
REPUBLIC OF SOUTH AFRICA.

EXPLANATORY MEMORANDUM

ON THE

INCOME TAX BILL, 1968.

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GENERAL.

The Bill fixes rates of *normal tax*—

- (a) for individuals in respect of the years of assessment ending on 28th February, 1969, and 30th June, 1969;
- (b) for companies in respect of years of assessment ending during the period of twelve months ending on 31st March, 1969.

The rates of tax for companies apply in respect of all kinds of taxable income, excluding taxable income derived from mining for natural oil. The rates in respect of taxable income derived from mining for natural oil were fixed in 1967 and do not require to be re-enacted annually.

The Bill introduces amendments to the Income Tax Act, 1962 (Act No. 58 of 1962), hereinafter referred to as the principal Act. The amendments relate mainly to the following matters:—

- (1) The taxation of *assisted gold mines* (clauses 5 (a), 8 (1) (e), 13, 14 and 16).
- (2) A deduction to lessors of farming properties in respect of the cost of *soil erosion works* (clauses 5 (b) and 11).
- (3) The *rating amount* applicable in respect of certain married couples (clause 6).
- (4) An increase in the *rebates for children* (clause 7).
- (5) *Exemptions*: the introduction of certain new exemptions from normal tax (clause 8 (1) (a), (b), (c) and (e)) and the non-residents tax on interest (clause 15) and an amendment to section 10 (1) (x) of the principal Act defining the circumstances in which the exemption under that provision will be applicable (clause 8 (1) (d)).
- (6) The manner in which the deduction in respect of contributions to a *retirement annuity fund* may be made (clause 9 (a)).
- (7) The extension of the period for making an allowance to employers who incur expenditure or donate or advance money in connection with the *housing of employees* (clause 9 (b)).
- (8) An increase in the *exporters' allowance* (clause 10).
- (9) An increase in the maximum amounts allowed to be deducted from income in respect of *medical expenses* (clause 12).

CLAUSE 1.

Rates of Normal Tax.

This clause enacts the rates set forth in the Schedule to the Bill in respect of—

- (a) individuals for the years of assessment ending on 28th February, 1969, and 30th June, 1969; and
- (b) companies (other than oil mining companies) for years of assessment ending during the period of twelve months ending on 31st March, 1969.

CLAUSE 2.

Accrual to the Provinces of a Portion of the Normal Tax Payable by Certain Companies.

In terms of this clause a portion of the normal tax payable by companies on taxable income derived otherwise than from mining operations 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 the proportions determined by proclamation. The portion so accruing to the provinces will be 15 per cent of the normal tax payable before the addition of the surcharge or the loan portion of the normal tax.

CLAUSE 3.

Calculation of Provincial Income Tax.

In terms of this clause the provincial income taxes payable by individuals in respect of the year of assessment ending on 28th February, 1969, or 30th June, 1969, whichever is applicable, will be calculated on the amount payable by way of normal tax under paragraph 1(a) of the Schedule to the Bill after the deduction of the rebates provided for in sections 6 and 6 bis of the principal Act. The provincial income taxes will not be payable on the loan portion of the normal tax imposed by paragraph (1) (h) of the Schedule.

CLAUSE 4.

The loan portion of the Normal Tax.

This clause contains provisions in regard to the assessment and repayment of the portion (called the loan portion) of the normal tax payable by persons other than companies under paragraph 1 (h) of the Schedule to the Bill and by companies under paragraph 1 (i) of the Schedule.

Subclause (2) provides that liability for the unpaid amount of the loan portion is to cease when the person liable therefor dies or becomes insolvent or, in the case of a company, is placed under liquidation or when such person leaves the Republic permanently and ceases to carry on business in the Republic, or, in the case of a woman who marries, in respect of any period of assessment ending before her marriage. This subclause further provides that the estate of a deceased or insolvent person (but not a testamentary trust) will not be liable for the loan portion in respect of income accruing to such estate. Further exemptions are provided in the case of certain owners or charterers of ships or aircraft who are assessed to tax under section 33 of the principal Act, in the case of persons (other than companies) who are not ordinarily resident nor carrying on business in the Republic, and in the case of companies which are not registered and do not carry on business in the Republic.

In terms of *subclause (3)* the loan portion will not be payable on any amount payable by way of additional tax in terms of section 76 of the principal Act or paragraph 20 of the Fourth Schedule to that Act.

Subclause (4) provides for collections in respect of the loan portions of the normal tax to be paid into the loan account referred to in the General Loans Act, 1961 (Act No. 16 of 1961), for refunds (other than repayments under *subclause (6)*) to be paid by way of a drawback on amounts accruing to the loan account and for repayments under *subclause (6)* to be charged to the loan account.

Subclause (5) requires the Secretary to issue to every person who has paid the loan portion of the normal tax a statement of the amount of such loan portion paid by him. The statement, which will not as such be redeemable or transferable, is to be issued not later than the date for repayment

determined by the Minister of Finance under subclause (6), but need not be issued if the loan portion is repaid before that date.

Subclause (6) requires the Minister of Finance to determine a date, not being later than 29th February, 1976, after which the loan portion of the normal tax is to be repaid to the person by whom it was paid. The loan portion may, however, be repaid before that date in the event of the death, insolvency or liquidation (in the case of a company) of the person concerned before the date so determined.

Subclause (7) provides for simple interest to be paid on the loan portion at the rate of five per cent per annum, but such interest will not be payable until the loan portion is repaid.

Subclause (8) empowers the Secretary to appropriate tax payments and credits to the loan portion and deems the amounts so appropriated to have been paid—

- (a) in the case of a person who has had employees tax deducted or withheld from his remuneration during the year of assessment and is either not required to pay provisional tax in respect of such year or has made satisfactory arrangements for increased deductions by way of employees tax to cover his liability for provisional tax in respect of such year, on the first day of September, 1968; or
- (b) in the case of a person who has during the year of assessment paid directly by way of provisional tax the first amount due by him under the relevant provisions of the Fourth Schedule to the principal Act in respect of provisional tax for the year of assessment, on the first day of the month during which he paid such amount; or
- (c) in any other case (e.g. a person who is not an employee nor a provisional taxpayer), on such date as the Secretary, having regard to the payments made, may determine.

The date of payment, as so deemed, will be the date from which interest is calculated as provided by subclause (7).

Subclause (9) exempts from stamp duty any receipt given by any person for the repayment to him of the loan portion of the normal tax.

Subclause (10) empowers the State President to make regulations in order that the objects of this clause may be achieved.

Subclause (11) authorizes the State President to determine a date after which assessments for the loan portion of the normal tax shall not be issued.

Subclause (12) deems the provisions of this clause to have come into operation on the first day of March, 1968.

CLAUSE 5.

Definitions.

Paragraph (a) of this clause introduces a definition of "assisted gold mine" in section 1 of the principal Act. This amendment should be read with clauses 8 (1) (e), 13, 14 and 16 and also paragraph 1 (c) of the Schedule to the Bill.

Paragraph (b) introduces an amendment to paragraph (l) of the definition of "gross income" in section 1 of the principal Act. In terms of the amendment a grant or subsidy in respect of soil erosion works received by or accrued to a lessor of a farm will constitute gross income in his hands if the cost of such works rank for deduction under the new section 17A of the principal Act introduced by clause 11.

CLAUSE 6.

Rating Amount in the Case of Married Couples.

This clause introduces amendments to the provisions of section 5 (4) of the principal Act in regard to the rating amount applicable in the case where both husband and wife derive income. In terms of the amendments—

- (a) where the combined taxable income does not exceed R3,000, the rating amount will generally be an amount equal to the greater of the husband's and wife's portions thereof;
- (b) where the combined taxable income exceeds R3,000 but not R8,000, the rating amount will generally be an amount equal to the greater of the husband's and wife's portions thereof plus two-fifths of the lesser of those portions;
- (c) where the combined taxable income exceeds R8,000, the rating amount is increased by the amount by which the combined taxable income exceeds R8,000. The rating amount may not, however, exceed an amount equal to the combined taxable income.

CLAUSE 7.

Rebates for Children.

In terms of the amendment to section 6 of the principal Act, which is introduced by this clause, the rebate for each of the first two children of a taxpayer is increased from R34 to R35 and for each child in excess of two, from R39 to R45.

CLAUSE 8.

Exemptions from Normal Tax.

This clause introduces amendments to section 10 of the principal Act, in regard to exemptions from normal tax.

Paragraph (a) of subclause (1), which amends section 10 (1) (i) of the principal Act, introduces new exemptions in respect of annual interest on Six per cent Treasury Bonds (limited in the case of any taxpayer to R2,400) (see subparagraph (xi)) and dividends on Six and a half per cent Special Tax-Free Indefinite Period shares in building societies (limited in the case of any taxpayer to R400 in any year of assessment) (see subparagraph (xiii)). The exemption in respect of such building society dividends is to apply only in respect of dividends becoming payable on or before 31st March, 1971.

In terms of the amendment introduced by *paragraph (b)* of subclause (1) to section 10 (1) (r) of the principal Act, the Treasury is empowered to declare retiring gratuities payable to members of the board of the South African Land and Agricultural Bank of South Africa to be free of tax.

In terms of the amendment introduced by *paragraph (c)* of subclause (1) to section 10 (1) (t) of the principal Act the receipts and accruals of the South African Gas Distribution Corporation Limited will, with effect from the date of registration of the Corporation, be exempt from normal tax.

The amendment introduced by *paragraph (d)* of subclause (1) to section 10 (1) (x) of the principal Act, is designed to remove certain doubts which have arisen as to the circumstances in which the exemption under that provision are applicable. The exemption will generally be applicable where an employee receives a lump sum at or towards the end of his or her period of employment or as the result of the variation of the terms of his or her employment or in certain other circumstances, provided the employee has reached the age of 55 years (or 50 years in the case of a woman) or has reached the age of superannuation or has become entitled to the lump sum as a result of ill health or other infirmity or, in the case of a woman, she has retired in order to be married.

In terms of the amendment introduced by *paragraph (e)* of subclause (1), an exemption is introduced in respect of any amount which is received by or accrues to a company under the provisions of the Gold Mines Assistance Act, 1968.

CLAUSE 9.

Deductions from Income.

The amendment introduced by *paragraph (a)* of this clause to section 11 (n) of the principal Act defines the circumstances in which contributions

to a retirement annuity fund may be deducted from income. In terms of the amendment the contributions must be made by a person who is a member of the fund and who has during the year of assessment carried on a trade. Persons who, in accordance with the general practice of the Secretary for Inland Revenue immediately prior to the date of commencement of the Income Tax Act, 1968, are entitled to deduct their contributions to such a fund, will continue to be allowed the deduction, but subject to the limitation mentioned hereunder.

In all cases the deduction will in any year of assessment be limited to the lesser of the following amounts, namely—

- (a) R2,000 less any contributions to a pension fund allowed under section 11 (k) of the principal Act; or
- (b) an amount equal to the taxpayer's trade income for the year of assessment less the deductions admissible against such income under the principal Act, excluding section 11 (n) (retirement annuity fund contributions), section 17A of that Act (cost of soil erosion works) and paragraph 12 (1) (c) to (i), inclusive, of the First Schedule to that Act (certain capital expenditure allowed to farmers).

Any amount disallowed as a deduction solely by virtue of paragraph (ii) of the proviso to section 11 (n) (explained in paragraph (b) above) will be carried forward to the succeeding year of assessment and be dealt with as a current contribution to the fund in question during that year.

In terms of the amendment introduced by paragraph (b) of this clause to section 11 (t) of the principal Act, the period within which the deduction in respect of employees' housing may be made is extended for three years, to 31st December, 1971.

CLAUSE 10.

Exporters' Allowance.

In terms of the amendments introduced by this clause to section 11bis of the principal Act, the exporters' allowance is increased as shown in the table:—

	Rate of Allowance, calculated on market development expenditure	
	Present Allowance	New Allowance
1. <i>Basic allowance</i> , irrespective of export turnover	37½%	50%
2. <i>Enhanced allowance</i> . Where current export turnover exceeds basic export turnover—		
(a) by more than 10% but not more than 25% of basic export turnover	50%	62½%
(b) by more than 25% of basic export turnover.	62½%	75%

CLAUSE 11.

Cost of Soil Erosion Works incurred by Lessors of Farms.

This clause introduces a new section, numbered 17A, into the principal Act, in which provision is made for the deduction of the cost of soil erosion works incurred by the lessor of a farm. *Bona fide* pastoral, agricultural or other farming operations must be carried on on the farm and a certificate by the Secretary for Agricultural Technical Services must be produced to the effect that the soil erosion works have been approved under the provisions of the Soil Conservation Act, 1946 (Act No. 45 of 1946). The amount allowed to be deducted in any year of assessment is limited to an amount

sufficient only to reduce the taxable income derived by the lessor from letting *bona fide* farming property to zero; the excess amount disallowed will, however, be carried forward and may be allowed in the next succeeding year of assessment.

Any subsidy derived by the lessor in respect of the soil erosion works will, in terms of the amendment introduced by clause 5 (b), constitute gross income in his hands.

CLAUSE 12.

Medical Expenses.

In terms of the amendment introduced by this clause to section 18 of the principal Act the maximum amount allowable as a deduction in respect of fees paid to dentists, medical practitioners, nursing homes or hospitals is increased to R250 or, if a child is born to the taxpayer during the year of assessment, to R350.

CLAUSE 13.

Assessed Losses.

In terms of the amendment introduced by this clause to section 20 of the principal Act, any assessed loss incurred during a year of assessment in respect of an assisted gold mine must be reduced by any "mining loss" incurred during that year in respect of such mine, as determined under the Gold Mines Assistance Act, 1968. In terms of the latter Act a payment may be made by the State in respect of such mining loss.

CLAUSE 14.

Deductions in respect of Mines.

The amendments introduced by this clause to section 36 of the principal Act relate to the deduction of capital expenditure in the case of assisted gold mines.

Paragraph (b) of subclause (1) introduces a new subsection, numbered (3)ter, in terms of which, when a gold mine becomes an assisted gold mine during a year of assessment, the unredeemed balance of capital expenditure at the beginning of that year plus the actual capital expenditure incurred during that year will be deducted in that year and the actual capital expenditure incurred during any subsequent year of assessment will be deducted in such subsequent year.

In terms of the amendment introduced by *paragraph (d)* of subclause (1) to the definition of "capital expenditure" in section 36 (11) of the principal Act, a gold mine which during a year of assessment is an assisted gold mine will not in respect of that year be entitled to the capital allowance provided for in *paragraph (c)* of the said definition.

The other amendments introduced by this clause are of a consequential nature.

CLAUSE 15.

Exemption: Non-Residents Tax on Interest.

In terms of the amendment introduced by this clause to section 64C of the principal Act an exemption from the non-residents tax on interest is introduced in respect of dividends on Six and a half per cent Special Tax-Free Indefinite Period shares in any building society, provided the dividend accrues to a natural person on or before 31st March, 1971.

CLAUSE 16.

Returns of Income to be furnished in respect of Assisted Gold Mines.

In terms of the amendment introduced by this clause to section 67 of the principal Act, where a mine ceases during a year of assessment to be

classified as an assisted gold mine, separate returns of income must be furnished in respect of (a) the period ending on the day preceding the day from which the mine ceased to be so classified and (b) the remainder of the year of assessment. Such separate returns will be required to be assessed as though the periods covered thereby were separate years of assessment.

CLAUSE 17.

Commencement of Certain Amendments.

In terms of this clause the amendments effected by the Bill will, generally speaking, first take effect in respect of assessments for the year of assessment ending on 28th February, 1969. Where amendments first take effect from an earlier year of assessment, special provision is made in the Bill.

CLAUSE 18.

This clause prescribes the short title.

THE SCHEDULE

The Schedule lays down the rates of normal tax referred to in clause 1.

The rates for persons other than companies are set forth in items (a) and (h) of paragraph 1, the tax payable in terms of item (h) being the loan portion of the normal tax referred to in clause 4.

The rates for companies are set forth in items (b) to (g), inclusive, and in item (i) of paragraph 1, the tax payable in terms of item (i) being the loan portion referred to in clause 4.