) to be made on or after that date otherwise than in accordance with the provisions of subsection (1A) shall, in so far as it provides for such allocation, cease to have effect.”. 25

Amendment of section 89quat of Act 58 of 1962, as inserted by section 34 of Act 121 of 1984 and substituted by section 22 of Act 65 of 1986 and amended by section 18 of Act 70 of 1989 30

42.(1) Section 89quat of the principal Act is hereby amended—

- (a) by the deletion in subsection (1) of the word “and” at the end of paragraph (c) of the definition of “credit amount”;
- (b) by the deletion in subsection (1) of paragraph (d) of the definition of “credit amount”;
- (c) by the addition to subsection (1) of the following definition:
“normal tax” includes any additional amounts payable in terms of section 76 and paragraphs 20 and 20A of the Fourth Schedule.”;
- (d) by the insertion after subsection (3) of the following subsection:
“(3A) Where any natural person has, in respect of the year of assessment during which he for the first time became a provisional taxpayer, become liable for the payment of interest under subsection (2), the Commissioner may, if he is satisfied that the circumstances warrant such action, direct that interest shall not be paid by such person in respect of such year of assessment.”;
- (e) by the substitution for the words preceding the proviso to subsection (4) of the following words:
“If in the case of any provisional taxpayer the credit amount in relation to any year of assessment exceeds the normal tax payable in respect of his taxable income as finally determined for that year and—

(a) the amount of that excess exceeds R10 000; or

(b) such taxable income exceeds R20 000 in the case of a company or R50 000 in the case of any person other than a company, interest shall be payable to the taxpayer at the prescribed rate 50

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Wysiging van artikel 89ter van Wet 58 van 1962, soos ingevoeg deur artikel 14 van Wet 6 van 1963 en gewysig deur artikel 22 van Wet 90 van 1964, artikel 22 van Wet 95 van 1967, artikel 37 van Wet 89 van 1969, artikel 36 van Wet 94 van 1983 en artikel 33 van Wet 121 van 1984

5 **41.** Artikel 89ter van die Hoofwet word hierby gewysig deur na subartikel (1) die volgende subartikels in te voeg:

- “(1A) Waar, benewens ‘n bedrag belasting of addisionele belasting wat ingevolge hierdie Wet deur ‘n persoon betaalbaar is, ‘n bedrag aan boete ingevolge die bepalings van die Vierde of Sewende Bylae of rente ingevolge enige bepaling van hierdie Wet deur hom betaalbaar is, word enige betaling deur daardie persoon gedoen op of na 1 April 1994 ten opsigte van daardie belasting, addisionele belasting, boete of rente wat minder is as die totale bedrag deur hom betaalbaar ten opsigte van daardie belasting, addisionele belasting, boete en rente, geag by die toepassing van hierdie Wet gedoen te wees—
- (a) ten opsigte van bedoelde boete;
 - (b) vir sover bedoelde betaling die bedrag van bedoelde boete oorskry, ten opsigte van bedoelde rente; en
 - (c) vir sover bedoelde betaling die totaal van die bedrae van bedoelde boete en rente oorskry, ten opsigte van bedoelde belasting of addisionele belasting.
- (1B)(a) Enige praktyk deur die Kommissaris voor 1 April 1994 algemeen toegepas by die toedeling van betalings word geag regskrag te gehad het.
- (b) Enige ooreenkoms wat voor 1 April 1994 tussen die Kommissaris en die belastingpligtige gesluit is wat voorsiening maak vir die toedeling van enige betaling in subartikel (1A) beoog wat op of na daardie datum gemaak staan te word anders as ooreenkomsdig die bepalings van subartikel (1A) hou op, vir sover dit vir bedoelde toedeling voorsiening maak, om enige uitwerking te hê.”.

30 **Wysiging van artikel 89quat van Wet 58 van 1962, soos ingevoeg deur artikel 34 van Wet 121 van 1984 en vervang deur artikel 22 van Wet 65 van 1986 en gewysig deur artikel 18 van Wet 70 van 1989**

42. (1) Artikel 89quat van die Hoofwet word hierby gewysig—
- (a) deur in subartikel (1) die woord “en” aan die einde van paragraaf (c) van die omskrywing van “kredietbedrag” te skrap;
 - (b) deur in subartikel (1) paragraaf (d) van die omskrywing van “kredietbedrag” te skrap;
 - (c) deur die volgende omskrywing by subartikel (1) te voeg:
“normale belasting’ ook enige addisionele bedrae betaalbaar ingevolge artikel 76 en paragrawe 20 en 20A van die Vierde Bylae.”;
 - (d) deur na subartikel (3) die volgende subartikel in te voeg:
“(3A) Waar ‘n natuurlike persoon ten opsigte van die jaar van aanslag waarin hy vir die eerste keer ‘n voorlopige belastingpligtige geword het, aanspreeklik word vir die betaling van rente kragtens subartikel (2), kan die Kommissaris, indien hy oortuig is dat die omstandighede sodanige optrede regverdig, gelas dat rente nie deur bedoelde persoon ten opsigte van bedoelde jaar van aanslag betaal word nie.”;
 - (e) deur die woorde wat die voorbehoudsbepaling by subartikel (4) voorafgaan deur die volgende woorde te vervang:
“Indien in die geval van ‘n voorlopige belastingpligtige die kredietbedrag met betrekking tot ‘n jaar van aanslag die normale belasting betaalbaar ten opsigte van sy belasbare inkomste soos finaal vir daardie jaar vasgestel, te bowe gaan en—
 - (a) die bedrag van dié oorskot R10 000 te bowe gaan; of
 - (b) bedoelde belasbare inkomste R20 000 in die geval van ‘n maatskappy of R50 000 in die geval van iemand behalwe ‘n maatskappy te bowe gaan,
- 60 word rente teen die voorgeskrewe koers aan die belastingpligtige

on the difference between the credit amount and such normal tax, such interest being calculated from the effective date in relation to the said year until the date on which such difference is refunded to the taxpayer.”; and

(f) by the addition of the following subsection:

“(5) Any decision of the Commissioner in the exercise of his discretion under subsection (3) or (3A) shall be subject to objection and appeal.”.

(2)(a) Subsection (1)(d) and (f) shall be deemed to have come into operation from the commencement of years of assessment ending on or after 28 February 1991. 10

(b) Subsection (1)(e) shall come into operation on 1 September 1993 and shall apply to any assessment bearing a date of assessment falling on or after that date.

Amendment of paragraph 4 of 1st Schedule to Act 58 of 1962, as amended by section 17 of Act 72 of 1963, section 41 of Act 89 of 1969 and section 42 of Act 94 of 1983 15

43. Paragraph 4 of the First Schedule to the principal Act is hereby amended—

(a) by the substitution for subitem (ii) of item (a) of subparagraph (1) of the following subitem:

“(ii) [such] the market value [as the Commissioner may allow in respect] of livestock or produce acquired by such farmer during the current year of assessment otherwise than by purchase or natural increase or in the ordinary course of farming operations; or”; and

(b) by the substitution for subitem (ii) of item (b) of subparagraph (1) of the following subitem:

“(ii) [such] the market value [as the Commissioner may allow in respect] of livestock or produce (other than livestock or produce to which subitem (i) refers) acquired by such person during the year of assessment otherwise than by purchase or natural increase or in the ordinary course of farming operations.”. 30

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Amendment of paragraph 11 of 1st Schedule to Act 58 of 1962, as substituted by section 42 of Act 101 of 1990

44. (1) The following paragraph is hereby substituted for paragraph 11 of the First Schedule to the principal Act:

“11. If during any year of assessment livestock or produce has been donated by any farmer or has, for purposes other than that of the production to him of income from sources within the Republic, been removed by him from the Republic or where the farmer is a company and any livestock or produce has on or after [12 June 1990] 21 June 1993 been distributed [by] in specie (whether such distribution occurred by means of a dividend, including a liquidation dividend, a total or partial reduction of capital or a redemption of redeemable preference shares) to a shareholder of such company [by way of a dividend], there shall be included in the income of such farmer for that year of assessment an amount equal to the current market value of such livestock or produce.”. 40

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(2) Subsection (1) shall be deemed to have come into operation as from the commencement of years of assessment ending on or after 21 June 1993 and shall apply to any livestock or produce distributed on or after that date.

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Amendment of paragraph 12 of 1st Schedule to Act 58 of 1962, as amended by section 27 of Act 55 of 1966, section 42 of Act 89 of 1969, section 24 of Act 113 of 1977, section 24 of Act 104 of 1980, section 27 of Act 96 of 1981, section 28 of Act 91 of 1982 and section 39 of Act 90 of 1988 50

45. Paragraph 12 of the First Schedule to the principal Act is hereby amended—

(a) by the deletion of item (j) of subparagraph (1);
 (b) by the deletion of subparagraph (1A);

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betaal op die verskil tussen die kredietbedrag en bedoelde normale belasting, bedoelde rente bereken te word vanaf die effektiewe datum met betrekking tot genoemde jaar tot die datum waarop bedoelde verskil aan die belastingpligtige terugbetaal word.”; en

5 (f) deur die volgende subartikel by te voeg:

“(5) ’n Beslissing van die Kommissaris by die uitoefening van sy diskresie kragtens subartikel (3) of (3A) is aan beswaar en appell onderhewig.”.

10 (2)(a) Subartikel (1)(d) en (f) word geag in werking te getree het vanaf die begin van jare van aanslag eindigende op of na 28 Februarie 1991.

(b) Subartikel (1)(e) tree in werking op 1 September 1993 en is van toepassing op enige aanslag met ’n datum van aanslag vallende op of na daardie datum.

Wysiging van paragraaf 4 van 1ste Bylae by Wet 58 van 1962, soos gewysig deur artikel 17 van Wet 72 van 1963, artikel 41 van Wet 89 van 1969 en artikel 42 van Wet 94 van 1983

15 43. Paragraaf 4 van die Eerste Bylae by die Hoofwet word hierby gewysig—

(a) deur subitem (ii) van item (a) van subparagraph (1) deur die volgende subitem te vervang:

20 “(ii) die [waarde] markwaarde [wat die Kommissaris mag toestaan ten opsigte] van lewende hawe of produkte wat so ’n boer gedurende die lopende jaar van aanslag op ’n ander wyse as deur aankoop of natuurlike aanwas of in die gewone loop van boerdery verkry het; of”; en

25 (b) deur subitem (ii) van item (b) van subparagraph (1) deur die volgende subitem te vervang:

30 “(ii) die [waarde] markwaarde [wat die Kommissaris mag toestaan ten opsigte] van lewende hawe of produkte (behalwe lewende hawe of produkte in subitem (i) bedoel) wat so ’n persoon gedurende die jaar van aanslag op ’n ander wyse as deur aankoop of natuurlike aanwas of in die gewone loop van boerdery verkry het.”.

Wysiging van paragraaf 11 van 1ste Bylae by Wet 58 van 1962, soos vervang deur artikel 42 van Wet 101 van 1990

35 44. (1) Paragraaf 11 van die Eerste Bylae by die Hoofwet word hierby deur die volgende paragraaf vervang:

40 “11. Indien lewende hawe of produkte gedurende ’n jaar van aanslag deur ’n boer geskenk is of vir ander doeleinades as die verkryging deur hom van inkomste uit bronne binne die Republiek deur hom uit die Republiek verwyder is of waar die boer ’n maatskappy is en enige lewende hawe of produkte op of na [12 Junie 1990] 21 Junie 1993 [deur] aan ’n aandeelhouer van bedoelde maatskappy [by wyse van ’n dividend] *in specie* uitgekeer is (hetsy daardie uitkering plaasgevind het by wyse van ’n dividend, met inbegrip van ’n likwidasie-dividend, ’n algehele of gedeeltelike vermindering van kapitaal of ’n aflossing van aflosbare voorkeuraandele), word daar by die inkomste van bedoelde boer vir daardie jaar van aanslag ’n bedrag ingerekend gelyk aan die heersende markwaarde van daardie lewende hawe of produkte.”.

45 (2) Subartikel (1) word geag in werking te getree het met ingang van die begin van jare van aanslag wat op of na 21 Junie 1993 eindig en is van toepassing op lewende hawe of produkte wat op of na daardie datum uitgekeer is.

Wysiging van paragraaf 12 van 1ste Bylae by Wet 58 van 1962, soos gewysig deur artikel 27 van Wet 55 van 1966, artikel 42 van Wet 89 van 1969, artikel 24 van Wet 113 van 1977, artikel 24 van Wet 104 van 1980, artikel 27 van Wet 96 van 1981, artikel 28 van Wet 91 van 1982 en artikel 39 van Wet 90 van 1988

55 45. Paragraaf 12 van die Eerste Bylae by die Hoofwet word hierby gewysig—

(a) deur item (j) van subparagraph (1) te skrap;

(b) deur subparagraph (1A) te skrap;

- (c) by the deletion of item (c) of subparagraph (1B); and
 (d) by the substitution for subparagraph (1C) of the following subparagraph:

“(1C) For the purposes of this paragraph, where any asset in respect of which any deduction has been allowed to a farmer under the provisions of subparagraph (1) or (1A) (whether in the current or any previous year of assessment) and which is or has become a movable asset, is disposed of by the farmer to any other person by way of donation or for a consideration which [in the opinion of the Commissioner] is not an adequate consideration or is not readily capable of valuation, a consideration equal in value to [an amount determined by the Commissioner as] the fair value of such asset shall be deemed to have been received by the farmer in respect of his disposal of the asset and to have been paid by such other person in respect of his acquisition of the asset: Provided that the [amount so determined] lastmentioned consideration shall not exceed the cost to the farmer of such asset.”.

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Amendment of paragraph 13A of 1st Schedule to Act 58 of 1962, as inserted by section 44 of Act 94 of 1983 and amended by section 24 of Act 85 of 1987

46.(1) Paragraph 13A of the First Schedule to the principal Act is hereby 20 amended—

- (a) by the substitution for subparagraph (1) of the following subparagraph:

“(1) If [it is proved to the satisfaction of the Commissioner that] any farmer has on or after 1 March 1982 disposed of any livestock on account of drought, and [that] the whole or any portion of the proceeds of such disposal has as soon as possible, but in any case within three months after the receipt thereof by the farmer, been deposited by him in an account in his name with the Land and Agricultural Bank of South Africa, so much of such proceeds as has been so deposited by him shall, notwithstanding the provisions of section 23(e) of this Act but subject to the provisions of subparagraph (3), be deemed not to be gross income derived by such farmer.”;

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- (b) by the substitution for item (a) of subparagraph (3) of the following items:

“(a) if it is withdrawn from such account before the expiration of a period of six months after the last day of the year of assessment in which such disposal took place, be deemed to be gross income derived by the taxpayer from the disposal of livestock on the date of such disposal; or

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(aA) if it is withdrawn from such account [before] after the expiration of a period of six months but before the expiration of a period of six years after the last day of the year of assessment in which such disposal took place, be deemed to be gross income derived by the taxpayer from the disposal of livestock on the date of such withdrawal; or”; and

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- (c) by the deletion of subparagraph (4).

(2) Subsection (1) shall come into operation on 21 June 1993 and shall apply in respect of any amount received on or after that date.

Amendment of paragraph 15 of 1st Schedule to Act 58 of 1962, as amended by section 25 of Act 88 of 1965, section 26 of Act 95 of 1967, section 31 of Act 88 of 1971 and section 30 of Act 69 of 1975

47. Paragraph 15 of the First Schedule to the principal Act is hereby amended by the substitution for paragraph (i) of the proviso to subparagraph (3) of the following paragraph:

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“(i) the provisions of this subparagraph shall not apply unless [the Commissioner is satisfied that] the disposal of plantations or forest produce forms part of the normal farming operations of the farmer concerned;”.

- (c) deur item (c) van subparagraaf (1B) te skrap; en
 (d) deur subparagraaf (1C) deur die volgende subparagraaf te vervang:
 “(1C) By die toepassing van hierdie paragraaf, waar ’n bate ten opsigte waarvan ’n aftrekking aan ’n boer ingevolge die bepalings van subparagraaf (1) of (1A) toegelaat is (hetsy in die lopende of ’n vorige jaar van aanslag) en wat ’n roerende bate is of geword het, deur die boer van die hand gesit word aan ’n ander persoon by wyse van skenking of teen ’n vergoeding wat **[volgens die Kommissaris se oordeel]** nie voldoende vergoeding is nie of nie geredelik gewaardeer kan word nie, word ’n vergoeding waarvan die waarde gelyk is aan **[’n bedrag wat die Kommissaris as]** die billike waarde van die bate **[vasstel]** geag deur die boer ten opsigte van sy vandiehandsetting van die bate deur hom ontvang te gewees het en deur bedoelde ander persoon ten opsigte van die verkryging van die bate deur hom betaal te gewees het: Met dien verstande dat **[die aldus vasgestelde bedrag]** laasgenoemde vergoeding nie meer is nie as die koste vir die boer van bedoelde bate.”.

Wysiging van paragraaf 13A van 1ste Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 44 van Wet 94 van 1983 en gewysig deur artikel 24 van Wet 85 van 20 1987

46. (1) Paragraaf 13A van die Eerste Bylae by die Hoofwet word hierby gewysig—
 (a) deur subparagraaf (1) deur die volgende subparagraaf te vervang:
 “(1) Indien **[daar tot bevrediging van die Kommissaris bewys word dat]** ’n boer op of na 1 Maart 1982 weens droogte lewende hawe verkoop het, en **[dat]** die geheel of ’n gedeelte van die opbrengs uit bedoelde verkoop so gou doenlik maar in elk geval binne drie maande na ontvangs daarvan deur die boer in ’n rekening in sy naam by die Land- en Landboubank van Suid-Afrika gedeponeer is, word soveel van bedoelde opbrengs as wat aldus gedeponeer is, ondanks die bepalings van artikel 23(e) van hierdie Wet maar behoudens die bepalings van subparagraaf (3) geag nie bruto inkomste te wees deur bedoelde boer verkry nie.”;
 (b) deur item (a) van subparagraaf (3) deur die volgende items te vervang:
 “(a) indien dit uit bedoelde rekening onttrek word voor die verstryking van ’n tydperk van ses maande na die laaste dag van die jaar van aanslag waarin bedoelde verkoop plaasgevind het, geag bruto inkomste te wees wat op die datum van bedoelde verkoop deur die belastingpligtige uit die verkoop van lewende hawe verkry is; of
(aA) indien dit uit bedoelde rekening onttrek word [voor] na die verstryking van ’n tydperk van ses maande maar voor die verstryking van ’n tydperk van ses jaar na die laaste dag van die jaar van aanslag waarin bedoelde verkoop plaasgevind het, geag bruto inkomste te wees wat op die datum van bedoelde onttrekking deur die belastingpligtige uit die verkoop van lewende hawe verkry is; of”;; en
 (c) deur subparagraaf (4) te skrap.
 (2) Subartikel (1) tree in werking op 21 Junie 1993 en is van toepassing ten opsigte van enige bedrag wat op of na daardie datum ontvang word.

Wysiging van paragraaf 15 van 1ste Bylae by Wet 58 van 1962, soos gewysig deur artikel 25 van Wet 88 van 1965, artikel 26 van Wet 95 van 1967, artikel 31 van Wet 88 van 1971 en artikel 30 van Wet 69 van 1975

47. Paragraaf 15 van die Eerste Bylae by die Hoofwet word hierby gewysig deur paragraaf (i) van die voorbehoudsbepaling by subparagraaf (3) deur die volgende paragraaf te vervang:
 “(i) die bepalings van hierdie subparagraaf nie van toepassing is nie tensy **[die Kommissaris oortuig is dat]** die vandiehandsetting van plantasies of bosprodukte deel van die normale boerderybedrywighede van die betrokke boer uitmaak;”.

Amendment of paragraph 1 of 4th Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 22 of Act 72 of 1963, section 44 of Act 89 of 1969, section 24 of Act 52 of 1970, section 37 of Act 88 of 1971, section 47 of Act 85 of 1974, section 6 of Act 30 of 1984, section 38 of Act 121 of 1984, section 20 of Act 70 of 1989, section 44 of Act 101 of 1990, section 44 of Act 129 of 1991 and section 33 of Act 141 of 1992 5

48.(1) Paragraph 1 of the Fourth Schedule to the principal Act is hereby amended by the substitution in paragraph (c) of the definition of "remuneration" for the expression "25 per cent" of the expression "35 per cent".

(2) Subsection (1) shall be deemed to have come into operation on 1 July 1993. 10

Insertion of paragraph 12A in 4th Schedule to Act 58 of 1962

49. The following paragraph is hereby inserted in the Fourth Schedule to the principal Act after paragraph 12:

"Annual confirmation of personal particulars of certain employees

12A. Every employer who is required to make a determination of Standard Income Tax on Employees in respect of the employees employed by him on the last day of any year of assessment shall on a date falling as shortly before the making of such determination as in the circumstances of the employer is reasonable, issue to each employee who is in standard employment on that date a notice in which the employee is advised— 15
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- (a) of his personal particulars which the employer intends taking into account in the making of such determination; and**
- (b) in the event that such personal particulars are incorrect, to submit a fresh return of personal particulars in accordance with the provisions of paragraph 12(1) or to apply to the Commissioner for the issue of a directive under the provisions of paragraph 12(2)."** 25

Amendment of paragraph 18 of 4th Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 28 of Act 90 of 1964, section 42 of Act 88 of 1971, section 49 of Act 85 of 1974, section 19 of Act 104 of 1979, section 26 of Act 65 of 1986, section 9 of Act 108 of 1986 and section 23 of Act 70 of 1989 30

50. Paragraph 18 of the Fourth Schedule to the principal Act is hereby amended by the substitution in subitem (i) of item (d) of subparagraph (1) for the expression "R25 000" of the expression "R35 000".

Repeal of 6th Schedule to Act 58 of 1962, as added by section 28 of Act 90 of 1972 and amended by sections 27 to 41, inclusive, of Act 65 of 1973, sections 63 to 68, inclusive, of Act 85 of 1974, section 37 of Act 69 of 1975, section 19 of Act 101 of 1978, section 29 of Act 96 of 1981, sections 58 and 59 of Act 94 of 1983, section 45 of Act 121 of 1984, sections 21 to 25, inclusive, of Act 96 of 1985, sections 31 and 32 of Act 65 of 1986 and sections 26 and 27 of Act 85 of 1987 35
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51. (1) The Sixth Schedule to the principal Act is hereby repealed.

(2) Subsection (1) shall be deemed to have come into operation on 1 March 1993.

Wysiging van paragraaf 1 van 4de Bylae by Wet 58 van 1962, soos bygevoeg deur artikel 19 van Wet 6 van 1963 en gewysig deur artikel 22 van Wet 72 van 1963, artikel 44 van Wet 89 van 1969, artikel 24 van Wet 52 van 1970, artikel 37 van Wet 88 van 1971, artikel 47 van Wet 85 van 1974, artikel 6 van Wet 30 van 1984, 5 artikel 38 van Wet 121 van 1984, artikel 20 van Wet 70 van 1989, artikel 44 van Wet 101 van 1990, artikel 44 van Wet 129 van 1991 en artikel 33 van Wet 141 van 1992

48. (1) Paragraaf 1 van die Vierde Bylae by die Hoofwet word hierby gewysig deur in paragraaf (c) van die omskrywing van "besoldiging" die uitdrukking "25 10 persent" deur die uitdrukking "35 persent" te vervang.

(2) Subartikel (1) word geag op 1 Julie 1993 in werking te getree het.

Invoeging van paragraaf 12A in 4de Bylae by Wet 58 van 1962

49. Die volgende paragraaf word hierby in die Vierde Bylae by die Hoofwet na paragraaf 12 ingevoeg:

15 **"Jaarlikse bevestiging van persoonlike besonderhede van sekere werknekmers"**

20 12A. Elke werkewer wat verplig is om 'n vasstelling van Stand-aard Inkomstebelasting op Werknekmers te doen ten opsigte van die werknekmers wat hy in diens het op die laaste dag van 'n jaar van aanslag, moet op 'n datum vallende so kort voor die maak van bedoelde vasstelling wat onder die omstandighede van die werkewer redelik is, aan elke werknekmer wat in standaarddiens is op daardie datum, 'n kennisgewing uitreik waarin die werknekmer in kennis gestel word—

25 (a) van sy persoonlike besonderhede wat die werkewer van voorneme is om in berekening te bring by die maak van daardie vasstelling; en
 (b) in die geval waar bedoelde persoonlike besonderhede verkeerd is, om 'n nuwe opgawe van persoonlike besonderhede ooreenkomsdig die bepalings van paragraaf 12(1) te verstrek of om by die Kommissaris aansoek te doen om die uitreiking van 'n 30 aanwysing kragtens die bepalings van paragraaf 12(2).".

Wysiging van paragraaf 18 van 4de Bylae by Wet 58 van 1962, soos bygevoeg deur artikel 19 van Wet 6 van 1963 en gewysig deur artikel 28 van Wet 90 van 1964, 35 artikel 42 van Wet 88 van 1971, artikel 49 van Wet 85 van 1974, artikel 19 van Wet 104 van 1979, artikel 26 van Wet 65 van 1986, artikel 9 van Wet 108 van 1986 en artikel 23 van Wet 70 van 1989

50. Paragraaf 18 van die Vierde Bylae by die Hoofwet word hierby gewysig deur in subitem (i) van item (d) van subparagraaf (1) die uitdrukking "R25 000" 40 deur die uitdrukking "R35 000" te vervang.

Herroeping van 6de Bylae by Wet 58 van 1962, soos bygevoeg deur artikel 28 van Wet 90 van 1972 en gewysig deur artikels 27 tot en met 41 van Wet 65 van 1973, artikels 63 tot en met 68 van Wet 85 van 1974, artikel 37 van Wet 69 van 1975, artikel 19 van Wet 101 van 1978, artikel 29 van Wet 96 van 1981, artikels 58 en 45 59 van Wet 94 van 1983, artikel 45 van Wet 121 van 1984, artikels 21 tot en met 25 van Wet 96 van 1985, artikels 31 en 32 van Wet 65 van 1986 en artikels 26 en 27 van Wet 85 van 1987

51. (1) Die Sesde Bylae by die Hoofwet word hierby herroep.

(2) Subartikel (1) word geag op 1 Maart 1993 in werking te getree het.

Amendment of paragraph 1 of 7th Schedule to Act 58 of 1962, as added by section 46 of Act 121 of 1984 and amended by section 26 of Act 96 of 1985, Government Notice No. R.2706 of 29 November 1985, section 33 of Act 65 of 1986, Government Notice No. R.2683 of 19 December 1986, section 28 of Act 85 of 1987, Government Notice No. R.714 of 14 April 1989, section 24 of Act 70 of 1989, Government Notice No. R.763 of 29 March 1990, section 55 of Act 101 of 1990 and section 35 of Act 141 of 1992

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52.(1) Paragraph 1 of the Seventh Schedule to the principal Act is hereby amended by the substitution in the definition of "official rate of interest" for the expression "17 per cent" of the expression "15 per cent".

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(2) Subsection (1) shall be deemed to have come into operation on 1 January 1993.

Amendment of paragraph 9 of 7th Schedule to Act 58 of 1962, as added by section 46 of Act 121 of 1984 and amended by section 31 of Act 96 of 1985, section 34 of Act 65 of 1986, section 29 of Act 85 of 1987 and section 59 of Act 101 of 1990

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53. Paragraph 9 of the Seventh Schedule to the principal Act is hereby amended by the substitution in subparagraph (1) for the words preceding paragraph (a) of the definition of "remuneration" of the following words:

"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] paragraph (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—".

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Amendment of paragraph 13A of 7th Schedule to Act 58 of 1962, as inserted by section 36 of Act 96 of 1985

54. Paragraph 13A of the Seventh Schedule to the principal Act is hereby amended by the substitution for the definition of "remuneration" in subparagraph (1) of the following definition:

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"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] paragraph (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 taxable benefit contemplated in subparagraph (2) and the amount of any remuneration derived by any employee who is not the controlling shareholder or one of the controlling shareholders of the employer company, from an associated institution in relation to the employer if [it is shown to the satisfaction of the Commissioner that] the employee's employment with the employer is not and was not in any way connected with the employee's employment with such associated institution [(any decision of the Commissioner under this paragraph being subject to objection and appeal)];".

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Withdrawal of Government Notice No. R.3353 of 11 December 1992

55. (1) Government Notice No. R.3353 of 11 December 1992 is hereby withdrawn.

(2) Subsection (1) shall be deemed to have come into operation on 11 December 1992.

50

Date of commencement of section 23 of Act 90 of 1988

56. Section 23 of the Income Tax Act, 1988, shall be deemed to have come into operation from the commencement of years of assessment ending on or after 1 April 1988.

Wysiging van paragraaf 1 van 7de Bylae by Wet 58 van 1962, soos bygevoeg deur artikel 46 van Wet 121 van 1984 en gewysig deur artikel 26 van Wet 96 van 1985, Goewermentskennisgewing No. R.2706 van 29 November 1985, artikel 33 van Wet 65 van 1986, Goewermentskennisgewing No. R.2683 van 19 Desember 1986, 5 artikel 28 van Wet 85 van 1987, Goewermentskennisgewing No. R.714 van 14 April 1989, artikel 24 van Wet 70 van 1989, Goewermentskennisgewing No. R.763 van 29 Maart 1990, artikel 55 van Wet 101 van 1990 en artikel 35 van Wet 141 van 1992

52. (1) Paragraaf 1 van die Sewende Bylae by die Hoofwet word hierby 10 gewysig deur in die omskrywing van "amptelike rentekoers" die uitdrukking "17 persent" deur die uitdrukking "15 persent" te vervang.

(2) Subartikel (1) word geag op 1 Januarie 1993 in werking te getree het.

Wysiging van paragraaf 9 van 7de Bylae by Wet 58 van 1962, soos bygevoeg deur artikel 46 van Wet 121 van 1984 en gewysig deur artikel 31 van Wet 96 van 1985, 15 artikel 34 van Wet 65 van 1986, artikel 29 van Wet 85 van 1987 en artikel 59 van Wet 101 van 1990

53. Paragraaf 9 van die Sewende Bylae by die Hoofwet word hierby gewysig deur in subparagraaf (1) die woorde wat paragraaf (a) van die omskrywing van "besoldiging" voorafgaan deur die volgende woorde te vervang:
20 "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 inbegrip van bedrae in **[paragrawe (iv) en] paragraaf** (vii) van daardie omskrywing bedoel) wat deur hom van sy werkewer en enige maatskappye en fondse wat verwante 25 inrigtings met betrekking tot die werkewer is, verkry is, maar uitgesonderd—".

Wysiging van paragraaf 13A van 7de Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 36 van Wet 96 van 1985

54. Paragraaf 13A van die Sewende Bylae by die Hoofwet word hierby 30 gewysig deur die omskrywing van "besoldiging" in subparagraaf (1) deur die volgende omskrywing te vervang:
35 "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 inbegrip van bedrae in **[paragrawe (iv) en] paragraaf** (vii) van daardie omskrywing bedoel) wat deur hom van sy werkewer en enige maatskappye en fondse wat verwante 40 inrigtings met betrekking tot die werkewer is, verkry is, maar uitgesonderd die waarde van 'n belasbare voordeel in subparagraaf (2) beoog en die bedrag van enige besoldiging wat deur 'n werknemer wat nie 'n beherende aandeelhouer of een van die beherende aandeelhouers van die werkewer- 45 maatskappye is nie, vanaf 'n verwante inrigting met betrekking tot die werkewer verkry is, indien **[daar tot oortuiging van die Kommissaris bewys word dat]** die werknemer se diens by daardie werkewer geensins met die werknemer se diens by bedoelde verwante inrigting verbind is of was nie **[('n beslissing van die Kommissaris ingevolge hierdie paragraaf synde aan beswaar en appèl onderhewig te wees)]**.".

Intrekking van Goewermentskennisgewing No. R.3353 van 11 Desember 1992

55. (1) Goewermentskennisgewing No. R.3353 van 11 Desember 1992 word hierby intrek.
50 (2) Subartikel (1) word geag op 11 Desember 1992 in werking te getree het.

Datum van inwerkingtreding van artikel 23 van Wet 90 van 1988

56. Artikel 23 van die Inkomstebelastingwet, 1988, word geag in werking te getree het met ingang van die begin van jare van aanslag wat op of na 1 April 1988 eindig.

Amendment of section 25 of Act 129 of 1991

57. Section 25 of the Income Tax Act, 1991, is hereby amended by the addition of the following subsection:

“(3) Section 23B of the principal Act, as inserted by subsection (1), shall be deemed to have come into operation as from the commencement of years of assessment commencing on or after 1 July 1962.”.

5
Amendment of section 10 of Act 141 of 1992

58. Section 10 of the Income Tax Act, 1992, is hereby amended by the addition to paragraph (c) of subsection (2) of the following proviso:

“Provided that any interest received or accrued before that date shall be exempt from tax, unless an assessment was raised with a date of assessment before that date and such interest was assessed to tax under such assessment.”.

10
Date of commencement of section 27 of Act 141 of 1992

59. Section 27 of the Income Tax Act, 1992, shall be deemed to have come into operation on 15 July 1992 and shall apply to any dividends declared on or after that date.

15
Special provisions in relation to unbundling transactions

60.(1) In this section, any word or expression to which a meaning has been assigned in the principal Act bears the meaning so assigned, and—

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“distributable shares” means—

(a) any shares in one or more listed companies held on 21 June 1993 by an unbundling company or an intermediate company (hereinafter referred to as the holder) for its own benefit if—

(i) that holder’s interest in at least one of such listed companies constitutes at least 10 per cent of the equity share capital of such listed company; or

(ii) such shares so held represent at least 70 per cent of the market value of the assets of such holder; and

(b) any further shares (if any) in listed companies acquired by way of purchase or exchange by such holder for its own benefit after that date in addition to the shares referred to in paragraph (a), if—

(i) such further shares so acquired and the shares referred to in paragraph (a) are to be distributed *in specie* in the course of an unbundling transaction and the Commissioner is satisfied that such distribution will be effected in the course of or in anticipation of the winding-up or liquidation of such holder, subject to such conditions as the Commissioner may deem necessary; and

(ii) such further shares so acquired are registered in the name of such holder and stamp duty is duly paid on the registration of transfer of such shares in the name of such holder;

“distribution *in specie*”, in relation to an unbundling transaction, means a distribution by an unbundling company or intermediate company of distributable shares in the course of an unbundling transaction whether such distribution occurs by means of a dividend (including a liquidation dividend), a total or partial reduction of capital or a redemption of redeemable preference shares;

“intermediate company” means a listed or an unlisted company—

(a) at least 50 per cent of the equity share capital of which is held by an unbundling company; or

(b) at least 50 per cent of the equity share capital of which is held by a company which is an intermediate company in terms of paragraph (a) of this definition;

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Wysiging van artikel 25 van Wet 129 van 1991

57. Artikel 25 van die Inkomstebelastingwet, 1991, word hierby gewysig deur die volgende subartikel by te voeg:

- 5 “(3) Artikel 23B van die Hoofwet, soos deur subartikel (1) ingevoeg,
word geag in werking te getree het met ingang van die begin van jare van
aanslag wat op of na 1 Julie 1962 begin het.”.

Wysiging van artikel 10 van Wet 141 van 1992

58. Artikel 10 van die Inkomstebelastingwet, 1992, word hierby gewysig deur die volgende voorbehoudsbepaling by paragraaf (c) van subartikel (2) te voeg:

- 10 “Met dien verstande dat enige rente ontvang of toegeval voor daardie
datum van belasting vrygestel is, tensy 'n aanslag met 'n datum van aanslag
voor daardie datum gehef is en bedoelde rente vir belasting kragtens
bedoelde aanslag aangeslaan is.”.

Datum van inwerkingtreding van artikel 27 van Wet 141 van 1992

- 15 **59.** Artikel 27 van die Inkomstebelastingwet, 1992, word geag op 15 Julie 1992 in werking te getree het en is van toepassing op enige dividende wat op of na daardie datum verklaar is.

Spesiale bepalings met betrekking tot ontbondelingstransaksies

60. (1) In hierdie artikel dra 'n woord of uitdrukking waaraan 'n betekenis in die Hoofwet toegeskryf word die betekenis aldus daaraan toegeskryf, en beteken—

- 20 “genoteerde maatskappy” 'n maatskappy waarvan die ekwiteitsaandelekapi-
taal op 'n gelisensieerde effektebeurs soos omskryf in artikel 1 van die Wet op
Beheer van Effektebeurse, 1985 (Wet No. 1 van 1985), genoteer is;
25 “kwalifiserende aandeelhouer” 'n persoon wat omrede hy 'n geregistreerde
aandeelhouer van 'n ontbondelingsmaatskappy of 'n tussenmaatskappy is of
omrede hy die eienaar van 'n aandeel in 'n ontbondelingsmaatskappy of 'n
tussenmaatskappy is, na gelang van die geval, geregtig is om uitkeerbare
aandele by wyse van 'n uitkering *in specie* in die loop van 'n ontbondelings-
transaksie te ontvang;
30 “ongenoteerde maatskappy” 'n maatskappy wat nie 'n genoteerde
maatskappy is nie;
35 “ontbondelingsmaatskappy” die genoteerde maatskappy bedoel in die
omskrywing van “ontbondelingstransaksie”;
40 “ontbondelingstransaksie” 'n transaksie wat kragtens die bepalings van
subartikel (2) deur die Kommissaris goedgekeur is en wat uitgevoer staan te
word met die enigste of hoofdoel om die aandeelhouers van 'n genoteerde
maatskappy in staat te stel om al die uitkeerbare aandele (of so 'n gedeelte
daarvan as wat die Kommissaris, met inagneming van die omstandighede
van die geval, mag goedkeur) deur bedoelde genoteerde maatskappy
gehou, of waar bedoelde uitkeerbare aandele deur 'n tussenmaatskappy
gehou word, dié gedeelte daarvan wat in die loop van bedoelde transaksie
aan die genoteerde maatskappy uitgekeer staan te word, regstreeks by wyse
van 'n uitkering *in specie* te verkry op 'n wyse wat sal verseker dat die
effektiewe belang van bedoelde aandeelhouers in bedoelde uitkeerbare
aandele nie wesentlik deur bedoelde transaksie verander sal word nie;
45 “seëlreg” die seëlreg wat ingevolge Item 15(3) van Bylae 1 by die Wet op
Seëlregte, 1968 (Wet No. 77 van 1968), ten opsigte van enige aandeel
hefbaar is;
50 “tussenmaatskappy” 'n genoteerde of ongenoteerde maatskappy—
 (a) waarvan ten minste 50 persent van die ekwiteitsaandelekapi-
 taal deur 'n ontbondelingsmaatskappy gehou word; of
 (b) waarvan ten minste 50 persent van die ekwiteitsaandelekapi-
 taal deur 'n maatskappy wat 'n tussenmaatskappy ingevolge paragraaf (a) van
 hierdie omskrywing is, gehou word;

“listed company” means a company the equity share capital of which is listed on a licensed stock exchange as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985);	5
“qualifying shareholder” means any person who by reason of being the registered shareholder of an unbundling company or an intermediate company or by reason of being the owner of a share in an unbundling company or an intermediate company, as the case may be, is entitled to receive distributable shares by way of a distribution <i>in specie</i> in the course of an unbundling transaction;	10
“stamp duty” means the stamp duty leivable in terms of Item 15(3) of Schedule 1 to the Stamp Duties Act, 1968 (Act No. 77 of 1968), in respect of any share;	15
“unbundling company” means the listed company referred to in the definition of “unbundling transaction”;	15
“unbundling transaction” means any transaction approved by the Commissioner under the provisions of subsection (2) which is to be carried out with the sole or main purpose of enabling the shareholders of a listed company to acquire directly by way of a distribution <i>in specie</i> all the distributable shares (or such portion thereof as the Commissioner, having regard to the circumstances of the case, may approve) held by such listed company, or where such distributable shares are held by an intermediate company, such portion thereof as will in the course of such transaction be distributed to the listed company, in such manner as will ensure that the effective interest of such shareholders in such distributable shares will not be materially changed by such transaction;	20
“unlisted company” means any company which is not a listed company.	25
(2) The Commissioner may, subject to such conditions as he may deem necessary, approve any proposed transaction as an unbundling transaction for the purposes of this section, if a written application containing such details of the transaction as the Commissioner may require is submitted to him by an unbundling company before the commencement of the implementation of such transaction and before 30 June 1994.	30
(3) The registration of transfer of any distributable shares into the name of any qualifying shareholder in accordance with a distribution <i>in specie</i> of such distributable shares in the course of an unbundling transaction shall be exempt from stamp duty.	35
(4) No transfer of any distributable shares shall be made or permitted by any company or corporate body in its register (whether the register be kept within or outside the Republic) or by any person responsible for the registration of transfer, unless stamp duty was duly paid in respect of such registration of transfer or the Commissioner has issued a certificate to the effect that the registration of transfer of such distributable shares is exempt from stamp duty under this section.	40
(5) For the purposes of the principal Act and notwithstanding anything to the contrary contained in that Act—	
(a) the distribution <i>in specie</i> of any distributable shares shall be deemed—	45
(i) not to be a dividend for the purposes of Parts III and VII of Chapter II of that Act; and	
(ii) not to be an amount derived from the investment of funds as contemplated in section 28(1)(b) of that Act;	
(b) where any person who held as trading stock shares (hereinafter referred to as old shares) in an unbundling company or an intermediate company has pursuant to an unbundling transaction acquired distributable shares (hereinafter referred to as new shares)—	50
(i) he shall, for the purposes of section 22(1) of that Act, be deemed to have acquired such old shares and such new shares at a cost equal to the cost to him of such old shares or where such person is not a company, the lesser of such cost to him or the diminished value of such old shares as contemplated in that section;	55

"uitkeerbare aandele"—

- (a) enige aandele in een of meer genoteerde maatskappye op 21 Junie 1993 deur 'n ontbondelingsmaatskappy of 'n tussenmaatskappy (hieronder die houer genoem) vir sy eie voordeel gehou indien—
- 5 (i) daardie houer se belang in ten minste een van bedoelde genoteerde maatskappye uit ten minste 10 persent van die ekwiteits-aandelekapitaal van so 'n genoteerde maatskappy bestaan; of
- (ii) bedoelde aandele aldus gehou ten minste 70 persent van die markwaarde van die bates van daardie houer verteenwoordig; en
- 10 (b) enige verdere aandele (as daar is) in genoteerde maatskappye deur bedoelde houer vir sy eie voordeel na daardie datum bykomend by die aandele bedoel in paragraaf (a) by wyse van aankoop of verruiling verkry, indien—
- 15 (i) bedoelde verdere aandele aldus verkry en die aandele bedoel in paragraaf (a), *in specie* uitgekeer staan te word ooreenkomstig 'n ontbondelingstransaksie en die Kommissaris oortuig is dat bedoelde uitkering in die loop of in afwagting van die likwidasie van bedoelde houer bewerkstellig sal word, behoudens die voorwaardes wat die Kommissaris mag nodig ag; en
- 20 (ii) bedoelde verdere aandele aldus verkry, geregistreer word in die naam van bedoelde houer en seëlreg behoorlik betaal word op die registrasie van oordrag van bedoelde aandele in die naam van bedoelde houer;
- 25 "uitkering *in specie*", met betrekking tot 'n ontbondelingstransaksie, 'n uitkering deur 'n ontbondelingsmaatskappy of 'n tussenmaatskappy van uitkeerbare aandele ooreenkomstig 'n ontbondelingstransaksie hetsy bedoelde uitkering plaasvind by wyse van 'n dividend (met inbegrip van 'n likwidasie-dividend), 'n algehele of gedeeltelike vermindering van kapitaal of 'n aflossing van aflosbare voorkeuraandele.
- 30 (2) Die Kommissaris kan, behoudens die voorwaardes wat hy nodig ag, 'n beoogde transaksie as 'n ontbondelingstransaksie goedkeur by die toepassing van hierdie artikel, indien 'n skriftelike aansoek wat die besonderhede van die transaksie bevat wat die Kommissaris mag vereis, voor die implementering van bedoelde transaksie en voor 30 Junie 1994 deur 'n ontbondelingsmaatskappy 35 aan hom verstrek word.
- (3) Die registrasie van oordrag van enige uitkeerbare aandele in die naam van 'n aandeelhouer ooreenkomstig 'n uitkering *in specie* van uitkeerbare aandele in die loop van 'n ontbondelingstransaksie word van seëlreg vrygestel.
- (4) Geen oordrag van enige uitkeerbare aandele word deur 'n maatskappy of 40 regspersoon in sy register (hetsy die register in of buite die Republiek gehou word) of deur 'n persoon wat vir die registrasie van oordrag verantwoordelik is, bewerkstellig of toegelaat nie, tensy seëlreg behoorlik ten opsigte van bedoelde registrasie van oordrag betaal is of die Kommissaris 'n sertifikaat uitgereik het dat die registrasie van oordrag van bedoelde uitkeerbare aandele kragtens 45 hierdie artikel van seëlreg vrygestel is.
- (5) By die toepassing van die Hoofwet en ondanks enige andersluidende bepalings van daardie Wet word—
- (a) die uitkering *in specie* van uitkeerbare aandele—
- 50 (i) geag nie 'n dividend by die toepassing van Dele III en VII van Hoofstuk II van daardie Wet te wees nie; en
- (ii) geag nie 'n bedrag verkry uit die belegging van fondse soos beoog in artikel 28(1)(b) van daardie Wet te wees nie;
- (b) waar 'n persoon wat aandele (hieronder ou aandele genoem) as handelsvoorraad in 'n ontbondelingsmaatskappy of 'n tussenmaatskappy hou, uitkeerbare aandele (hieronder nuwe aandele genoem) ooreenkomstig 'n ontbondelingstransaksie verkry het—
- 55 (i) hy, by die toepassing van artikel 22(1) van daardie Wet, geag bedoelde ou aandele en bedoelde nuwe aandele te verkry het teen 'n koste gelyk aan die koste vir hom van bedoelde ou aandele of waar bedoelde persoon nie 'n maatskappy is nie, die minste van bedoelde koste vir hom of die verminderde waarde van bedoelde ou aandele soos in daardie artikel beoog;
- 60 (ii) 'n gedeelte van bedoelde koste toegedeel aan bedoelde nuwe aandele, welke gedeelte geag word 'n bedrag te wees wat tot

- (ii) a portion of such cost shall be apportioned to such new shares, which portion shall be deemed to be an amount which bears to such cost the same ratio as the market value of such new shares bears to the market value of such old shares, such market values being determined on the date on which the qualifying shareholders become entitled to acquire distributable shares by way of a distribution *in specie*; 5
- (iii) the provisions of section 22(4) of that Act shall be deemed not to apply to such new shares; and
- (iv) such old shares and such new shares shall for the purposes of sections 9B and 24A be deemed to be the same shares. 10
- (6) Any exemption under subsection (3) shall lapse and be deemed to have been withdrawn as from the date on which the certificate referred to in subsection (4) has been issued and the provisions of subsection (5)(a) shall be deemed not to have applied, if the registration of transfer of the distributable shares concerned in the name of the shareholders of the unbundling company or intermediate company concerned is not effected within six months after such date or within such further period as the Commissioner, having regard to the circumstances of the case, may approve. 15
- (7) Where the Commissioner is satisfied that— 20
- (a) the approval of an unbundling transaction granted by him or a certificate issued by him under subsection (4) was obtained by fraud or in consequence of any misrepresentation or failure to disclose any material fact by the unbundling company or any other person concerned; or
 - (b) the unbundling company or any other person concerned failed to comply with the provisions of this section or any conditions imposed by the Commissioner under this section, 25
- he shall, if he is satisfied that in the light of the full facts the approval should not have been granted, or the certificate should not have been issued, or that such provisions and conditions have not been complied with, withdraw such approval or certificate, as the case may be, and— 30
- (i) the exemption from stamp duty authorized by such certificate shall be deemed to have been withdrawn as from the date of issue of such certificate; and
 - (ii) the provisions of subsection (5)(a) shall be deemed not to have applied. 35
- (8) Any decision of the Commissioner in the exercise of his discretion under subsection (7) shall be subject to objection and appeal.

Agreements for settlement of certain disputes

- 61.**(1) The Minister of Finance may if he considers it to be in the best interest of the State that disputes with taxpayers regarding the application of any provision of the principal Act to certain tax avoidance schemes be settled, make regulations authorising the Commissioner for Inland Revenue (hereinafter referred to as the Commissioner) to enter into an agreement with any taxpayer for the settlement of any such dispute: Provided that no such agreement shall be so entered into by the Commissioner after 28 February 1994. 40
- (2) An agreement entered into between the Commissioner and a taxpayer under any regulation under the provisions of subsection (1) shall be binding upon the State and upon the taxpayer concerned, and any assessment issued by the Commissioner in accordance with any such agreement shall, notwithstanding anything to the contrary in the principal Act contained, be final and conclusive in so far as it gives effect to the terms of such agreement. 50

- (3) A regulation made under subsection (1) may—
- (a) determine the nature of any tax avoidance scheme which may be dealt with under the provisions of this section;
 - (b) specify the terms and conditions under which the Commissioner may enter into an agreement with any taxpayer; 55
 - (c) provide that in the determination of the taxpayer's taxable income, any income, expenditure or allowance be taken into account otherwise than as provided in the principal Act;

- bedoelde koste in dieselfde verhouding staan as wat die markwaarde van bedoelde nuwe aandele tot die markwaarde van bedoelde ou aandele staan, bedoelde markwaardes vasgestel te word op die datum waarop die kwalifiserende aandeelhouers geregtig word om uitkeerbare aandele by wyse van 'n uitkering *in specie* te verkry;
- (iii) die bepalings van artikel 22(4) van daardie Wet geag nie van toepassing te wees op bedoelde nuwe aandele nie; en
- (iv) bedoelde ou aandele en bedoelde nuwe aandele by die toepassing van artikels 9B en 24A geag dieselfde aandele te wees.
- (6) 'n Vrystelling kragtens subartikel (3) verval en word geag ingetrek te gewees het vanaf die datum waarop die sertifikaat bedoel in subartikel (4) uitgereik is en die bepalings van subartikel (5)(a) word geag nie van toepassing te gewees het nie, indien die registrasie van oordrag van die betrokke uitkeerbare aandele in die naam van die aandeelhouers van die betrokke ontbondelingsmaatskappy of tussenmaatskappy nie bewerkstellig word nie binne ses maande na bedoelde datum of binne die verdere tydperk wat die Kommissaris, met inagneming van die omstandighede van die geval, mag goedkeur.
- (7) Waar die Kommissaris oortuig is dat—
- (a) die goedkeuring van 'n ontbondelingstransaksie deur hom toegestaan of 'n sertifikaat deur hom uitgereik kragtens subartikel (4) deur bedrog of as gevolg van wanvoorstelling of verswyging van enige tersaaklike feit deur die ontbondelingsmaatskappy of enige ander betrokke persoon verkry is; of
- (b) die ontbondelingsmaatskappy of enige ander betrokke persoon nagelaat het om aan die bepalings van hierdie artikel of die voorwaardes deur die Kommissaris kragtens hierdie artikel opgelê, te voldoen, moet hy, indien hy oortuig is dat in die lig van die volle feite die goedkeuring nie toegestaan moes gewees het nie, of die sertifikaat nie uitgereik moes gewees het nie, of dat daar nie aan bedoelde bepalings en voorwaardes voldoen is nie, bedoelde goedkeuring of sertifikaat, na gelang van die geval, intrek en word—
- (i) die vrystelling van seëlreg deur bedoelde sertifikaat gemagtig, met ingang van die datum van uitreiking van bedoelde sertifikaat geag ingetrek te gewees het; en
- (ii) die bepalings van subartikel (5)(a) geag nie van toepassing te gewees het nie.
- (8) 'n Beslissing van die Kommissaris by die uitoefening van sy diskresie kragtens subartikel (7) is aan beswaar en appèl onderhewig.

Ooreenkomste vir beslegting van sekere geskille

- 40 **61.** (1) Die Minister van Finansies kan, indien hy dit in die beste belang van die Staat ag dat geskille met belastingpligtiges rakende die toepassing van enige bepaling van die Hoofwet op sekere belastingvermydingskemas besleg moet word, regulasies uitvaardig wat die Kommissaris van Binnelandse Inkomste (hieronder die Kommissaris genoem) magtig om 'n ooreenkoms met 'n belastingpligtige aan te gaan vir die beslegting van enige bedoelde geskil: Met dien verstande dat geen bedoelde ooreenkoms aldus deur die Kommissaris na 28 Februarie 1994 aangegaan word nie.
- (2) 'n Ooreenkoms aangegaan tussen die Kommissaris en 'n belastingpligtige kragtens 'n regulasie kragtens die bepalings van subartikel (1), is bindend vir die Staat en vir die betrokke belastingpligtige, en 'n aanslag deur die Kommissaris uitgereik ooreenkomstig 'n bedoelde ooreenkoms is, ondanks enige andersluidende bepaling van die Hoofwet, finaal en afdoende vir sover dit aan die bedinge van bedoelde ooreenkoms uitvoering gee.
- (3) 'n Regulasie kragtens subartikel (1) uitgevaardig kan—
- 55 (a) die aard van 'n belastingvermydingskema bepaal waarmee kragtens die bepalings van hierdie artikel gehandel kan word;
- (b) die bedinge en voorwaardes voorskryf waarkragtens die Kommissaris 'n ooreenkoms met 'n belastingpligtige kan aangaan;
- (c) bepaal dat by die vasstelling van 'n belastingpligtige se belasbare inkomste, enige inkomste, onkoste of vermindering op 'n ander wyse in berekening gebring word as in die Hoofwet bepaal;

- (d) provide for the payment or non-payment of interest by or to a taxpayer otherwise than as provided in the principal Act; and
 (e) make such other provision as the Minister of Finance deems necessary to give effect to the provisions of subsection (1).
- (4) The provisions of this section may be applied—
 (a) in respect of years of assessment ended or ending before, on or after the date of commencement of this Act; and
 (b) notwithstanding the fact that an appeal against the assessment concerned may have been heard under the provisions of section 83 or 83A of the principal Act, or that an appeal against a decision of the special court in relation to that assessment may have been lodged under the provisions of section 86A of the principal Act.

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No steps by Commissioner for Inland Revenue in certain circumstances

62. Notwithstanding anything to the contrary contained in the principal Act, where, on or before 31 August 1993, any person renders a return of his income for any year of assessment after the date on which he was required to render such return in terms of such Act, the Commissioner shall not impose any additional tax in terms of the provisions of section 76(1)(a) in respect of that year of assessment: Provided that the provisions of this section shall not apply where the Commissioner has issued in respect of such year of assessment a notice of assessment with a date of issue prior to 2 April 1993.

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Amendment of section 1 of Act 27 of 1943, as amended by section 2 of Act 73 of 1951, section 39 of Act 24 of 1956, section 50 of Act 25 of 1956, section 1 of Act 79 of 1959, section 1 of Act 10 of 1965, section 1 of Act 41 of 1966, section 1 of Act 65 of 1968, section 1 of Act 39 of 1969, section 1 of Act 91 of 1972, section 1 of Act 101 of 1976, section 1 of Act 94 of 1977, section 1 of Act 80 of 1978, section 1 of Act 103 of 1979, section 1 of Act 99 of 1980, section 1 of Act 36 of 1981, section 1 of Act 86 of 1984, section 1 of Act 106 of 1985, section 1 of Act 54 of 1989, section 29 of Act 97 of 1990, section 1 of Act 83 of 1992 and section 1 of the Financial Institutions Second Amendment Act of 1993

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63. Section 1 of the Insurance Act, 1943, is hereby amended by the substitution for the definition of “sinking fund policy” in subsection (1) of the following definition:

“‘sinking fund policy’ means a policy, excluding a life policy and a home service policy, whereby an insurer assumes in return for the payment or the promise of the payment of a sum or sums of money an obligation to pay a sum or sums of money to a person on a fixed or determinable future date [after the expiry of the period determined in or under section 59B(1) from the date upon which the only or first sum of money has become payable to the insurer in terms of the policy];”.

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Repeal of section 59B of Act 27 of 1943, as inserted by section 7 of Act 83 of 1992

64. Section 59B of the Insurance Act, 1943, is hereby repealed.

Insertion of heading and of section 59D in Act 27 of 1943

65. The following heading and section are hereby inserted in the Insurance Act, 1943, after section 59C:

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“(F) *Restrictions on Certain Policies*

Restrictions applicable to certain policies

59D.(1) For the purposes of this section—

(a) ‘excess premium’ means a premium which is received by, or which becomes due to, an insurer during a premium period, and which—
 (i) by itself exceeds; or

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- (d) vir die betaling of nie-betaling van rente deur of aan 'n belastingpligtige op 'n ander wyse as in die Hoofwet bepaal, voorsiening maak; en
(e) die ander voorsiening maak wat die Minister van Finansies nodig ag om uitvoering aan die bepaling van subartikel (1) te gee.
- 5 5 (4) Die bepaling van hierdie artikel kan toegepas word—
(a) ten opsigte van jare van aanslag geëindig of eindigende voor, op of na die datum van inwerktering van hierdie Wet; en
(b) ondanks die feit dat 'n appèl teen die betrokke aanslag kragtens die bepaling van artikel 83 of 83A van die Hoofwet verhoor mag gewees het, of dat 'n appèl teen die beslissing van die spesiale hof met betrekking tot daardie aanslag kragtens die bepaling van artikel 86A van die Hoofwet ingedien mag gewees het.
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Geen stappe deur Kommissaris van Binnelandse Inkomste in sekere omstandighede

62. Ondanks enige andersluidende bepaling van die Hoofwet, waar, op of voor 31 Augustus 1993, enige persoon 'n opgawe van sy inkomste vir enige jaar van aanslag verstrek na die datum waarop hy bedoelde opgawe ingevolge bedoelde Wet moes verstrek het, hef die Kommissaris nie enige addisionele belasting ingevolge artikel 76(1)(a) ten opsigte van daardie jaar van aanslag nie: Met dien verstaande dat die bepaling van hierdie artikel nie van toepassing is nie 15 20 waar die Kommissaris ten opsigte van bedoelde jaar van aanslag 'n kennisgewing van aanslag met 'n datum van uitreiking voor 2 April 1993, uitgereik het.

- Wysiging van artikel 1 van Wet 27 van 1943, soos gewysig deur artikel 2 van Wet 25 van 1951, artikel 39 van Wet 24 van 1956, artikel 50 van Wet 25 van 1956, artikel 1 van Wet 79 van 1959, artikel 1 van Wet 10 van 1965, artikel 1 van Wet 20 25 41 van 1966, artikel 1 van Wet 65 van 1968, artikel 1 van Wet 39 van 1969, artikel 1 van Wet 91 van 1972, artikel 1 van Wet 101 van 1976, artikel 1 van Wet 94 van 1977, artikel 1 van Wet 80 van 1978, artikel 1 van Wet 103 van 1979, artikel 1 van Wet 99 van 1980, artikel 1 van Wet 36 van 1981, artikel 1 van Wet 86 van 1984, artikel 1 van Wet 106 van 1985, artikel 1 van Wet 54 van 1989, artikel 29 van Wet 30 97 van 1990, artikel 1 van Wet 83 van 1992 en artikel 1 van die Tweede Wysigingswet op Finansiële Instellings van 1993

63. Artikel 1 van die Versekeringswet, 1943, word hierby gewysig deur die omskrywing van "amortisasiebesigheid" in subartikel (1) deur die volgende omskrywing te vervang:
- 35 "‘amortisasiebesigheid’ beteken 'n polis, uitgesonderd 'n lewenspolis of 'n tuisdienspolis, waarkragtens 'n versekeraar in ruil vir die betaling of belofte van betaling van 'n som of somme geld 'n verpligting aanvaar om aan 'n persoon 'n som of somme geld te betaal op 'n bepaalde of bepaalbare toekomstige datum [of na die verloop van die tydperk soos bepaal by of 40 kragtens artikel 59B(1) vanaf die datum waarop die enigste of eerste som geld aan die versekeraar betaalbaar geword het kragtens die polis];".

Herroeping van artikel 59B van Wet 27 van 1943, soos ingevoeg deur artikel 7 van Wet 83 van 1992

64. Artikel 59B van die Versekeringswet, 1943, word hierby herroep.
- 45 Invoeging van opskrif en van artikel 59D in Wet 27 van 1943

65. Die volgende opskrif en artikel word hierby in die Versekeringswet, 1943, na artikel 59C ingevoeg:

“(F) *Beperkings op Sekere Polisse*

Beperkings van toepassing op sekere polisse

- 50 59D. (1) By die toepassing van hierdie artikel beteken—
(a) 'beperkte bedrag' 'n bedrag gelyk aan die netto bedrag van—
(i) die totaal van die vrye afkoopwaarde, en die totale waarde van die premies deur die versekeraar gedurende die

	(ii) when aggregated with all premiums already received and still to be received by the insurer during that premium period, exceeds; or	5
	(iii) is the first of increased recurrent premiums which, if it had been received by the insurer at that increased level throughout that premium period, would have caused the total value of the premiums received by the insurer during that premium period to exceed, by a rate of more than 20 per cent, the higher of the total value of the premiums received by the insurer during any one of the two premium periods immediately preceding that premium period;	10
(b)	'extended restriction period' means a restriction period— (i) which has not expired; and (ii) which includes every earlier restriction period any part of which runs concurrently with it; and (iii) the commencement date of which, from time to time, is the commencement date of the earliest restriction period which runs concurrently with it;	15
(c)	'free surrender value' means the value of the consideration which an insurer would provide if the policy is surrendered on the day preceding the date of commencement of an extended restriction period;	20
(d)	'linked benefit' means a policy benefit the value of which is not guaranteed by the insurer and is determined solely by reference to the value of particular assets or particular categories of assets specified in the policy and which are actually held by or on behalf of the insurer specifically for the purposes of the policy;	25
(e)	'policy' means any home service policy, life policy and sinking fund policy, whether entered into before or after the commencement of this section, other than— (i) a contract in terms of which a registered insurer which is authorized to carry on life business, underwrites an obligation which— (aa) a pension fund, retirement annuity fund or provident fund as defined in section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962); or (bb) a friendly society; or (cc) a fund referred to in paragraph (c) of the definition of 'benefit fund' in section 1 of the Income Tax Act, 1962, in so far as provision is made therein for unemployment benefits, owes to its members, for as long as no right under such a contract is in any manner ceded to a member or another person (other than a person referred to in items (aa), (bb) and (cc)) for the direct or indirect benefit of a member; and (ii) any reinsurance policy in respect of a home service policy, life policy or sinking fund policy;	30
(f)	'policy benefit' means one or more sums of money, services or other benefits, including an annuity, but excluding a loan in respect of a policy or consideration upon the surrender of a policy;	45
(g)	'premium' means the premium which is stipulated in the policy, or otherwise agreed between the parties to the policy, to be provided to the insurer, including any part of a premium;	50
(h)	'premium period' means one of a succession of periods, each of 12 months' duration, the first of which commences on, and ends 12 months after, the date on which the first premium is received by the insurer or, if it is a later date, the date on which the undertaking of the insurer to provide policy benefits under the policy, becomes operative;	55
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- betrokke verlengde beperkte periode ontvang, plus rente op die vrye afkoopwaarde en elke premie teen 'n koers van 5 persent per jaar, jaarliks saamgestel; min
- (ii) die totaal van alle betalings reeds deur die versekeraar ten opsigte van die polis gedoen, hetsy as 'n polisvoordeel (anders as 'n polisvoordeel bedoel in paragraaf (b) van subartikel (2)) of by afkoop van enige deel van die polis, gedurende die betrokke verlengde beperkte periode, plus rente op elke betaling teen 'n koers van 5 persent per jaar, jaarliks saamgestel;
- (b) 'beperkte periode' 'n periode van 5 jaar wat begin op die datum, indien dit 1 Januarie 1994 of later is—
- (i) wanneer die eerste premieperiode begin; of
- (ii) gedurende 'n premieperiode na die eerste, wanneer 'n oorskotpremie—
- (aa) betaalbaar word aan; of
- (bb) indien dit 'n vroeër datum is as daardie datum waarop dit betaalbaar word, ontvang word deur, 'n versekeraar;
- (c) 'gekoppelde voordeel' 'n polisvoordeel waarvan die waarde nie deur die versekeraar gewaarborg is nie en wat alleenlik bepaal word met verwysing na die waarde van bepaalde bates of bepaalde kategorieë bates in die polis gespesifiseer en wat werklik deur of ten behoeve van die versekeraar spesifiek vir die doeleindes van die polis gehou word;
- (d) 'oorskotpremie' 'n premie wat ontvang word deur, of betaalbaar word aan, 'n versekeraar gedurende 'n premieperiode, en wat—
- (i) op sigself; of
- (ii) wanneer dit met alle premies wat alreeds ontvang is en nog ontvang staan te word deur die versekeraar gedurende daardie premieperiode, saamgetel word; of
- (iii) die eerste is van verhoogde herhalende premies wat, indien dit deur die versekeraar teen daardie verhoogde vlak regdeur daardie premieperiode ontvang was, sou veroorsaak dat die totale waarde van die premies deur die versekeraar gedurende daardie premieperiode ontvang, die hoogste van die totale waarde van die premies deur die versekeraar gedurende enige een van die twee premieperiodes wat daardie premieperiode onmiddellik voorafgaan, ontvang met 'n koers van meer as 20 persent oorskry;
- (e) 'polis' enige tuisdienspolis, lewenspolis en amortisasiepolis, hetsy voor of na die inwerkingtreding van hierdie artikel aangaan, behalwe—
- (i) 'n ooreenkoms ingevolge waarvan 'n geregistreerde versekeraar wat gemagtig is om lewensbesigheid te dryf, 'n verpligting onderskryf wat—
- (aa) 'n pensioenfonds, uittredingannuïteitsfonds of voorschoufonds soos omskryf in artikel 1 van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962); of
- (bb) 'n onderlinge hulpvereniging; of
- (cc) 'n fonds bedoel in paragraaf (c) van die omskrywing van 'bystandsfonds' in artikel 1 van die Inkomstebelastingwet, 1962, vir sover daarin voorsiening gemaak word vir werkloosheidvoordele, teenoor sy lede het, solank geen reg kragtens so 'n ooreenkoms op enige wyse oorgedra word na 'n lid of enige ander persoon (behalwe 'n persoon bedoel in items (aa), (bb) en (cc)) vir die direkte of indirekte voordeel van 'n lid nie; en
- (ii) enige herversekeringspolis ten opsigte van 'n tuisdienspolis, 'n lewenspolis of 'n amortisasiepolis;
- (f) 'polisvoordeel' een of meer somme geld, dienste of ander

(i)	'restricted amount' means an amount equal to the net amount of—	
	(i) the aggregate of the free surrender value, and the total value of the premiums received by the insurer during the extended restriction period concerned, plus interest on the free surrender value and each premium at a rate of 5 per cent per annum compounded annually; less	5
(ii)	the aggregate of all payments already made by the insurer in respect of the policy, whether as a policy benefit (other than a policy benefit referred to in paragraph (b) of subsection (2)) or upon the surrender of any part of the policy, during the extended restriction period concerned, plus interest on each payment at a rate of 5 per cent per annum compounded annually;	10
(j)	'restriction period' means a period of 5 years which begins on the date, if it is 1 January 1994 or later—	15
	(i) when the first premium period begins; or	
	(ii) during a premium period after the first, when an excess premium—	
	(aa) becomes due to; or	20
	(bb) if it is earlier than that due date, is received by, an insurer.	
(2)(a)	Subject to paragraphs (b), (c), (d) and (e), an insurer, and any person who intermediates between an insurer and any other person in respect of a policy or proposal for a policy, shall not—	25
	(i) undertake to provide, or provide, a policy benefit under a policy during an extended restriction period; or	
	(ii) undertake to provide, or provide, upon the full or partial surrender of a policy during an extended restriction period—	
	(aa) if that policy has already been partially surrendered on one occasion during the extended restriction period concerned, any further consideration; or	30
	(bb) if that policy has not been partially surrendered during the extended restriction period concerned, any consideration the value of which exceeds the restricted amount less the capital (excluding capitalised interest) of a loan already provided in respect of the policy during that extended restriction period: Provided that where the policy is fully surrendered and the full value of the consideration to be provided thereunder exceeds the amount thus determined by not more than R2 500, the full consideration may be provided;	35
	(iii) undertake to provide, or provide, a loan in respect of or on security of a policy during an extended restriction period—	40
	(aa) if one such a loan has previously been provided in respect of that policy during the extended restriction period concerned; or	
	(bb) if such a loan has not previously been provided in respect of that policy during the extended restriction period concerned, the amount of which exceeds the restricted amount; or	45
	(iv) undertake to provide, or provide, directly or indirectly, by means of one or more policies, during an extended restriction period, any benefit (whether as policy benefits or loans in respect of policies or as consideration upon the surrender of policies, or any combination thereof) which achieves substantially the same result that is achieved by an annuity, but which	50
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- voordele, met inbegrip van 'n annuïteit, maar uitgesonderd 'n lening ten opsigte van 'n polis of vergoeding by die afkoop van 'n polis;
- 5 (g) 'premie' die premie wat in die polis beding is, of andersins op ooreen gekom is deur die partye tot die polis, om aan die versekeraar verskaf te word, met inbegrip van 'n gedeelte van 'n premie;
- 10 (h) 'premieperiode' een van 'n reeks periodes, elk met 'n duur van 12 maande, waarvan die eerste 'n aanvang neem op, en eindig 12 maande na, die datum waarop die eerste premie deur die versekeraar ontvang word of, indien dit 'n later datum is, die datum waarop die onderneming van die versekeraar om polisvoordele kragtens die polis te voorsien, van krag word;
- 15 (i) 'verlengde beperkte periode' 'n beperkte periode—
 (i) wat nie verstryk het nie; en
 (ii) wat enige gedeelte van elke vorige beperkte periode wat gelyktydig daarmee loop, insluit; en
 (iii) waarvan die aanvangsdatum van tyd tot tyd die aanvangsdatum is van die vroegste beperkte periode wat gelyktydig daarmee loop;
- 20 (j) 'vrye afkoopwaarde' die waarde van die vergoeding wat 'n versekeraar sou voorsien indien die polis afgekoop word op die dag voor die aanvangsdatum van 'n verlengde beperkte periode.
- 25 (2)(a) Behoudens paragrawe (b), (c), (d) en (e) onderneem 'n versekeraar, en enige persoon wat as tussenganger tussen 'n versekeraar en enige ander persoon ten opsigte van 'n polis of aansoek om 'n polis optree, nie—
 (i) om 'n polisvoordeel kragtens 'n polis gedurende 'n verlengde beperkte periode te verskaf, of verskaf hy dit nie; of
 (ii) om by die volle of gedeeltelike afkoping van 'n polis gedurende 'n verlengde beperkte periode—
 (aa) indien daardie polis reeds by een geleentheid gedurende die verlengde beperkte periode gedeeltelik afgekoop is, enige verdere vergoeding te verskaf nie, of verskaf hy dit nie; of
 (bb) indien daardie polis nie gedurende die betrokke verlengde beperkte tydperk gedeeltelik afgekoop is nie, enige vergoeding waarvan die waarde die beperkte bedrag min die kapitaal (uitgesonderd gekapitaliseerde rente) van 'n lening alreeds toegestaan ten opsigte van die polis gedurende daardie verlengde beperkte periode oorskry, te verskaf nie of verskaf hy dit nie: Met dien verstande dat waar die polis ten volle afgekoop word en die volle waarde van die vergoeding wat daarkragtens voorsien sou word die bedrag aldus bereken nie met meer as R2 500 oorskry nie, die volle vergoeding verskaf mag word;
- 30 (iii) om 'n lening ten opsigte van of met 'n polis as sekuriteit binne die verlengde beperkte periode toe te staan nie, of staan hy dit nie toe nie—
 (aa) indien so 'n lening voorheen reeds by een geleentheid toegestaan is ten opsigte van daardie polis gedurende die betrokke verlengde beperkte periode; of
 (bb) indien so 'n lening nie voorheen toegestaan is ten opsigte van daardie polis gedurende die betrokke verlengde beperkte periode nie, waarvan die bedrag die beperkte bedrag oorskry; of
- 35 (iv) om direk of indirek, deur middel van een of meer polisse, gedurende 'n verlengde beperkte periode, enige voordeel (hetsy as polisvoordele of as lenings ten opsigte van polisse of as vergoeding by die afkoop van polisse, of enige kombinasie daarvan) te verskaf nie, of verskaf hy dit nie, wat wesenlik dieselfde resultaat bereik as wat deur 'n annuïteit bereik word,
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<p>is not, and is not expressly stipulated in the policy or policies to be, an annuity.</p> <p>(b) Paragraph (a)(i) shall not apply to a policy benefit which is to be and is provided under the policy—</p> <ul style="list-style-type: none"> (i) upon the death of a life insured; or (ii) upon the birth of a child to a life insured; or (iii) in the event of an occurrence whereby the functional ability of the mind or body of a life insured is impaired; or (iv) in the event of an occurrence necessitating the rendering of services in respect of the health of the mind or body of a life insured. <p>(c) Paragraph (a)(i) shall not apply to a policy benefit which is an annuity—</p> <ul style="list-style-type: none"> (i) the payments of which are to be made, and are made, at intervals not exceeding 12 months; and (ii) at least one of the payments of which is to be made and, except due to the prior death of the life insured, is made, after the commencement of the period of 31 days preceding the expiry of the extended restriction period concerned; and (iii) the total amount of the payments of which during any period of 12 months does not differ, by a rate of more than 20 per cent, from the total amount of the payments thereof in the immediately preceding period of 12 months, except in the case of an annuity— <ul style="list-style-type: none"> (aa) which constitutes a linked benefit, where the difference, during the period concerned, results solely from the determination of the value of the relevant assets; or (bb) payable under a policy with two or more owners or lives insured and where the difference results solely from a reduction in the annuity payable during the period concerned consequent upon the death of one of those owners of the policy or lives insured; or (cc) where the difference results solely from a reduction in the annuity payable during the period concerned consequent upon the surrender of a part of the policy. <p>(d) Paragraph (a) shall not apply in the event of—</p> <ul style="list-style-type: none"> (i) the death, placement under curatorship or sequestration of the estate, of an owner of a policy who is a natural person; or (ii) the winding up, liquidation, placement under curatorship or judicial management, by order of court, of an owner of a policy who is a juristic person. <p>(e) Paragraph (a)(iii) and (iv) shall not apply to a premium advance made under non-forfeiture provisions in a policy.</p> <p>(3) This section shall not apply in respect of anything done, before or after the commencement of this section, in relation to a policy entered into before the commencement of this section if, from a date prior to 1 March 1993, the policy expressly provided, in writing, for it to be done.”.</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p>
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Amendment of section 76 of Act 27 of 1943, as substituted by section 9 of Act 41 of 1966 and amended by section 13 of Act 101 of 1976, section 11 of Act 86 of 1984, section 9 of Act 106 of 1985, section 18 of Act 54 of 1989, section 7 of Act 64 of 1990, section 11 of Act 82 of 1992 and section 16 of the Financial Institutions Second Amendment Act of 1993 50

66. Section 76 of the Insurance Act, 1943, is hereby amended by the insertion after paragraph (aC) of subsection (1) of the following paragraph: 55

- maar wat nie 'n annuïteit is nie, en nie uitdruklik in die polis of polisse as 'n annuïteit beding is nie.
- (b) Paragraaf (a)(i) is nie op 'n polisvoordeel wat kragtens 'n polis verskaf moet word en verskaf word van toepassing nie—
- 5 (i) by die dood van 'n versekerde lewe; of
 - (ii) by die geboorte van 'n kind van 'n versekerde lewe; of
 - (iii) in die geval van 'n gebeurtenis waardeur die funksionele vermoë van die gees of liggaam van 'n versekerde lewe benadeel word; of
 - 10 (iv) in die geval van 'n gebeurtenis waardeur die lewering van dienste ten opsigte van die gesondheid van die gees of liggaam van 'n versekerde lewe genoodsaak word.
- (c) Paragraaf (a)(i) is nie van toepassing nie op 'n polisvoordeel wat 'n annuïteit is—
- 15 (i) waarvan die betalings gedoen moet word, en gedoen word, met tussenposes van nie langer as 12 maande nie; en
 - (ii) waarvan ten minste een van die betalings gedoen moet word en, behalwe as gevolg van die vroeër dood van die versekerde lewe, gedoen word, na die aanvang van die periode van 31 dae wat die verstryking van die betrokke verlengde beperkte periode voorafgaan; en
 - 20 (iii) waarvan die totale bedrag van die betalings gedurende enige periode van 12 maande nie met 'n koers van meer as 20 persent verskil van die totale bedrag van die betalings daarvan in die onmiddellik voorafgaande periode van 12 maande nie, behalwe in die geval van 'n annuïteit—
 - (aa) wat 'n gekoppelde voordeel uitmaak, waar die verskil, gedurende die betrokke periode, alleenlik voortspruit uit die bepaling van die waarde van die tersaaklike bates; of
 - 25 (bb) betaalbaar kragtens 'n polis met twee of meer eienaars of versekerde lewens en waar die verskil alleenlik ontstaan vanweë 'n vermindering van die annuïteit betaalbaar gedurende die betrokke periode as gevolg van die dood van een van daardie eienaars van die polis of versekerde lewens; of
 - (cc) waar die verskil alleenlik ontstaan vanweë 'n vermindering in die annuïteit betaalbaar gedurende die betrokke periode as gevolg van die afkoping van 'n deel van die polis.
- 30 (d) Paragraaf (a) is nie van toepassing nie by—
- (i) die dood, plasing onder kuratele of sekwestrasie van die boedel, van 'n eienaar van 'n polis wat 'n natuurlike persoon is; of
 - 35 (ii) die likwidasie, plasing onder kuratele of geregtelike bestuur, op las van die hof, van die eienaar van 'n polis wat 'n regspersoon is.
- (e) Paragraaf (a)(iii) en (iv) is nie op 'n premievoorskot gemaak kragtens die premie-instandhoudingsreëls in 'n polis van toepassing nie.
- 40 (3) Hierdie artikel is nie van toepassing nie op enige handeling, voor of na die inwerkingtreding van hierdie artikel, met betrekking tot 'n polis aangegaan voor die inwerkingtreding van hierdie artikel, indien dit uitdruklik, skriftelik, in die polis op 'n datum voor 1 Maart 1993 aldus bepaal is.”.
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Wysiging van artikel 76 van Wet 27 van 1943, soos vervang deur artikel 9 van Wet 41 van 1966 en gewysig deur artikel 13 van Wet 101 van 1976, artikel 11 van Wet 86 van 1984, artikel 9 van Wet 106 van 1985, artikel 18 van Wet 54 van 1989, artikel 7 van Wet 64 van 1990, artikel 11 van Wet 82 van 1992 en artikel 16 van die Tweede Wysigingswet op Finansiële Instellings van 1993

66. Artikel 76 van die Versekeringswet, 1943, word hierby gewysig deur na paragraaf (aC) van subartikel (1) die volgende paragraaf in te voeg:

“(aD) to amend—

- (i) the interest rate mentioned in the definition of ‘restricted amount’ in section 59D(1)(i);
- (ii) the duration of the restriction period mentioned in the definition of ‘restriction period’ in section 59D(1)(j);
- (iii) the percentage rate mentioned in the definition of ‘excess premium’ in section 59D(1)(a);
- (iv) the percentage rate mentioned in section 59D(2)(c)(iii);
- (v) the number of partial surrenders of a policy contemplated in section 59D(2)(a)(ii)(aa), and may so determine—
 - (aa) different maximum numbers of partial surrenders in respect of different kinds of policies; and
 - (bb) such conditions as he may deem fit to which such amended maximum numbers of partial surrenders shall be subject; and
- (vi) the number of loans in respect of a policy contemplated in section 59D(2)(a)(iii)(aa), and may so determine—
 - (aa) different maximum numbers of loans in respect of different kinds of policies; and
 - (bb) such conditions as he may deem fit to which such amended maximum numbers of loans shall be subject;”.

Commencement of certain amendments

67. Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act, shall be deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 1994. 25

Short title

68. This Act shall be called the Income Tax Act, 1993.

"(aD) tot wysiging van—

- (i) die rentekoers vermeld in die omskrywing van 'beperkte bedrag' in artikel 59D(1)(a);
- (ii) die duur van die beperkte periode vermeld in die omskrywing van 'beperkte periode' in artikel 59D(1)(b);
- (iii) die persentasiekoers vermeld in die omskrywing van 'oorskot-premie' in artikel 59D(1)(d);
- (iv) die persentasiekoers vermeld in artikel 59D(2)(c)(iii);
- 5 (v) die getal gedeeltelike afkopings van 'n polis in artikel 59D(2)(a)(ii)(aa) beoog, en kan aldus—
 - (aa) verskillende maksimum getalle gedeeltelike afkopings ten opsigte van verskillende soorte polisse; en
 - (bb) die voorwaardes wat hy goed ag waaraan bedoelde ge-wysigde maksimum getalle gedeeltelike afkopings onder-hewig sal wees,
- 10 (vi) die getal lenings ten opsigte van 'n polis in artikel 59D(2)(a)(iii)(aa) beoog, en kan aldus—
 - (aa) verskillende maksimum getalle lenings ten opsigte van verskillende soorte polisse; en
 - (bb) die voorwaardes wat hy goed ag waaraan bedoelde ge-wysigde maksimum getalle lenings onderhewig sal wees,
bepaal;
- 15 (vii) die getal afkopings ten opsigte van 'n polis in artikel 59D(2)(a)(iv)(aa) beoog, en kan aldus—
 - (aa) verskillende maksimum getalle afkopings ten opsigte van verskillende soorte polisse; en
 - (bb) die voorwaardes wat hy goed ag waaraan bedoelde ge-wysigde maksimum getalle afkopings onderhewig sal wees,
bepaal;".

Inwerkingtreding van sekere wysigings

25 **67.** Behalwe vir sover daarin anders bepaal word of uit die samehang anders blyk, word die wysigings deur hierdie Wet aan die Hoofwet aangebring, geag in werking te getree het met ingang van die begin van jare van aanslag wat op of na 1 Januarie 1994 eindig.

Kort titel

30 **68.** Hierdie Wet heet die Inkomstebelastingwet, 1993.

SCHEDULE

RATES OF NORMAL TAX PAYABLE BY PERSONS OTHER THAN COMPANIES IN RESPECT OF THE YEARS OF ASSESSMENT ENDING 28 FEBRUARY 1994 AND 30 JUNE 1994, AND BY COMPANIES IN RESPECT OF YEARS OF ASSESSMENT ENDING DURING THE PERIOD OF 12 MONTHS ENDING 31 MARCH 1994

(Section 1 of this Act)

1. The rates of normal tax referred to in section 1 of this Act are as follows:—
 - (a) In respect of the taxable income of any person other than a company, an amount of tax calculated in accordance with the tables below:

TABLES

Taxable Income	Rates of Tax in respect of Married Persons
Where the taxable income—	
does not exceed R5 000	17 per cent of each R1 of the taxable income;
exceeds R5 000 but does not exceed R10 000	R850 plus 18 per cent of the amount by which the taxable income exceeds R5 000;
" R10 000 " " " " R15 000	R1 750 plus 19 per cent of the amount by which the taxable income exceeds R10 000;
" R15 000 " " " " R20 000	R2 700 plus 20 per cent of the amount by which the taxable income exceeds R15 000;
" R20 000 " " " " R30 000	R3 700 plus 21 per cent of the amount by which the taxable income exceeds R20 000;
" R30 000 " " " " R40 000	R5 800 plus 28 per cent of the amount by which the taxable income exceeds R30 000;
" R40 000 " " " " R50 000	R8 600 plus 36 per cent of the amount by which the taxable income exceeds R40 000;
" R50 000 " " " " R60 000	R12 200 plus 41 per cent of the amount by which the taxable income exceeds R50 000;
" R60 000 " " " " R80 000	R16 300 plus 42 per cent of the amount by which the taxable income exceeds R60 000;
" R80 000.....	R24 700 plus 43 per cent of the amount by which the taxable income exceeds R80 000;

BYLAE

SKALE VAN NORMALE BELASTING BETAALBAAR DEUR ANDER PERSONE AS MAATSKAPPYE TEN OPSIGTE VAN DIE JARE VAN AANSLAG EINDIGENDE OP 28 FEBRUARIE 1994 EN 30 JUNIE 1994, EN DEUR MAATSKAPPYE TEN OPSIGTE VAN JARE VAN AANSLAG WAT EINDIG GEDURENDE DIE TYDPERK VAN 12 MAANDE EINDIGENDE OP 31 MAART 1994

(Artikel 1 van hierdie Wet)

1. Die skale van normale belasting bedoel in artikel 1 van hierdie Wet is soos volg:

- (a) Ten opsigte van die belasbare inkomste van 'n ander persoon as 'n maatskappy, 'n bedrag aan belasting wat ooreenkomsdig die tabelle hieronder bereken word:

TABELLE

Belasbare Inkomste	Skale van Belasting ten opsigte van Getroude Persone
Waar die belasbare inkomste—	
R5 000 nie te bowe gaan nie.....	17 percent van elke R1 van die belasbare inkomste;
R5 000 te bowe gaan, maar nie R10 000 nie	R850 plus 18 percent van die bedrag waarmee die belasbare inkomste R5 000 oorskry;
R10 000 " " " " R15 000 "	R1 750 plus 19 percent van die bedrag waarmee die belasbare inkomste R10 000 oorskry;
R15 000 " " " " R20 000 "	R2 700 plus 20 percent van die bedrag waarmee die belasbare inkomste R15 000 oorskry;
R20 000 " " " " R30 000 "	R3 700 plus 21 percent van die bedrag waarmee die belasbare inkomste R20 000 oorskry;
R30 000 " " " " R40 000 "	R5 800 plus 28 percent van die bedrag waarmee die belasbare inkomste R30 000 oorskry;
R40 000 " " " " R50 000 "	R8 600 plus 36 percent van die bedrag waarmee die belasbare inkomste R40 000 oorskry;
R50 000 " " " " R60 000 "	R12 200 plus 41 percent van die bedrag waarmee die belasbare inkomste R50 000 oorskry;
R60 000 " " " " R80 000 "	R16 300 plus 42 percent van die bedrag waarmee die belasbare inkomste R60 000 oorskry;
R80 000 te bowe gaan	R24 700 plus 43 percent van die bedrag waarmee die belasbare inkomste R80 000 oorskry;

Taxable Income	Rates of Tax in respect of Persons who are not Married Persons or Married Women
Where the taxable income—	
does not exceed R5 000	17 per cent of each R1 of the taxable income;
exceeds R5 000 but does not exceed R10 000	R850 plus 19 per cent of the amount by which the taxable income exceeds R5 000;
" R10 000 " " " " R15 000	R1 800 plus 21 per cent of the amount by which the taxable income exceeds R10 000;
" R15 000 " " " " R20 000	R2 850 plus 24 per cent of the amount by which the taxable income exceeds R15 000;
" R20 000 " " " " R30 000	R4 050 plus 28 per cent of the amount by which the taxable income exceeds R20 000;
" R30 000 " " " " R40 000	R6 850 plus 36 per cent of the amount by which the taxable income exceeds R30 000;
" R40 000 " " " " R50 000	R10 450 plus 41 per cent of the amount by which the taxable income exceeds R40 000;
" R50 000 " " " " R56 000	R14 550 plus 42 per cent of the amount by which the taxable income exceeds R50 000;
" R56 000.....	R17 070 plus 43 per cent of the amount by which the taxable income exceeds R56 000;

Taxable Income	Rates of Tax in respect of Married Women
Where the taxable income—	
does not exceed R5 000	17 per cent of each R1 of the taxable income;
exceeds R5 000 but does not exceed R10 000	R850 plus 19 per cent of the amount by which the taxable income exceeds R5 000;
" R10 000 " " " " R15 000	R1 800 plus 21 per cent of the amount by which the taxable income exceeds R10 000;
" R15 000 " " " " R20 000	R2 850 plus 24 per cent of the amount by which the taxable income exceeds R15 000;
" R20 000 " " " " R30 000	R4 050 plus 28 per cent of the amount by which the taxable income exceeds R20 000;
" R30 000 " " " " R40 000	R6 850 plus 36 per cent of the amount by which the taxable income exceeds R30 000;
" R40 000 " " " " R50 000	R10 450 plus 38 per cent of the amount by which the taxable income exceeds R40 000;
" R50 000.....	R14 250 plus 40 per cent of the amount by which the taxable income exceeds R50 000;

- (b) on each rand of the taxable income of any company (excluding taxable income referred to in subparagraphs (c), (d) and (e)), 40 cents, or, in the case of a company which mines for gold on any gold mine and which is in terms of an option exercised by it exempt from the payment of secondary tax on companies, 48 cents;
- (c) on each rand of the taxable income derived by any company from mining for gold on any gold mine (with the exclusion of so much of the taxable income as the Commissioner determines to be attributable to the inclusion in the gross income of any amount referred to in paragraph (j) of the definition of "gross income" in section 1 of the principal Act, but after the set-off of any assessed loss in terms of section 20(1) of the principal Act), a percentage determined in accordance with the formula:

$$y = 49 - \frac{245}{x}$$

or, in the case of a company which is in terms of an option exercised by it exempt from the payment of secondary tax on companies, in accordance with the formula:

$$y = 58 - \frac{290}{x}$$

in which formulae y represents such percentage and x the ratio expressed as a percentage which the taxable income so derived (with the said

Belasbare Inkomste	Skale van Belasting ten opsigte van Persone wat nie Getroude Persone of Getroude Vroue is nie
Waar die belasbare inkomste—	
R5 000 nie te bowe gaan nie.....	17 persent van elke R1 van die belasbare inkomste; R850 plus 19 persent van die bedrag waarmee die belasbare inkomste R5 000 oorskry;
R5 000 te bowe gaan, maar nie R10 000 nie	R1 800 plus 21 persent van die bedrag waarmee die belasbare inkomste R10 000 oorskry;
R10 000 " " " " R15 000 "	R2 850 plus 24 persent van die bedrag waarmee die belasbare inkomste R15 000 oorskry;
R15 000 " " " " R20 000 "	R4 050 plus 28 persent van die bedrag waarmee die belasbare inkomste R20 000 oorskry;
R20 000 " " " " R30 000 "	R6 850 plus 36 persent van die bedrag waarmee die belasbare inkomste R30 000 oorskry;
R30 000 " " " " R40 000 "	R10 450 plus 41 persent van die bedrag waarmee die belasbare inkomste R40 000 oorskry;
R40 000 " " " " R50 000 "	R14 550 plus 42 persent van die bedrag waarmee die belasbare inkomste R50 000 oorskry;
R50 000 " " " " R56 000 "	R17 070 plus 43 persent van die bedrag waarmee die belasbare inkomste R56 000 oorskry;
R56 000 te bowe gaan	

Belasbare Inkomste	Skale van Belasting ten opsigte van Getroude Vroue
Waar die belasbare inkomste—	
R5 000 nie te bowe gaan nie.....	17 persent van elke R1 van die belasbare inkomste; R850 plus 19 persent van die bedrag waarmee die belasbare inkomste R5 000 oorskry;
R5 000 te bowe gaan, maar nie R10 000 nie	R1 800 plus 21 persent van die bedrag waarmee die belasbare inkomste R10 000 oorskry;
R10 000 " " " " R15 000 "	R2 850 plus 24 persent van die bedrag waarmee die belasbare inkomste R15 000 oorskry;
R15 000 " " " " R20 000 "	R4 050 plus 28 persent van die bedrag waarmee die belasbare inkomste R20 000 oorskry;
R20 000 " " " " R30 000 "	R6 850 plus 36 persent van die bedrag waarmee die belasbare inkomste R30 000 oorskry;
R30 000 " " " " R40 000 "	R10 450 plus 41 persent van die bedrag waarmee die belasbare inkomste R40 000 oorskry;
R40 000 " " " " R50 000 "	R14 250 plus 40 persent van die bedrag waarmee die belasbare inkomste R50 000 oorskry;
R50 000 te bowe gaan	

(b) op elke rand van die belasbare inkomste van 'n maatskappy (met uitsondering van belasbare inkomste in subparagraphe (c), (d) en (e) bedoel), 40 sent, of, in die geval van 'n maatskappy wat vir goud myn op 'n goudmyn en wat ingevolge 'n keuse deur hom uitgeoefen van die betaling van sekondêre belasting op maatskappye vrygestel is, 48 sent;

(c) op elke rand van die belasbare inkomste wat deur 'n maatskappy uit die myn van goud op 'n goudmyn verkry word (met uitsluiting van soveel van die belasbare inkomste as wat volgens vasstelling van die Kommissaris toe te skryf is aan die inrekening by bruto inkomste van 'n bedrag bedoel in paragraaf (j) van die omskrywing van "bruto inkomste" in artikel 1 van die Hoofwet, maar na die in vergelyking bring van enige vasgestelde verlies ingevolge artikel 20(1) van die Hoofwet), 'n persentasie vasgestel ooreenkomsdig die formule:

$$y = 49 - \frac{245}{x}$$

of, in die geval van 'n maatskappy wat ingevolge 'n keuse deur hom uitgeoefen van die betaling van sekondêre belasting op maatskappye vrygestel is, ooreenkomsdig die formule:

$$y = 58 - \frac{290}{x}$$

in welke formules y die bedoelde persentasie voorstel en x die verhouding, as 'n persentasie uitgedruk, waarin die aldus verkreë belasbare

exclusion, but before the set-off of any assessed loss or deduction which is not attributable to the mining for gold from the said mine) bears to the income so derived (with the said exclusion);

- (d) on each rand of the taxable income of any company the sole or principal business of which in the Republic is, or has been, mining for gold and the determination of the taxable income of which for the period assessed does not result in an assessed loss, which the Commissioner determines to be attributable to the inclusion in its gross income of any amount referred to in paragraph (j) of the definition of "gross income" in section 1 of the principal Act, a rate equal to the average rate of normal tax or 35 cents, whichever is higher: Provided that for the purposes of this subparagraph, the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with this subparagraph for the period assessed) paid by the company in respect of its aggregate taxable income from gold mining for the period from 1 July 1916 to the end of the period assessed, by the number of rands contained in the said aggregate taxable income;
- (e) on each rand of the taxable income derived by any company from carrying on long-term insurance business—
 - (i) where such taxable income has been determined in terms of the provisions of section 28 of the principal Act, 43 cents; or
 - (ii) where such taxable income has been determined in terms of the provisions of section 29 of the principal Act—
 - (aa) in respect of its individual policyholder fund, 30 cents; and
 - (bb) in respect of its company policyholder fund and corporate fund, 40 cents.

2. (1) For the purposes of paragraph 1 income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of mining for gold, and any income which, in the opinion of the Commissioner, results directly from mining for gold.

(2) The tax determined in accordance with any of the subparagraphs of paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

3. In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the principal Act, bears the meaning so assigned.

inkomste (met genoemde uitsluiting, maar voor die in vergelyking bring van enige vasgestelde verlies of aftrekking wat nie aan die myn van goud uit bedoelde goudmyn toeskryfbaar is nie) staan tot die aldus verkreeë inkomste (met genoemde uitsluiting);

- (d) op elke rand van die belasbare inkomste van 'n maatskappy wie se enigste of vernaamste besigheid in die Republiek die myn van goud is of was en waarvan die vasstelling van die belasbare inkomste vir die tydperk van aanslag nie op 'n vasgestelde verlies uitloop nie, wat volgens vasstelling van die Kommissaris toe te skryf is aan die inrekening by sy bruto inkomste van 'n bedrag bedoel in paragraaf (j) van die omskrywing van "bruto inkomste" in artikel 1 van die Hoofwet, 'n skaal gelyk aan die gemiddelde skaal van normale belasting of 35 sent, watter ook al die hoogste is: Met dien verstande dat vir die doeleindeste van hierdie subparagraaf die gemiddelde skaal van normale belasting vasgestel word deur die totale normale belasting (met uitsondering van die belasting wat vir die tydperk van aanslag ooreenkomsdig hierdie subparagraaf vasgestel is) wat deur die maatskappy betaal is ten opsigte van sy totale belasbare inkomste uit die myn van goud vir die tydperk vanaf 1 Julie 1916 tot die end van die tydperk waarvoor aangeslaan word, te deel deur die getal rande wat genoemde totale belasbare inkomste bevat;
- (e) op elke rand van die belasbare inkomste wat deur 'n maatskappy uit die dryf van langtermynversekeringsbesigheid verkry word—
(i) waar bedoelde belasbare inkomste vasgestel is ingevolge die bepalings van artikel 28 van die Hoofwet, 43 sent; of
(ii) waar bedoelde belasbare inkomste vasgestel is ingevolge die bepalings van artikel 29 van die Hoofwet—
(aa) ten opsigte van sy individuele polisheruurfonds, 30 sent; en
(bb) ten opsigte van sy maatskappypolisheruurfonds, en korporatiewe fonds, 40 sent.

2. (1) By die toepassing van paragraaf 1 sluit inkomste uit die myn van goud verkry inkomste in wat verkry is van silwer, osmiridium, uraan, piriet of ander minerale wat in die loop van die myn van goud gewin word, en enige ander inkomste wat volgens die oordeel van die Kommissaris regstreeks uit die myn van goud voortvloeи.

(2) Die belasting ooreenkomsdig enige van die subparagrawe van paragraaf 1 vasgestel, is betaalbaar benewens die belasting ooreenkomsdig enige ander van genoemde subparagrawe vasgestel.

3. In hierdie Bylae, tensy uit die samehang anders blyk, het enige woord of uitdrukking waaraan daar in die Hoofwet 'n betekenis toegeskryf is, die betekenis aldus daaraan toegeskryf.

