



REPUBLIC OF SOUTH AFRICA.

EXPLANATORY MEMORANDUM ON THE INCOME TAX
AMENDMENT BILL, 1962.

In terms of the principal Act (Act No. 58 of 1962) the rates of normal tax must be imposed annually. In addition to fixing the rates for the year of assessment ending the 30th June, 1962, this Bill also amends the principal Act.

CLAUSE ONE.

This clause enacts, in respect of the year of assessment ending the 30th June, 1962, the rates of tax set forth in the Schedule to the Bill.

CLAUSE TWO.

Clause *two* provides for the division of the normal tax payable by certain companies between the Consolidated Revenue Fund and the provincial funds, and also provides that any tax payable by any company, the principal business of which is the mining for gold, in respect of any recoupment of capital expenditure shall not include any amount due to the provincial funds.

CLAUSE THREE.

Paragraph (a) expands the definition of "assessment" in section *one* of the principal Act to include any decision of the Commissioner which in terms of the principal Act is subject to objection and appeal. Sections *eighty-one* and *eighty-three* of the principal Act provide the machinery for objections and appeals in respect of "assessments" and the object of the amendment is to provide that all objections and appeals are dealt with in the same manner.

Paragraph (b) amplifies the definition of "company" in section *one* of the principal Act to include any unit portfolio comprised in any unit trust created by any company registered as a management company under section *four* of the Unit Trusts Control Act, 1947, thus ensuring that the provisions of the principal Act in regard to the assessment of companies shall apply in respect of such trusts. The main advantage conferred by this amendment will be that dividends derived by the unit portfolio will not be chargeable with normal tax in its hands.

Paragraph (c) substitutes a new paragraph (*g*) for the existing paragraph (*g*) of the definition of "dividend" in section *one* of the principal Act and adds a new paragraph (*h*) to the definition. The existing paragraph (*g*) excludes from classification as a "dividend" any award of bonus shares made by a public company and sub-section (2) of section *eight* of the principal Act provides that if within ten years after such award the company makes a reduction in its share capital the amount of such award may be subjected to normal tax in the hands of the company. The amendment is designed to cover the case of a company which, within ten years after the date on which it made a reduction in its share capital, makes an award of bonus shares if, on the date when the reduction was made, the company had reserves available for distribution to its shareholders. The amplification of paragraph (*g*), and the introduction of the new paragraph (*h*), contained in the amendment and sub-section (2) of section *eight* are designed to discourage the avoidance of normal tax by a combination, within ten years, of an award of bonus shares and a reduction in share capital.

In addition this paragraph makes provision for the inclusion in the definition of "dividend" of distributions made out of the assets of any unit portfolio to persons entitled to participation in such unit portfolio.

Paragraph (d) substitutes for the proviso to paragraph (c) of the definition of "gross income" in section *one* of the principal Act a proviso which, in paragraph (i), re-enacts the terms of the existing proviso in regard to the spreading over three years of retirement gratuities and similar amounts, and, by its reference to paragraph (x) of sub-section (1) of section *ten*, ensures that the amount which may be spread over three years shall be so much of the gratuity, etc., as exceeds the amount exempted from tax under the last-mentioned paragraph.

Paragraph (ii) of the new proviso provides that arrears paid under a retrospective salary or wage award shall be deemed to have been received or to have accrued over the period to which the award relates unless the award relates to a period commencing more than two years before the award becomes effective, in which case the amount of the arrear salary or wages is spread in three equal instalments over three tax years.

Paragraph (iii) of the new proviso re-enacts the provision in the existing proviso in regard to the spreading of retirement gratuities and similar amounts which were received up to and including the 1961 year of assessment and has the effect of making the instalments which should be included in income for the 1962 or 1963 tax years subject to the provisions of paragraph (x) of sub-section (1) of section *ten* of the principal Act.

Paragraph (e): The amendment introduced by this paragraph is consequential on the amendment introduced into section *nine* of the principal Act by the preamble to paragraph (d) of clause *seven* of this Bill.

Paragraph (f) inserts in paragraph (g) of the definition of "gross income" in section *one* of the principal Act a new sub-paragraph numbered (ii)*bis* with the object of including in gross income any premium or consideration in the nature of a premium received or accrued in respect of the right of use of any motion picture film or any sound recording or any advertising matter connected therewith, and *paragraph (g)* amplifies that definition by the inclusion, in sub-paragraph (iv) of paragraph (g), of the definition of a reference to any premium or similar consideration received or accrued in respect of the imparting of or the undertaking to impart knowledge in connection with a motion picture film, sound recording or advertising matter connected therewith. The purpose of both these amendments is to clarify the existing law.

Paragraph (h) substitutes for the definition of "married person" in section *one* of the principal Act a new definition which, while preserving the existing rules for determining the status, for tax purposes, of persons divorced or judicially separated under an order granted in consequence of proceedings instituted not later than 21st March, 1962, and of persons separated under a written agreement entered into not later than that date, provides that—

- (a) persons separated under a written agreement entered into after 21st March, 1962, will in future be regarded as married persons; and
- (b) persons divorced or judicially separated after 21st March, 1962, will in future not be regarded as married persons.

This amendment should be read with the amendments to the principal Act introduced by clause *four*, paragraph (c) of clause *seven*, the new paragraph (u) introduced into section *ten* of the principal Act by paragraph (b) of clause *eight*, clause *sixteen* and clause *twenty-six*.

Paragraph (i) amends the definition of "pension fund" in section *one* of the principal Act with the effect that any pension, superannuation, provident, widows' or orphans' fund established for the benefit of employees of any local authority qualifies for recognition as a pension fund for all purposes of the principal Act.

The amendment introduced by *paragraph (j)* amends the definition of "shareholder" in the principal Act. This amendment is consequential upon the amendment to the definition of "company" in *paragraph (b)* and to the definition of "dividend" in *paragraph (c)* and ensures that holders of units in unit portfolios under unit trust schemes shall be regarded as shareholders for the purposes of the principal Act.

CLAUSE FOUR.

Clause *four* repeals the provisos to paragraph (c) of sub-section (1) of section *six* of the principal Act and substitutes a single proviso divided into paragraphs.

Paragraph (aa) of the new proviso re-enacts the existing provision for increased rebates for children in excess of two, *paragraph (bb)* re-enacts the existing provisions in regard to the children's rebates to be allowed to persons divorced or judicially separated in consequence of proceedings instituted not later than 21st March, 1962, or separated under a written agreement entered into not later than that date, and *paragraph (cc)* provides for a special additional rebate of R16 to be granted to a taxpayer who is not a married person or a divorced or separated person referred to in paragraph (bb), if the taxpayer is entitled to a rebate for one or more children (irrespective of the number) and such child was or such children were wholly dependent upon the taxpayer for their maintenance out of the taxpayer's resources derived by him otherwise than by way of alimony, allowance or maintenance received from the other parent of the children.

The object of the amendment brought about by *paragraph (cc)* is to grant to the classes of taxpayers referred to in the paragraph a special deduction equivalent to the difference between the primary rebate permitted to a person who is a married person and the primary rebate to which a person who is not a married person is entitled.

CLAUSE FIVE.

This clause amends sub-section (2) of section *seven* of the principal Act so as to deem the income of a woman separated from her husband under a written agreement of separation entered into after 21st March, 1962, to be the income of her husband.

CLAUSE SIX.

The amendment introduced by *paragraphs (a), (b) and (c)* of this clause to section *eight* of the principal Act is consequential upon the amendment to the definition of "dividend" introduced by *paragraph (c)* of clause *three* of this Bill and ensures that where a company distributes cash or other assets to shareholders in consequence of the reduction of its share capital within ten years of the award by it of bonus shares, the amount to be included in its taxable income in terms of section *eight* shall not include such portion of the nominal value of such bonus shares as constituted dividends in the hands of the shareholders.

The amendment introduced by *paragraph (d)* of the clause is consequential upon the amendment contained in paragraph (c) of clause *three* and the amendment introduced by *paragraph (e)* is consequential upon the amendment contained in the preamble to paragraph (d) of clause *seven*.

CLAUSE SEVEN.

Paragraph (a) repeals and re-enacts paragraph (b) of section *nine* of the principal Act. Besides re-enacting the existing provisions the purpose of the amendment is to deem any amount to have accrued from a source within the Republic if it has been received or has accrued by virtue of the use in the Republic or the grant of permission to use in the Republic or the imparting of or the undertaking to impart any knowledge connected with the use in the Republic of any motion picture film, sound recording or advertising matter used or intended to be used in connection with such film. This amendment is consequential to the repeal, by clause *nineteen* of the Bill, of section *thirty-four* of the principal Act which provided for the taxation of income derived by persons not resident in the Republic from motion picture films exhibited in the Republic.

The proviso to the substituted paragraph has the effect of exempting from tax any income derived by individuals not ordinarily resident in the Republic or by any company not registered, managed or controlled in the Republic, from the granting of the right to use in any printed publication any material covered by a copyright.

Paragraph (b) adds a new paragraph (d)*bis* to section *nine* of the principal Act in terms of which payments for services rendered by employees, during temporary absences outside the Republic, for or on behalf of employers in the Republic are deemed to have been derived from a source within the Republic.

Paragraph (c) adds a new paragraph (*h*) to section *nine* of the principal Act in terms of which any alimony or maintenance payment is deemed to have been derived from a source within the Republic if the recipient's spouse's taxable income has been reduced by such amount in terms of section *twenty-one* of the principal Act. This amendment is consequential to the amendment of section *twenty-one* of the principal Act introduced by clause *sixteen* of this Bill and is intended to prevent a claim, by a recipient of alimony or maintenance who resides outside the Republic, that the amount of the alimony or maintenance accrued from a source outside the Republic. The amendment applies only in the case of a person who was divorced or separated under an order of judicial separation or under a written agreement if the proceedings for such divorce or judicial separation were instituted or the written agreement was entered into not later than the 21st March, 1962.

Paragraph (d) adds two new sub-sections to section *nine* of the principal Act, the existing text becoming sub-section (1).

Sub-section (2) deems interest or dividends derived by any person from any building society registered under the Building Societies Act, 1934 to have been derived from a source within the Republic. This provision should be read with paragraph (*v*) which is introduced into section *ten* of the principal Act by paragraph (*b*) of clause *eight* to provide for exemption in certain cases.

Sub-section (3) deems interest derived by any resident of the Republic or by any company registered, managed or controlled in the Republic, from any banking institution registered under the Banking Act, 1942, or any similar institution whether or not registered, managed or controlled in the Republic to have been derived from a source within the Republic. This amendment should be read with paragraph (*w*) introduced into section *ten* of the principal Act by paragraph (*b*) of clause *eight*, which provides for certain exemptions.

CLAUSE EIGHT.

Paragraph (a) adds a new sub-paragraph (*iii*) to paragraph (*c*) of sub-section (1) of section *ten* of the principal Act the purpose of which is to exempt from tax the salaries and emoluments of any domestic private servant of a foreign diplomat if such servant is not a South African citizen and is not ordinarily resident in the Republic.

Paragraph (b) adds the following paragraphs to sub-section (1) of section *ten* of the principal Act:

- (a) *Paragraph (u)*: This paragraph exempts from tax any alimony or maintenance payment received by or accrued to any person under any divorce order or order of judicial separation granted in consequence of proceedings instituted after 21st March, 1962, or under any agreement of separation entered into after that date.
- (b) *Paragraph (v)*: This paragraph exempts ordinary residents of South-West Africa and companies managed or controlled in South-West Africa from tax in respect of interest on loans to or deposits in any building society registered under the Building Societies Act, 1934, if such deposits or loans are made through any branch or agency of any such society in South-West Africa, and in respect of dividends or shares of profits received or accrued from any such society in respect of any share applied or subscribed for through any such branch or agency.
- (c) *Paragraph (w)*: This paragraph exempts ordinary residents of the Republic and companies registered, managed or controlled in the Republic, from tax on interest in respect of any loan to or deposit in any banking institutions registered under the Banking Act, 1942, or any similar institution not so registered, if it is proved that such loan or deposit has been made through and retained in a branch of such institution outside the Republic, that such loan or deposit was made for the purposes of any business carried on outside the Republic, and that the interest is subject to income tax in the country within which such loan or deposit is retained.

- (d) *Paragraph (x)*: This paragraph provides a cumulative exemption to a maximum of R4,000 in respect of amounts referred to in paragraph (i) or (iii) of the proviso to paragraph (c) or in paragraph (d) of the definition of "gross income" in section *one* of the principal Act. See paragraph (d) of clause *three*. Broadly speaking, the amounts so referred to include gratuities, bonuses or compensation payable by employers to employees on retirement caused by superannuation, ill-health or infirmity and also amounts received or accruing in respect of the relinquishment, termination, loss, repudiation, cancellation or variation of any office or employment but do not include any amounts derived by such employees from any approved pension fund, provident fund or benefit fund.

CLAUSE NINE.

Paragraph (a) introduces a textual amendment to paragraph (e) of section *eleven* of the principal Act which is designed to ensure that for the purpose of calculating the wear and tear allowance provided for in paragraph (e) the value of implements, utensils or articles shall also be reduced by the amount of any deduction in respect thereof made under sub-section (1) (or that sub-section as applied by sub-section (3)) of section *twelve* of the principal Act or under the corresponding provisions of any previous Income Tax Act. At present the provision for the reduction in value applies only to machinery, and the amendment is designed to remove this anomaly.

Paragraphs (b), (c), (d) and (e) amend paragraph (f) of section *eleven* of the principal Act to include references to any motion picture film, sound recording or advertising matter connected with such film. This amendment is consequential upon the amendments brought about by *paragraphs (f) and (g)* of clause *three* and *paragraph (a)* of clause *seven*.

Paragraph (f) adds a new paragraph (iv) to the proviso to paragraph (g) of section *eleven* of the principal Act. The object of the amendment is to ensure that a lessee who is entitled to write off over the period of his lease so much of the cost of erection of any building which, in terms of the lease, he was required to erect and who is also entitled under the provisions of section *thirteen* of the principal Act to a wear and tear allowance of two per cent of the cost of such building shall not be entitled to deduct under the provisions of those two sections an amount which in the aggregate exceeds the cost to him of the building so erected. See also the provisions of paragraph (a) of clause *twelve*.

Paragraph (g) amends paragraph (r) of section *eleven* of the principal Act to extend the period during which donations made by companies for the purposes of technological training at a university may qualify for the deduction in terms of that paragraph and to make it clear that for purposes of the exemption the aggregate of all donations made within a tax year must not exceed one per cent of the taxable income of the company for that tax year.

CLAUSE TEN.

Sub-clause (1) introduces new provisions, as section *11bis* of the principal Act, in regard to the deduction of a special allowance in the determination of the taxable income of any person who in respect of any year of assessment increases his export turnover in relation to his export turnover during the preceding year of assessment.

Sub-section (1) of the new section contains the definitions which provide *inter alia* that—

- (a) "goods" do not include gold coin, bullion or uncut diamonds but do include pastoral, agricultural or other farming produce or any other thing which has been produced or manufactured or processed in the Republic;
- (b) "exported" does not include any consignment or delivery to the territory of South-West Africa (including the Eastern Caprivi Zipfel) or to the Bechuanaland Protectorate, Basutoland or Swaziland.

Sub-section (2) of the new section provides that the deduction shall be a percentage of any market development expenditure incurred during the relevant year of assessment and also provides that for purposes of determining whether export turnover exceeds basic export turnover the export and basic export turnover of all companies which may be regarded as "associated companies" because they are managed or controlled directly or indirectly by substantially the same persons shall be aggregated in respect of each year of assessment.

Sub-section (3) of the new section indicates the percentage of the market development expenditure which will be allowed as a special deduction.

Sub-section (4) of the new section defines the types of activities which will be regarded as market development activity; and

Sub-section (5) of the new section makes any decision of the Commissioner in the exercise of a discretion under the provisions of the new section subject to objection and appeal.

Sub-clause (2) of clause *ten* provides that the new section shall come into force for the first time in respect of the 1963 year of assessment.

CLAUSE ELEVEN.

The amendment effected by this clause to sub-section (2) of section *twelve* of the principal Act, extends the period within which manufacturers and hotel keepers may qualify for the machinery investment allowance in terms of that sub-section, to 30th June, 1965.

CLAUSE TWELVE.

This clause amends section *thirteen* of the principal Act—

- (a) by adding a proviso to sub-section (1) of that section which ensures that any lessee who in terms of his lease is required to erect a building and who commenced after the first day of July, 1961, to erect that building or subsequent to that date made improvements thereto shall not be entitled, in respect of the cost of such erection or improvements, to the wear and tear allowance of two per cent on so much of the cost to him as he is entitled to write off, over the period of his lease, under the provisions of paragraph (g) of section *eleven* of the principal Act. See also the provisions of paragraph (f) of clause *nine*;
- (b) by an addition to sub-section (2), which ensures that the aggregate of the wear and tear allowances and the allowances under paragraph (g) of section *eleven* of the principal Act, in respect of any building the erection of which was commenced prior to the 1st July, 1961, or improvements which were effected prior to that date, shall not exceed the cost of the building or the improvements in question;
- (c) by inserting words into sub-section (3) in order to clarify the meaning of the sub-section;
- (d) by adding words to sub-section (3) consequential upon the amendment of paragraph (g) of section *eleven* by paragraph (f) of clause *nine* of this Bill;
- (e) by amending sub-section (5) in order to allow of the building investment allowance being made in respect of the erection or improvement of buildings by a lessee, provided such lessee is entitled to the occupation of the buildings concerned for a period of not less than ten years from the date upon which the erection of the buildings or improvements is commenced;
- (f) and (g) by amending paragraph (b) of sub-section (5) and also amending sub-section (6) in order to extend the periods within which owners of buildings used for manufacturing or hotel purposes may qualify for the building investment allowance to the 30th June, 1966, provided the construction of the building or the improvements is commenced not later than the 30th June, 1965.

CLAUSE THIRTEEN.

The amendment effected by this clause is consequential upon the amendment to section *nine* of the principal Act introduced by the preamble to paragraph *(d)* of clause *seven* of this Bill.

CLAUSE FOURTEEN.

This clause substitutes a new section *seventeen* for section *seventeen* of the principal Act in order to re-enact the existing provisions of the section and, in addition, to permit persons who are agents for the sale of goods manufactured in the Republic and who appoint other persons outside the Republic for the sale of such goods to deduct the expenses which may be incurred by them in the appointment of such agents outside the Republic.

CLAUSE FIFTEEN.

This clause amends sub-section (3) of section *nineteen* of the principal Act to exclude, in the determination of the percentage of dividends to be deducted from the dividend income of any person other than a company, any assessed loss incurred by such person.

CLAUSE SIXTEEN.

The clause substitutes a new section *twenty-one* for the existing section *twenty-one* of the principal Act.

The object of the substitution is to provide that only so much of the amount of any alimony or allowance as has been or will be payable out of the taxable income of the taxpayer shall rank for deduction in the determination of the taxable income of the taxpayer and to make such deduction applicable only in the case of a person who was divorced or judicially separated in consequence of proceedings instituted not later than the 21st March, 1962, or was separated by written agreement entered into not later than that date.

CLAUSE SEVENTEEN.

The proviso to paragraph *(e)* of sub-section (2) of section *twenty-eight* of the principal Act, which is repealed by this clause, requires the Commissioner to reduce any allowance for claims intimated but not paid which he would, but for the proviso, allow to any company carrying on the business of short-term insurance, by 50 per cent thereof in respect of the 1962 tax year and by 25 per cent thereof in respect of the 1963 tax year.

This clause read with the provisions of paragraph *(a)* of sub-clause (1) of clause *thirty-four* of the Bill, which removes a similar restriction in respect of the 1961 tax year, permits of the full allowance being granted in each of the three tax years.

CLAUSE EIGHTEEN.

The purpose of the proviso which this clause introduces into section *twenty-nine* of the principal Act is to exempt from tax the subsistence and travelling allowances payable to any person who, though not employed in the public service or the railway and harbour service of the Republic, holds an office of profit under the Republic if he receives such allowances in reimbursement of expenditure incurred by him in connection with the holding of such office.

CLAUSE NINETEEN.

This clause repeals section *thirty-four* of the principal Act. The provisions contained in that section are introduced into paragraph *(b)* of sub-section (1) of section *nine* of the principal Act by paragraph *(a)* of clause *seven* of this Bill.

CLAUSE TWENTY.

The amendment introduced into sub-section (1) of section *thirty-five* of the principal Act by *paragraph (a)* is consequential upon the amendment of section *nine* of the principal Act by the preamble to *paragraph (d)* of clause seven of this Bill.

Paragraph (b) of this clause introduces into *paragraph (a)* of sub-section (2) of section *thirty-five* the same consequential amendment as is made in sub-section (1) of that section and, in addition, adds a new proviso to *paragraph (a)* of sub-section (2) of that section with the object of relieving any person resident or carrying on business in the Republic from liability for the deduction of the tax from any amount payable, in respect of the right to use any motion picture film, any sound recording or any advertising matter connected therewith if the amount so payable was in fact paid before the first day of July, 1962.

CLAUSE TWENTY-ONE.

This clause amends section *thirty-eight* of the principal Act in order to recognize as a public company any unit portfolio comprised in any unit trust scheme and thereby to exempt such unit portfolio from undistributed profits tax.

CLAUSE TWENTY-TWO.

This clause amends section *forty-nine* of the principal Act consequential upon the amendment to the definition of "dividend" introduced by *paragraph (c)* of clause *three* of this Bill.

CLAUSE TWENTY-THREE.

Paragraph (a) introduces an amendment consequential upon the repeal of section *thirty-four* of the principal Act by clause *nineteen* of this Bill in order to continue the exemption from Undistributed Profits Tax for companies not registered, managed or controlled in the Republic which derive income from the exhibition of films. *Paragraph (a)* of clause *seven* of this Bill substitutes a new *paragraph (b)* for the *paragraph (b)* of section *nine* of the principal Act which is referred to in section *thirty-five* and the substituted *paragraph* deals with income derived from the exhibition of films as well as with income derived from the use of patents, copyright, etc.

Paragraph (b) amends *paragraph (f)* of section *fifty* of the principal Act consequential upon the amendment introduced by *paragraph (c)* of clause *three* of this Bill.

Paragraph (c) re-enacts the provisions of *paragraph (i)* of section *fifty* of the principal Act in a clarified form and, by the addition of sub-*paragraph (iii)*, provides exemption from undistributed profits tax for any company all of whose equity shares were, throughout the specified period, held by benefit funds, pension funds, provident funds or retirement annuity funds or by a combination of such funds, companies and persons other than companies referred to in the *paragraph*. This amendment has become necessary because of the increasing participation by benefit and other funds in the equity share capital of companies.

CLAUSE TWENTY-FOUR.

This clause amends *paragraph (b)* of sub-section (1) of section *fifty-two* of the principal Act consequential upon the amendment of the definition of "dividend" in section *one* of the principal Act by *paragraph (c)* of clause *three* of this Bill.

CLAUSE TWENTY-FIVE.

This clause adds two new *paragraphs* to section *sixty-one* of the principal Act consequential upon the amendments to sections *ninety-five* and *ninety-six* of that Act which are contained in clauses *twenty-seven* and *twenty-eight* of this Bill. The object of the *paragraphs* is to provide that in respect of any liability which may be incurred by a person for donations tax which has not been liquidated at the date of his death, the executor of his estate shall have the same obligations and rights as he would have if the unpaid liability had been normal income tax.

CLAUSE TWENTY-SIX.

The amendment introduced by this clause is consequential on the amendment of the definition of "married person" by paragraph (h) of clause *three* and on the amendments introduced by clauses *four* and *five*, and paragraph (c) of clause *seven* and clause *sixteen* of this Bill.

The effect of the amendment introduced by this clause is twofold. Firstly, to repeal the existing provision which, in respect of a woman married with or without community of property and separated from her husband under a written agreement entered into after the twenty-first day of March, 1962, relieves the husband from the obligation to include, in any return of income rendered by him, the income of his wife. Secondly, to provide that, where spouses are separated by written agreement entered into after the twenty-first day of March, 1962, each spouse shall render a separate return of income.

In all other respects the substituted sub-section re-enacts the existing provisions of sub-section (1) of section *sixty-eight* of the principal Act.

CLAUSES TWENTY-SEVEN AND TWENTY-EIGHT.

The object of the amendment to section *ninety-five* and of the amendment to section *ninety-six* of the principal Act contained in these clauses is to provide that any person who is a representative taxpayer in respect of the estate of any deceased person or of any person under legal disability shall be responsible for the due performance of any requirement of the Income Tax Act which the deceased person or the person under legal disability failed to perform before his death or before the date of commencement of the legal disability. If one of the requirements which remained unfulfilled was the payment of any tax on income received or accrued prior to the date of death or commencement of the legal disability the representative taxpayer shall be responsible for the payment of such tax. The existing provision that the liability of the representative taxpayer does not extend beyond the value of any assets of the deceased or of the person under legal disability which may be in his possession remains unchanged.

CLAUSE TWENTY-NINE.

The amendments in this clause are consequential on the inclusion of "unit portfolio" in the definition of "company" in section *one* of the principal Act by paragraph (b) of clause *three* of this Bill and provide—

- (a) in *paragraph (a)*, that every such unit portfolio shall be represented by an individual residing in the Republic;
- (b) in *paragraph (b)*, that the representative shall be the public officer of the management company or, in the event of the winding up of the management company, the trustee under the relevant unit trust scheme shall be the representative;
- (c) in *paragraph (c)*, for the determination of the place where notices or documents may be served or delivered;
- (d) in *paragraph (d)*, for the maintaining of a place where notices or documents may be served or delivered and for the notification of any change in such place.

CLAUSE THIRTY.

This clause amends section *one hundred and six* consequential upon the amendment to section *one hundred and one* of the principal Act which is introduced by clause *twenty-nine* of this Bill and makes provision for the authentication and service of documents by the Commissioner.

CLAUSE THIRTY-ONE.

The objects of the amendments brought about by this clause are—

- (a) to increase the tax-free portion of any award made to any person by any provident fund, as determined from the application of formula A, by the amount of that person's contributions to the fund;
- (b) to exclude lump sum benefits derived from any superannuation, pension, provident, widows' or orphans' fund established for the benefit of employees of any local authority from the provisions of the Second Schedule to the principal Act;

- (c) to provide that on the death of a member before retirement the minimum portion of any award by any provident fund which shall be exempt from tax shall be, instead of ten thousand rand, the greater of ten thousand rand or an amount equal to twice so much of the salary actually earned by the member during the period of twelve months ending at his death as does not exceed ten thousand rand. This amendment makes it possible for the tax-free portion of awards from provident funds to be twenty thousand rand;
- (d) to delete paragraph (c) of sub-paragraph (2) of paragraph 5 of the Second Schedule because the provisions contained therein are now incorporated as symbol " E " in " formula B ";
- (e) to clarify the existing provisions of sub-paragraph (3) of paragraph 5 of the Second Schedule and to add a provision consequential upon the introduction of symbol " E " into " formula B ". the object of the addition is to provide a basis for the determination of the amount of contributions which, at the time a person becomes entitled to an award from one provident fund, may still have to be made by him to a provident fund from which he is not yet entitled to an award.

CLAUSE THIRTY-TWO.

The object of this clause is to rectify an omission which occurred when the basis for the taxation of lump sum awards by pension funds, provident funds and retirement annuity funds was changed in 1961 by the amendment of paragraph (b)ter of the definition of " gross income " in section *seven* of the Income Tax Act, 1941 (Act No. 31 of 1941).

The intention was that the revised basis of taxation would apply only in respect of such awards as were received by or accrued to the taxpayer on or after the 15th March, 1961. By mistake the revised basis was made applicable for the first time to any award received by or accrued to a taxpayer at any time during the year of assessment ended the 30th June, 1961.

CLAUSE THIRTY-THREE.

This is a substantive clause affecting any assessment for any year of assessment up to and including the year of assessment ended the 30th June, 1961, where there has been included in such assessment interest derived by the taxpayer from any Building Society registered under the Building Societies Act, 1934 (Act No. 62 of 1934) if the loan to or deposit with or the right to share in the profits of the Building Society was made or subscribed for through any branch or agency of the society in the territory of South-West Africa.

The basis on which interest from this source will be taxed, with effect from the 1962 tax year, is contained in paragraph (d) of clause *seven* and in the new paragraph (v) introduced into section *ten* of the principal Act by paragraph (b) of clause *eight* of this Bill. The objects of the provision of clause *thirty-three* are—

- (1) to authorize the Commissioner to refrain from amending any assessment issued for any year of assessment preceding the 1962 year of assessment, in respect of which such interest was included, in order to discharge or refund the tax which, by that assessment, was made payable in respect of such interest if such assessment has become final against the taxpayer in terms of sub-section (7) of section *seventy-seven* of the Income Tax Act, 1941 (Act No. 31 of 1941); and
- (2) to provide that the type of interest referred to in the clause shall not be included in any assessment made upon any person for any year of assessment up to and including the year of assessment ended the thirtieth day of June, 1961, which is issued on or after the date of coming into force of the Income Tax Amendment Act, 1962.

CLAUSE THIRTY-FOUR.

This is also a substantive clause which affects the Income Tax Act, 1941 (Act No. 31 of 1941) and has the same effect in respect of that Act as the amendment introduced by clause *seventeen* of this Bill has in respect of the Income Tax Act, 1962.

In addition, paragraph (b) of sub-clause (1) has the effect of condoning, with retrospective effect, the deduction in the determination of his taxable income, without full disclosure of such deduction by a person carrying on the business of short-term insurance, of the value of claims intimated but not paid by him and of authorizing the Commissioner to refrain from disallowing any amount so deducted.

CLAUSE THIRTY-FIVE.

This is another substantive provision the object of which is to provide that the amendments made to the Second Schedule of the Income Tax Act, 1962, by clause *thirty-one* of this Bill shall, for purposes of the determination of the taxable portion of any award made by a provident fund between the fifteenth day of March, 1961, and the thirtieth day of June, 1961, apply as if those amendments had been incorporated in the Fourth Schedule to the Income Tax Act, 1941.

CLAUSE THIRTY-SIX.

This is also a substantive provision the object of which is to provide, for the purposes of the introduction of a system of current payments for normal tax and provincial income and personal taxes, for the registration of all persons who, on the 31st August, 1962, are or subsequently became employers.

CLAUSE THIRTY-SEVEN.

This clause provides for the date of commencement of certain of the amendments.

CLAUSE THIRTY-EIGHT.

Clause *thirty-eight* contains the Short Title.

THE SCHEDULE.

The Schedule enacts the rates of tax which shall apply in respect of each rand of taxable income determined in respect of the year of assessment ending the thirtieth day of June, 1962. The only difference between these rates and the rates of tax imposed for the year of assessment ended the thirtieth day of June, 1961, are that the discount of three per cent. in the case of certain companies and the discount of ten per cent. in the case of persons other than companies have not been re-enacted.