
REPUBLIC OF SOUTH AFRICA.

EXPLANATORY MEMORANDUM

ON THE

INCOME TAX BILL, 1964.

[W.P. 11—'64].

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BILL, 1964.

In terms of the principal Act (Act No. 58 of 1962) the rates of normal tax must be fixed annually. The Bill fixes rates—

- (a) for individuals in respect of the years of assessment ending on 28th February, 1965, and 30th June, 1965; and
- (b) for companies in respect of their years of assessment ending during the twelve months ending on 31st December, 1964.

In addition to fixing the rates of normal tax the Bill amends the principal Act.

CLAUSE ONE.

This clause enacts the rates set forth in the Schedule to the Bill.

CLAUSE TWO.

In terms of this clause one-sixth of the normal tax payable by companies on taxable income derived otherwise than from mining operations in the Republic will, save where the tax accrues for the benefit of the Transkeian Revenue Fund under any law, accrue for the benefit of the respective provincial revenue funds in proportions determined by proclamation.

CLAUSE THREE.

Clause *three* provides that provincial income taxes payable by individuals in respect of the year of assessment ending on 28th February, 1965, or 30th June, 1965, whichever is applicable, shall be calculated on the full amount payable by way of normal tax before the deduction of the discount of 5 per cent provided for in item (a) of paragraph 1 of the Schedule to the Bill.

CLAUSE FOUR.

This clause amends section *one* of the principal Act, in which definitions are provided.

Paragraph (a) introduces a definition of "child", in terms of which a child adopted in the Republic under the relevant Act of Parliament or, in certain circumstances, a child adopted overseas, will be regarded as a child for the purposes of the principal Act. A consequence of the amendment is that a rebate may now be granted for such a child in terms of section *six* of the principal Act.

Paragraph (b) deletes the definition of "Commissioner".

Paragraph (c) introduces a new definition of "relative". This amendment should be read with the new section *11quin* introduced by clause *ten* and with paragraph (d) of clause *sixteen*. The word "relative" is also used in paragraph (t) of section *eleven* of the principal Act and sub-paragraph (4) of paragraph 12 of the First Schedule to that Act.

Paragraph (d) introduces an amendment to the definition of "retirement annuity fund". In terms of that definition the Secretary for Inland Revenue shall not approve any fund unless the rules of the fund provide "for periodical contributions by the members and for additional contributions made by way of transfer of members' interests in approved pension funds, provident funds or

other retirement annuity funds". The purpose of the amendment is to remove the necessity for a member to make periodical contributions in any case where a single, non-recurrent contribution is made by way of the transfer of the member's interest in a pension fund, provident fund or any other retirement annuity fund.

Paragraph (e) introduces a definition of "Secretary".

Paragraph (f) substitutes a new definition for the definition of "year of assessment". This amendment is consequential upon the amendment introduced by clause *five*.

CLAUSE FIVE.

This clause substitutes a new sub-section for the existing sub-section (1) of section *five* of the principal Act. The purpose of the amendment is to ensure that all provisional taxpayers (other than companies) will have a year of assessment ending in February each year. At present certain farmers, fishermen and diamond diggers who elected not to be provisional taxpayers have a year of assessment ending in June each year. Such persons may in certain circumstances become provisional taxpayers and in such event the year of assessment will in terms of the amendment automatically be changed to end in February. Provision is made for a transition period of eight months. The taxpayer's taxable income for such transition period will be subject to tax and for such period the primary rebate and the rebates for children and dependants will, in terms of sub-section (2) of section *six* of the principal Act, be two-thirds of the rebate applicable for a full period of twelve months.

CLAUSE SIX.

Paragraph (a) of this clause amends paragraph (a) of sub-section (4) of section *eight* of the principal Act. The last-mentioned paragraph at present provides for the inclusion in the taxpayer's income of all amounts allowed to be deducted under the provisions of sections *eleven* to *twenty*, inclusive, of the principal Act, except paragraphs (k), (p) and (q) of section *eleven*, sub-section (2) of section *twelve*, or sub-section (5) of section *thirteen*, or the corresponding provisions of any previous Income Tax Act, which have been recovered or recouped by the taxpayer. The amendment introduces a further exception in respect of the recovery or recoupment of any allowance under section *llquin* of the principal Act. Section *llquin* is a new section inserted by clause *ten*.

Paragraph (b) of this clause introduces an amendment to paragraph (e) of sub-section (4) of section *eight* of the principal Act. If a manufacturer, as a result of damage or destruction to machinery or plant occurring by water or fire, recovers or recoups any wear and tear or initial allowance (made to him under paragraph (e) of section *eleven* or sub-section (1) of section *twelve* of the principal Act, or under the corresponding provisions of any previous Income Tax Act) in respect of such machinery or plant, such recovery or recoupment may, in terms of the said paragraph (e), instead of being subjected to tax, be set off by the taxpayer against the capital cost of further new machinery or plant purchased to replace that which was damaged or destroyed, provided certain requirements of the law are observed. The amendment is designed to remove the qualification that the damage or destruction must be caused by water or fire.

CLAUSE SEVEN.

This clause introduces an amendment to section *nine* of the principal Act. This amendment is designed to subject to normal tax the earnings of Government employees stationed in the Eastern Caprivi Zipfel.

CLAUSE EIGHT.

Paragraph (a) introduces an amendment to paragraph (i) of sub-section (1) of section *ten* of the principal Act, in terms of which interest on $4\frac{1}{2}$ per cent Seven Year Treasury Bonds (Conversion Issue) will be exempted up to R900 per annum in the case of any taxpayer.

Paragraph (b) introduces, by way of an amendment to paragraph (t) of the said sub-section, an exemption from tax in respect of the receipts and accruals of the South African Inventions Development Corporation.

CLAUSE NINE.

The amendment to paragraph (e) of section *eleven* of the principal Act which is introduced by paragraph (a) of this clause is consequential upon the amendment introduced by paragraph (b) of sub-clause (1) of clause *six*.

Paragraph (b) inserts a new paragraph, numbered (r)*bis*, in section *eleven* of the principal Act, in terms of which donations made by a company on or after 16th March, 1964, to the fund established under the National Study Loans and Bursaries Act, 1964, will, to the extent that such donations do not exceed 1 per cent of the taxable income of such company as calculated before allowing any deduction under the new paragraph (r)*bis*, be allowed to be deducted from the company's income.

Paragraph (c) introduces a textual amendment to the Afrikaans version of paragraph (t) of section *eleven* of the principal Act.

CLAUSE TEN.

This clause inserts new sections numbered 11*ter*, 11*quat* and 11*quin* in the principal Act. These sections introduce special incentive allowances for manufacturers and persons conducting operations of a similar nature to manufacturing, in Bantu areas or areas adjoining Bantu areas. The allowances, any of which may be granted in any particular case if the Minister of Finance, having regard to the circumstances and the recommendation of the Secretary for Bantu Administration and Development or the Secretary for Commerce and Industries, as the case may be, so directs, are as follows.

Section 11*ter* provides for an allowance equal to 10 per cent of the expenditure incurred by the taxpayer on or after 1st May, 1964, directly (a) in respect of the cost of electric power or water supplied to the taxpayer in a Bantu area or an area adjoining a Bantu area and used by him in the course of his manufacturing or similar trade (in such area) or (b) in respect of the cost of the transportation in the Republic for the purposes of such trade of raw materials, goods, animals or articles used by the taxpayer in the course of such trade (in such area) or of goods or articles manufactured or produced in the course of such trade (in such area), provided such cost ranks for deduction from the taxpayer's income under the provisions of section *eleven* of the principal Act. The allowance under section 11*ter* will be available for such years of assessment as the Minister of Finance, having regard to the circumstances of the case, may direct and will be additional to the relevant costs deductible under section *eleven* of the principal Act.

Section 11*quat* provides for an allowance for additional or abnormal administrative or manufacturing costs (or additional or abnormal costs incurred in operations similar to manufacturing) incurred by the taxpayer during the relevant year of assessment in consequence of the transfer to any Bantu area or any area adjoining a Bantu area, of a factory formerly situated elsewhere than in such an area, or in consequence of the establishment of a factory in such an area under any scheme of expansion of any factory situated elsewhere than in such an area, provided such costs rank for deduction from the taxpayer's income under the provisions of section *eleven* of the principal Act. The amount to be allowed in any case will be additional to the amount allowed under section *eleven* and is to be determined by the Secretary for Bantu Administration and Development or the Secretary for Commerce and Industries, depending on whether the factory is transferred to or established in a Bantu area or an area adjoining a Bantu area. The allowance may be made for a maximum of five years of assessment, reckoned from the year of assessment during which the factory was transferred or established, as the case may be.

Section 11*quin* provides for an allowance in respect of expenditure incurred by the taxpayer in connection with the erection or acquisition of any dwelling for the exclusive occupation of employees or the households of employees of the taxpayer—in lieu of any allowance in respect of such expenditure under the provisions of paragraph (t) of section *eleven* of the principal Act.

The allowance, which may be granted for a maximum of ten years of assessment, will be such amount as the Minister of Finance may direct, but not exceeding 35 per cent of the said expenditure in respect of the year of assessment during which the dwelling is completed or 10 per cent of such expenditure in respect of each of the succeeding nine years of assessment.

If after the erection of a dwelling contemplated by section 11quin the dwelling is disposed of by the taxpayer, no allowance will be made under that section in respect of the year of assessment during which the dwelling is disposed of or any subsequent year of assessment. The allowance will not be made in respect of any year of assessment during which the dwelling in question is for any portion of such year occupied by a non-employee of the taxpayer who is not a member of the household of such employee.

Special provision is made in paragraph (a) of sub-section (2) of the new section 11quin for the case of a company mainly engaged in the provision of housing facilities for employees of its sole or principal shareholder and, in terms of paragraph (b) of that sub-section, for the exclusion from the term "employee" of relatives of the taxpayer, or if the taxpayer is a company, of shareholders of the taxpayer and relatives of such shareholders.

Section 11quin should be read with the amendment to section eight of the principal Act introduced by paragraph (a) of sub-clause (1) of clause six.

CLAUSE ELEVEN.

This clause substitutes a new section for section twelve of the principal Act, which provides for special deductions in respect of machinery or plant used in a process of manufacture or certain machinery, plant, implements, utensils and articles used by hotelkeepers. In terms of the amendments increased deductions may be made where the machinery, plant, implements, utensils or articles, as the case may be, are brought into use in a Bantu area or an area adjoining a Bantu area on or after 1st May, 1964. The increased deductions, which must be authorized by the Minister of Finance, having regard to the circumstances of the case and to the recommendation of the Secretary for Bantu Administration and Development or the Secretary for Commerce and Industries, are as follows:

The maximum *initial allowance* under sub-section (1) of section twelve (or that sub-section as applied by sub-section (3) of that section) is increased by 15 per cent of the cost of the relevant machinery, plant, implements, utensils or articles. Where the relevant machinery, plant, implements, utensils or articles are new or unused or where no initial allowance has previously been made in respect thereof, the initial allowance will be between 15 and 30 per cent of the cost thereof. Where an initial allowance has previously been made in respect of new or unused machinery, plant, implements, utensils or articles the maximum further initial allowance in respect thereof as used machinery, plant, implements, utensils or articles will be 15 per cent of the cost thereof.

The maximum *machinery investment allowance* under sub-section (2) of section twelve (or that sub-section as applied by sub-section (3) of that section) is increased by 5 per cent of the cost of the relevant machinery, plant, implements, utensils or articles. Where the relevant machinery, plant, implements, utensils or articles are new or unused or where no investment allowance has previously been made in respect thereof, the machinery investment allowance will be between 20 per cent and 35 per cent of the cost thereof. Where a machinery investment allowance has previously been made in respect of new or unused machinery, plant, implements, utensils or articles the maximum further machinery investment allowance in respect thereof as used machinery, plant, implements, utensils or articles will be 15 per cent of the cost thereof.

The allowances in respect of machinery, plant, implements, utensils or articles brought into use in an area other than a Bantu area or an area adjoining a Bantu area remain unchanged.

In terms of the amendment to sub-section (4) of section twelve the cost of used machinery, plant, implements, utensils or articles is, for the purpose of calculating both the initial and the machinery investment allowances, deemed to be the actual cost thereof less the aggregate of the amounts allowed to be deducted in respect thereof under paragraph (e) of section eleven (wear and tear allowance)

and any initial allowance allowed to be deducted in respect thereof as new or unused machinery, plant, implements, utensils or articles under sub-section (1) of section *twelve* (or the provisions corresponding to the said provisions in any previous Income Tax Act).

CLAUSE TWELVE.

This clause amends section *thirteen* of the principal Act, which provides for a building investment allowance to be made in certain circumstances in respect of buildings erected by manufacturers and hotel keepers, or in respect of improvements to such buildings. Where the relevant building is situated in a Bantu area or an area adjoining a Bantu area an enhanced allowance, at present not exceeding 20 per cent of the cost of the buildings or improvements, may be granted. In terms of the amendment introduced by this clause such enhanced allowance may, if the erection of the building was, or the improvements were, commenced on or after 1st May, 1964, be increased to 25 per cent of the cost of such building or improvements, as the case may be.

The building investment allowance under section *thirteen* in respect of buildings erected elsewhere than in a Bantu area or an area adjacent to a Bantu area remains unchanged.

CLAUSE THIRTEEN.

This clause inserts a new sub-section, numbered (1)*bis*, in section *twenty* of the principal Act, in terms of which any balance of assessed loss incurred by an overseas parent company in respect of any industrial, commercial or other business undertaking of that company in the Republic may, if such undertaking is transferred to a wholly-owned South African subsidiary company of such overseas company and the Secretary is satisfied that the circumstances of the case warrant the concession, be allowed to be set off against the income of the subsidiary company instead of against the income of the overseas parent company. The provisions of the new sub-section (1)*bis* will not apply unless the overseas parent company is registered, managed and controlled outside the Republic and the subsidiary company is registered, managed and controlled in the Republic.

CLAUSE FOURTEEN.

This clause amends sub-section (4) of section *twenty-two* of the principal Act, which contains provisions in regard to the amounts to be taken into account for income tax purposes in respect of values of trading stocks.

In terms of the proviso added by this clause options or other rights to acquire shares which have been acquired for no consideration or for a consideration which is not measurable in terms of money, will for income tax purposes have no value as stock-in-trade.

CLAUSE FIFTEEN.

This clause amends section *thirty-six* of the principal Act, which contains provisions in regard to the deduction of capital expenditure by mines.

Paragraph (a) substitutes a new sub-section for sub-section (3)*bis* of the said section, which provides the basis for the deduction of capital expenditure by other deep level gold mines. In terms of the proviso now added to the said sub-section the taxpayer will, in the case of any other deep level gold mine (provided it is not a new gold mine) have the right to elect to be allowed, in lieu of the deductions under paragraph (a) or (b) of that sub-section, as a deduction from the income derived by him from the working of such mine an amount equivalent to 27½ per cent of the sum of the unredeemed balance of capital expenditure at the beginning of the relevant year of assessment and the capital expenditure incurred during that year, or the quotient resulting from dividing the said sum by the life of the mine, whichever is the greater.

Paragraph (b) inserts in sub-section (6) of the said section a reference to a natural oil deposit. The said sub-section provides for certain deductions of capital expenditure to be made in the case of mines other than copper mines in the

districts of Namaqualand and Letaba and other than gold or diamond mines. In terms of the amendment the deduction under sub-section (6) will also not apply in the case of natural oil deposits. The basis on which capital expenditure is deductible from income derived from natural oil deposits is provided in sub-section (2)*bis* of the same section.

Paragraph (c) inserts in sub-section (6) a new paragraph, numbered (b), which provides that the deduction under that sub-section of a percentage of the capital expenditure incurred by certain mines shall be allowed for the year of assessment during which the capital expenditure is incurred or, if at the end of that year of assessment the mine has not yet commenced production, for the year of assessment during which the mine commences production.

Paragraph (d) introduces an amendment to the definition of "capital expenditure" in sub-section (11) of the said section, in terms of which the rate of the capital allowance in the case of any new gold mine is increased from 5 to 6 per cent of the amount on which the allowance is calculated.

The amendments effected by this clause are effective from the commencement of the year of assessment ended 28th February, 1963.

CLAUSE SIXTEEN.

This clause introduces amendments to section *thirty-eight* of the principal Act, in terms of which certain changes are made in the rules laid down for the recognition for income tax purposes of companies as public companies.

The amendment introduced by *paragraph (a)* concerns companies all of whose equity shares are quoted on the specified date by a stock exchange. The requirement that the general public should throughout the year of assessment in question be interested either directly as shareholders in the company or indirectly as shareholders in any other public company, in more than 50 per cent of every class of equity shares issued by the company, has been altered in two respects. Firstly, an indirect interest of a member of the general public by virtue of a shareholding in any other company is now recognized, whether such other company is public or private and, secondly, the percentage of the equity shares of any class in which the general public must be interested is reduced from 50 to 40.

The amendment introduced by *paragraph (b)* concerns certain companies all classes of whose equity shares are not quoted on a stock exchange. In determining whether a member of the general public is interested in the shares of such a company by virtue of being a shareholder in another company, the requirement that such other company should be a public company has been relaxed by the deletion of the word "public".

Paragraph (c) introduces a textual amendment to sub-section (3) of the said section.

Paragraph (d) adds a new sub-section, numbered (4), to the said section.

Paragraph (a) of sub-section (4) excludes from the term "general public" in relation to any company, the directors of the company, certain relatives of such directors, the executor of the deceased estate or the trustee of the insolvent estate of any such director or relative, a trustee or nominee to the extent that he acts for the benefit of a person who is not a member of the general public in relation to the company, and the members of any family (comprising a man and his wife and their children) if one or more of them are (otherwise than through a direct or indirect interest in the issued share capital of a public company) directly or indirectly interested in altogether more than 15 per cent of any class of equity shares issued by the company.

Paragraph (b) of sub-section (4) includes in the term "general public" in relation to any company any benefit, pension, provident and retirement annuity funds and trusts or institutions which in the opinion of the Secretary for Inland Revenue are of a public character, and also trustees and nominees to the extent that they act for the benefit of members of the general public.

Paragraph (c) of sub-section (4) provides that where a public company or a member of the general public is indirectly interested in the shares of any company through being a shareholder in a private company, the extent of such public company's interest or of the interest of such member of the general public, as the

case may be, shall (unless the private company's interest is attributable to a direct or indirect interest in the issued share capital of a public company) be determined by the Secretary on the basis set out in that paragraph, i.e. on the assumption that any interposed companies were to be liquidated and their assets were, without regard to their liabilities, to be distributed among their shareholders.

Paragraph (d) of sub-section (4) provides that where persons are jointly interested (whether directly or indirectly but otherwise than through a direct or indirect interest in the issued share capital of a public company) in the share of any company, the extent of each such person's interest in such shares must be determined by the Secretary for Inland Revenue as if the joint interest were divided between the persons in question.

CLAUSE SEVENTEEN.

This clause introduces an amendment to the definition of "distributable income" in section *forty-nine* of the principal Act, in terms of which the rate of the allowance made for undistributed profits tax purposes in terms of paragraph (ii) of that definition is increased from 40 to 45 per cent of the amounts on which such allowance is calculated.

CLAUSE EIGHTEEN.

This clause introduces amendments to section *fifty-six* of the principal Act.

The amendments introduced by *paragraphs (a) and (b)* are of a textual nature.

At present paragraph (g) of sub-section (1) of section *fifty-six* of the principal Act provides for an exemption from donations tax in respect of donations of immovable property situated outside the Republic in certain circumstances. *Paragraph (c)* of this clause substitutes a new paragraph for the said paragraph (g) extending the scope of the exemption to the following categories of property (if situated outside the Republic), viz.—

- (a) movable property acquired by the donor before he first became ordinarily resident in the Republic (or, in the case of a company, before it was for the first time registered, managed or controlled in the Republic);
- (b) any property acquired by the donor by way of donation if at the date of such donation the person by whom the donation was made was a person (other than a company) not ordinarily resident in the Republic;
- (c) any property acquired by the donor out of funds derived by him from the disposal of property referred to in paragraph (a) or (b) above or of property acquired in substitution thereof or out of revenue derived from any such property; and
- (d) any property derived by the donor out of funds derived by him from any trade carried on by him outside the Republic.

CLAUSE NINETEEN.

The amendments introduced by this clause to section *sixty-six* of the principal Act are consequential upon the amendment to section *five* of the principal Act introduced by clause *five*.

Sub-section (13) of section *sixty-six* prescribes the returns of income to be made—

- (a) by any taxpayer, including a company, in respect of the year of assessment ended 30th June, 1962; and
- (b) by those individual taxpayers, consisting of certain farmers, fishermen and diamond diggers who in terms of sub-paragraph (i) of paragraph (b) of sub-section (1) of section *five* of the principal Act have a year of assessment ending on the 30th of June each year from 1963 onwards.

Sub-sections (13)bis and ter of section *sixty-six* prescribe the returns of incomes to be made by individual taxpayers having a year of assessment ending in February each year, including the transition periods of assessment referred to in sub-paragraph (ii) of paragraph (b) of sub-section (1) of section *five* and sub-paragraph (i) of paragraph (c) of that sub-section.

CLAUSE TWENTY.

This clause deletes sub-section (3) of section *seventy* of the principal Act. The provisions of that sub-section, requiring a private company to furnish annually within thirty days of the last day of February a return of its shareholders at the specified date of such company, have become redundant.

CLAUSE TWENTY-ONE.

This clause introduces an amendment to section *eighty-three* of the principal Act. The purpose of the amendment is to confirm existing practice by removing any doubt as to the Republic-wide jurisdiction of the special courts for hearing income tax appeals.

CLAUSE TWENTY-TWO.

The amendment to section *Eighty-nine* of the principal Act introduced by this clause concerns the accounting procedure followed by the Secretary for Inland Revenue in regard to taxpayers' liabilities for normal tax and provincial income and personal taxes. This amendment must be read with the amendment introduced to paragraph 28 of the Fourth Schedule to the principal Act by paragraph (a) of sub-clause (1) of clause *twenty-nine*.

Provisional tax payments will, in terms of the new procedure, be credited against the taxpayer's liability for normal, provincial income and personal taxes upon assessment of his liability for such taxes in respect of the year of assessment in respect of which such payments have been made or upon a date falling not later than one hundred and twenty days after the end of such year (or after the end of the taxpayer's accounting period, if such period ends after the end of such year), whichever is earlier. In terms of sub-clause (2) of this clause the amendment will apply in respect of provisional tax payments made on or after 1st February, 1964, i.e., the date on which the new accounting procedure was initiated.

CLAUSE TWENTY-THREE.

This clause introduces amendments to the definitions in paragraph 1 of the Second Schedule to the principal Act, which regulates the taxation of lump sum benefits accruing from pension, provident and retirement annuity funds (hereinafter referred to as funds).

Paragraph (a) amends the definition of "formula B", which is used to determine the deduction to be made in respect of lump sum benefits accruing from funds upon retirement of a member or which are deemed to have been derived by him immediately before death. At present a deduction may, in terms of the formula, be made in respect of contributions made by the taxpayer to a provident fund. The amendment extends the said deduction to such pension fund contributions made by the taxpayer as were not allowable as a deduction against the taxpayer's income in terms of paragraph (k) of section *eleven* of the principal Act (or the corresponding provisions of any previous Income Tax Act).

Paragraph (b) amends the definition of "retire". Paragraph (b) of that definition lays down the condition that before a member of a provident fund can be regarded as having retired he must retire from employment and become entitled to the payment of full benefits in terms of the rules of the fund. Where, upon the member's retiring prematurely from employment on the grounds of ill-health or on reaching the age of fifty-five years in the case of a male or fifty years in the case of a female, a policy of insurance is ceded by the provident fund to the member, the surrender value of such policy will, in terms of the amendment, be regarded as constituting "full benefits" for the purposes of the definition. The definition of "retire" is of importance in determining whether the deductions permissible in the case of retirements should be made instead of the much lower deductions applicable upon resignation or withdrawal of a member.

CLAUSE TWENTY-FOUR.

This clause introduces amendments to paragraph 4 of the Second Schedule to the principal Act.

Paragraph (a) of this clause amends sub-paragraph (2) of the said paragraph. In terms of the present provisions of the said sub-paragraph if, upon a member's withdrawal or resignation from or the winding up of a pension, provident or retirement annuity fund, a policy of insurance is ceded or otherwise made over to the member, any lump sum due upon maturity or surrender of the policy is deemed to be a lump sum benefit accruing to such member. In terms of the amendment the provisions of the said paragraph will apply only in cases where the cession or making over of the insurance policy occurs before the date of promulgation of the Income Tax Act, 1964, and the policy matures or is surrendered before that date.

Where an insurance policy is ceded or made over to a member of any afore-said fund on or after the said date of promulgation, the provisions of the new sub-paragraph (2)*bis*, which is inserted by *paragraph (b)* of this clause, will apply. In terms thereof the surrender value of such policy is deemed to be a lump sum benefit accruing to the member on the date of cession or making over.

CLAUSE TWENTY-FIVE.

Paragraph 5 of the Second Schedule to the principal Act provides for deductions to be made for income tax purposes against lump sum benefits accruing to a taxpayer from a pension, provident or retirement annuity fund upon his retirement or which are deemed to have accrued to him immediately before his death. In terms of item (a) of sub-paragraph (2) of that paragraph a minimum deduction of four thousand rand is applicable "if the taxpayer is or was a member of a provident fund from which any lump sum benefit was or may be derived in consequence of or following upon his retirement on or after the fifteenth day of March, 1961". It is not the intention that such deduction should apply in a case where the provident fund has become a pension fund and the amendment is designed to remove any doubt in this regard.

CLAUSE TWENTY-SIX.

This clause substitutes a new paragraph for paragraph 6 of the Second Schedule to the principal Act.

Under the present provisions of the said paragraph, where a member withdraws or retires from a pension fund or such fund is wound up, and such member does not pay the lump sum benefits received by him from such fund into another approved pension fund or retirement annuity fund the maximum deduction that may be made against the lump sum benefits derived by him is R600, whereas in the case of a member of a provident fund who, in similar circumstances, does not pay his lump sum benefits from the provident fund into another approved fund, the maximum deduction is the sum of his own contributions to the fund or R600, whichever amount is greater.

In terms of paragraph 6, as now amended, so much of a member's contributions to a pension fund as did not rank for deduction from his income under paragraph (k) of section *eleven* of the principal Act will, in determining the maximum deduction under paragraph 6, be taken into account on a basis similar to that on which a member's contributions to a provident fund are taken into account.

In terms of the second proviso to the new paragraph 6, where a taxpayer, on his withdrawal or resignation from a pension, provident or retirement annuity fund, receives an insurance policy from such fund, the surrender value of such policy will not be taxed provided he cedes the policy to another approved fund or pays into such other fund an amount equal to such surrender value.

CLAUSE TWENTY-SEVEN.

In terms of the amendment to paragraph 17 of the Fourth Schedule to the principal Act introduced by this clause the Secretary for Inland Revenue is authorized to prescribe tables for optional use by provisional taxpayers for the purpose of estimating the liability of such taxpayers for normal and provincial taxes.

CLAUSE TWENTY-EIGHT.

This clause amends paragraph 18 of the Fourth Schedule to the principal Act, in terms of which exemptions are provided from the payment of provisional tax.

At present an exemption is provided where the taxpayer has not during any period in respect of which provisional tax would normally be payable by him derived any income apart from remuneration, rents, interest, dividends, and certain other amounts provided the Secretary for Inland Revenue is satisfied that the taxpayer's taxable income during such period by way of rents, interest, dividends and certain directors' fees will not exceed four hundred rand.

This exemption has been re-worded by this clause and will apply in the case of any person (other than a company or a director of a private company) who satisfies the Secretary for Inland Revenue that apart from remuneration and certain other amounts not normally derived by income tax payers, he will not during the relevant period derive a taxable income in excess of five hundred rand.

CLAUSE TWENTY-NINE.

This clause introduces amendments to paragraph 28 of the Fourth Schedule to the principal Act.

The amendment introduced by paragraph (a) has been dealt with in this Memorandum in connection with clause *twenty-two*.

Paragraph (b) adds a new sub-paragraph, numbered (7), to paragraph 28, providing for the recovery by the Secretary for Inland Revenue of amounts refunded by him under the "Pay-As-You-Earn" scheme of income tax collection in cases where such amounts are not properly refundable or are in excess of the proper amounts required to be refunded under the provisions of paragraph 28.

CLAUSE THIRTY.

This clause introduces textual amendments to the principal Act and other Acts relating to income tax.

CLAUSE THIRTY-ONE.

This clause provides for the commencement of certain amendments.

CLAUSE THIRTY-TWO.

This clause prescribes the short title.

THE SCHEDULE.

The Schedule enacts the rates of tax referred to in clause *one*. A discount of 5 per cent is provided in respect of the normal tax payable by persons other than companies.