REPUBLIC OF SOUTH AFRICA

EXPLANATORY MEMORANDUM

ON THE

INCOME TAX BILL, 1981

[W.P. 13—'81]

ISBN 0 621 07172 2

REPUBLIC OF SOUTH AFRICA

EXPLANATORY MEMORANDUM ON THE INCOME TAX BILL, 1981

INTRODUCTION

The Bill fixes rates of normal tax payable by individuals and companies and introduces amendments to the Income Tax Act, 1962 (Act No. 58 of 1962), hereinafter referred to as the principal Act.

CLAUSE 1 AND THE SCHEDULE

Rates of Normal Tax

Rates of normal tax are enacted by clause 1 and the Schedule to the Bill.

Individuals

The rates for persons (other than companies) apply in respect of the year of assessment ending on 28 February 1982, or 30 June 1982, and are provided for in paragraph 1 *(a)* of the Schedule. The tax is calculated on taxable income and a single rate is fixed in respect of both married and unmarried persons. In the case of persons who are not married persons and whose taxable incomes do not exceed R28 000, a surcharge is added equal to 20 per cent of the tax calculated in accordance with the table, after deducting an amount equal to the rebates to which the taxpayer is entitled. In the case of persons who are not married persons and whose taxable incomes exceed R28 000, the total tax payable is the amount of tax calculated as aforesaid on a taxable income of R28 000, plus an amount equal to 50 per cent of the amount by which the taxable income exceeds R28 000.

Companies

The rates for companies apply in respect of years of assessment, i.e. financial years, ending during the twelve-month period from 1 April 1981 to 31 March 1982, and are provided for in paragraph 1 *(b)* to *(g)*, inclusive, of the Schedule. Those rates are as follows:

(a) Taxable income derived otherwise than from mining: 40 cents per R1 (paragraph 1 *(b)* of the Schedule). To the tax determined as above is added a surcharge of 5 per cent of such tax (proviso to paragraph 1 *(b)*).

(b) Taxable income derived from gold mining—

(i) by any mine other than a post-1966 gold mine: an amount determined in accordance with one of the formulae provided for in paragraph 1 *(c)* of the Schedule plus a surcharge (which is not payable in the case of certain assisted gold mines) equal to 5 per cent of the said amount (third proviso to the said paragraph 1 *(c)*);

(ii) by a post-1966 gold mine: an amount determined in accordance with one of the formulae provided for in paragraph 1

(d) of the Schedule, plus a surcharge of 5 per cent of the said amount (second proviso to the said paragraph 1 *(d)*).

(c) Taxable income in the form of "recoupments" of capital expenditure accruing to companies which are or have been gold mining companies: the average rate of tax, as determined in accordance with paragraph 2 (2) of the Schedule, or 35 cents per R1, whichever is higher (paragraph 1 *(e)* of the Schedule).

(d) Taxable income from diamond mining: a basic tax of 45 cents per R1, plus a surcharge equal to 5 per cent of the basic tax (paragraph 1 *(f)* of the Schedule).

(e) Taxable income from mining operations (other than mining for gold or diamonds): 40 cents per R1 (paragraph 1 *(g)* of the Schedule). To the tax determined as above is added a surcharge of 5 per cent of such tax (proviso to subparagraph *(g)*). (These rates apply also to taxable income from oil mining. A further levy, by way of additional normal tax, is provided for in respect of such taxable income in terms of section 5 (2A) of the principal Act).

CLAUSE 2

Definitions: Amendment to section 1 of the principal Act

This clause introduces an amendment to the definition of *"retirement annuity fund"* in terms of which the requirement that contributions to such a fund should be periodical is deleted. A lump-sum contribution will, with effect from the year of assessment ending on 28 February 1982, also be permissible.

CLAUSE 3

Secrecy: Amendment to section 4 of the principal Act

The amendment is of a textual nature, the Department of Inland Revenue having become a directorate in the Department of Finance.

CLAUSE 4

Rating formula: Amendments to section 5 of the principal Act

Section 5 (10) of the principal Act provides a formula which is applied in various circumstances where items of taxable income are subjected to normal tax at a special rate, e.g. in the case of farmers who elect to pay tax at equalised rates. *Clause 6* introduces an amendment to section 7A of the principal Act providing for a reduced rate of tax to be applicable in respect of the taxable portion of certain retirement gratuities. That amendment should be read with the amendments introduced by this clause. The effect of the amendments, read together, is that such a gratuity will be taxed at the effective rate applicable to the taxpayer's other income and not at full marginal rates. The amendments are to apply as from the year of assessment ending on 28 February 1982.

CLAUSE 5

Rebates: Amendment to section 6 of the principal Act

In terms of the amendment introduced by this clause a rebate of R80 is to be granted to persons over the age of 70. The rebate is reducible on a time apportionment basis if the period assessed is less than 12 months. It is

to be allowable in addition to any other rebates to which the taxpayer concerned is entitled and is to be granted as from the year of assessment ending on 28 February 1982.

CLAUSE 6

Retirement gratutities: Amendment to section 7A of the principal Act

In terms of the amendment introduced by this clause any bonus, gratuity or compensation paid to an employee upon or because of his impending retirement (within 5 years) will, to the extent that it is not exempt from tax, be subjected to an effective (usually reduced) rate of tax which is to be determined as provided in section 5 (10) of the principal Act, if the taxpayer has attained a minimum age of 55 years (50 in the case of a woman) or the Commissioner is satisfied that the termination or impending termination of the taxpayer's services is due to superannuation, ill-health or other infirmity or, where the taxpayer is a woman, she terminated her services in order to marry. The machinery for determining the tax in such cases is provided in section 5 (10), appropriate amendments to which are introduced by *clause 4*.

The amendments do not alter the right of a taxpayer to spread the bonus, gratuity or compensation over 3 years in the appropriate circumstances. Where spreading takes place the rating provisions will apply to each of the three instalments subject to tax. If spreading does not take place the rating provisions will apply to the gross amount in the year of accrual. See also *clause 8 (1) (k)*.

CLAUSE 7

Private company dividends: Tax avoidance: Insertion of sections 8C and 8D in the principal Act

The new sections introduced by this clause are designed to counter schemes for the avoidance of tax on potential dividends that could be payable out of the accumulated profits and reserves of private companies, by arranging a sale of such shares to a purchaser, usually a company, who then, after arranging for a dividend to be paid to the purchaser (such dividend being free of tax if the purchaser is a company), sells the shares at a loss which is claimed for tax purposes, the seller having in the meantime received a cash benefit equivalent to a considerable portion of the accumulated profits attributable to his shares as a component of the selling price received by him for the shares. In a clear-cut case the company in question is dormant and the profits of the company have already been siphoned off by way of loans. The operation described would, in relation to such a company and bereft of its technicalities, be aptly described as dividend stripping. At the other extreme a fully operational company employing all its assets in its business would not be an appropriate subject of such an operation even though it may have considerable unappropriated profits and reserves, because the declaration of a dividend wiping out such profits and reserves would, unless the business is sold, have an adverse effect on the operating capital of the business. In a case falling between these extremes the motives of the seller may be mixed and his principal objective may or may not be to derive a benefit indirectly tantamount to a dividend. Each such case would have to be judged on its own facts.

The proposed new *section 8C* provides machinery for the taxation as a dividend in the hands of the seller of a portion of the proceeds of the shares in cases of the nature described, with effect from 2 October 1981. The amount to be treated as a dividend will not exceed the profit made by the seller on the sale of the shares (selling price less original cost) and will

be restricted to an amount equal to the profits and reserves that could have been declared as a dividend to the seller out of profits and reserves available for distribution at the relevant time, as determined by the Commissioner for Inland Revenue. Before, however, the section can be invoked the following conditions must be present:

(a) The company is not carrying on business or, if carrying on business, it has entered into an agreement for the disposal of its business or it has cash, claims or other assets not directly employed in its business. Such cash, claims or other assets (other than debts due by shareholders) as the Commissioner is satisfied cannot be disposed of or realised are to be disregarded. In addition the Commissioner is empowered to disregard so much of the cash, claims or other assets as are required to meet the company's obligations. (The holding of investments for the purpose of earning interest, rent or dividends on a regular or continuous basis is in terms of *section 8C (3)* to be treated as carrying on business).

(b) The Commissioner must be satisfied that the sole purpose or one of the principal purposes of the seller was to derive an amount or benefit substantially similar to the accrual to him of a dividend.

In terms of *section 8C (2)* an appropriate adjustment is to be made where a loan previously made by the company has under the existing provisions of section 8B been treated as a dividend and has not been extinguished by the set-off of an actual dividend. In such a case the amount of the dividend must be deducted from the profits and reserves regarded as being available for distribution.

In terms of *section 8C (4)* any decision of the Commissioner under the section is to be subject to objection and appeal.

The proposed new *section 8D* is directed at the purchaser of shares in a private company where such shares are held as trading stock on or after 2 October 1981. When the shares are disposed of or the company is liquidated or deregistered or ceases to exist, so much of any dividends derived by the shareholder during the period during which the shares were held by him as were not in the current or any previous year of assessment includable in his taxable income (100 per cent where the shareholder is a company and usually 33,33 per cent if the shareholder is not a company) are to be included in his income for the year of assessment during which the shares are disposed of or the company is liquidated or deregistered or ceases to exist, as the case may be. The amounts added back are in such a case regarded as being part of the amount realised for the shares. (Current dividends, i.e. those declared out of current profits or the profits of the preceding year of assessment are to be exluded from the ambit of section 8D). Consequential amendments to sections 10 (1) *(k)* and 19 of the principal Act are proposed by *clauses 8 (1) (j)* and *17*.

CLAUSE 8

Exemptions from normal tax: Amendments to section 10 of the principal Act

Section 10 of the principal Act provides certain exemptions from normal tax. The amendments proposed by this clause introduce the following changes.

Subclause (1) (a) and (b): The amendment to section 10 (1) *(c)* of the principal Act provides an exemption in respect of the salary and emolu-

ments of the Vice State President and any pension payable under certain legislative provisions to a former Vice State President or the widow of a person who occupied that office. (In terms of *subclause (2)* the amendment is to take effect from the year of assessment which ended on 28 February 1981).

Subclause (1) (c): The proposed new section 10 (1) *(c*E*)* provides an exemption in respect of the receipts and accruals of any political party registered under section 36 of the Electoral Act, No. 45 of 1979.

Subclause (1) (d) inserts in section 10 (1) of the principal Act a new paragraph numbered *(g*B*)* in terms of which any disability pension paid under section 39 (1) *(c)* or *(d)* of the Workmen's Compensation Act, No. 30 of 1941, is to be exempt from tax. The exemption is in terms of *subclause (2)* to be effective from the year of assessment ended 28 February 1979).

Subclause (1) (e) and (f): In terms of the amendments to subparagraphs (i) and (ii) of section 10 (1) *(i)* of the principal Act—

(a) the exemption in respect of interest on Post Office Savings Bank savings accounts is to apply in respect of the interest on an investment not exceeding R5 000. The interest thereon at the present rate of 5,5 per cent per annum amounts to R275, compared with the exemption previously applicable in respect of an amount of R200 interest; and

(b) the wording of subparagraph (ii) is altered so as to bring about a textual improvement.

Subclause (1) (g): The proposed subparagraph (xiDB) inserted in section 10 (1) *(i)* of the principal Act, provides an exemption in respect of interest on RSA Second Series 8 per cent Treasury Bonds. The exemption is limited, in the case of any taxpayer, to the interest on the portion of the total amount invested in such bonds arrived at by deducting from R40 000 the total amount invested in RSA 8 per cent and 7 per cent Treasury Bonds (already exempt within certain limits in terms of section 10 (1) *(i)* (xiD) and (xiDA) of the principal Act).

The proposed subparagraph (xiDC) inserted in section 10 (1) *(i)* of the principal Act, provides an exemption in respect of interest on RSA Indefinite Period Treasury Bonds. The exemption is limited in the case of any taxpayer, to the interest on the portion of the total amount invested in such bonds arrived at by deducting from R60 000 the total amount invested in RSA 8 per cent, 7 per cent and Second Series 8 per cent Treasury Bonds (already exempt or to be exempt within certain limits in terms of section 10 (1) *(i)* (xiD), (xiDA) and (xiDB) of the principal Act).

Subclause (1) (h): The existing provisions of subparagraph (xii) of section 10 (1) *(i)* of the principal Act provide a limited exemption in respect of dividends on subscription shares in building societies. The proviso thereto provides that the exemption is not to apply where the rate of such a dividend exceeds 7,5 per cent per annum. In terms of the proposed amendment this statutory rate is no longer to be a fixed rate but is to be a rate fixed by the Minister of Finance. This is occasioned by the fact that the rate has varied from time to time and may do so again. (The amendment is to apply with effect from the year of assessment which ended on 28 February 1981—see *subclause (2)*).

Subclause (1) (i): In terms of the proposed amendment to subparagraph (xiii) of section 10 (1) *(i)* of the principal Act the existing exemption

in respect of Special Tax-Free Indefinite Period shares in building societies is no longer to be limited directly by reference to the rate of such dividends but is to be limited by reference to the amount of the investment in such shares. The maximum investment recognised for the purposes of the exemption is to be R20 000. Previously this was in effect R10 000. (The amendment is to apply with effect from the year of assessment which ended on 28 February 1981).

Subclause (1) (j): The amendment to section 10 (1) *(k)* of the principal Act is consequential upon the introduction of a new section, numbered 8D, into the principal Act by *clause 7.*

Subclause (1) (k): The exemption limit of R15 000 under section 10 (1) *(x)* of the principal Act in respect of certain retirement gratuities and other compensation is to be increased to R20 000. Where a portion of a retirement gratuity is taxable, a concession in regard to the rate of tax levied thereon is to be applicable, as provided in *clauses 4 and 6.*

CLAUSE 9

Deductions from income: Amendments to section 11 of the principal Act

This clause proposes various amendments in regard to the deductions from income allowed under section 11 of the principal Act.

Subclause (1) (a): The proposed new paragraph *(b*A*)* to be inserted in section 11 provides for the allowance of a deduction in respect of pre-production interest or related finance charges (not being interest or finance charges otherwise allowable) incurred by a taxpayer on any loan, advance or credit utilised by him for the acquisition, installation, erection or construction of any machinery, plant, building or building improvements to be used by him for the purposes of his trade, such deduction to be allowed in the year of assessment during which the machinery, plant, building or building improvements is or are brought into use for the said purposes.

Subclause (1) (b): The amendment to section 11 *(e)* should be read with the amendment introduced by clause 20 (inserting a new section 24D) in terms of which certain expenditure in respect of national keypoints and certain specified important places is to be allowed as a deduction from income. In terms of the amendment to section 11 *(e)* the wear and tear allowance under that section may not also be granted in respect of the cost of machinery, plant or equipment the cost of which has been allowed as a deduction under section 24D.

Subclause (1) (c): In terms of the amendment to section 11 *(k)* (i) of the principal Act the requirement in regard to pension contributions made by the holder of an office or an employee that the making of his contributions must be a condition of the holding of his office or employment is deleted and a requirement that the contributions must be made by reason of the holding of the office or employment is substituted. It is in certain circumstances possible for an office holder or employee to make contributions to a pension fund on a voluntary rather than a compulsory basis and the amendment is designed to remove a technical difficulty which arises in cases of this kind.

Subclauses (1) (d) and (e): In terms of section 11 *(k)* (ii) of the principal Act pension contributions not exceeding R1 000 made in respect of a past period which is reckoned as pensionable service may be deducted from income. The amendment introduced by *subclause (1) (d)* increases the maximum deduction that may be made for any particular year of

assessment (i.e. a year of assessment ending on or after 28 February 1982) to R1 500 and the amendment introduced by *subclause (1) (e)* provides that where the contributions exceed the allowable maximum the excess may be carried forward to succeeding years of assessment. In terms of *subclause (2)* the amendment effected by subclause (1) *(e)* is to apply with effect from the year of assessment which ended on 28 February 1978. The effect of subclause (2) is that a contribution for a past period mentioned above which was made in the year of assessment which ended on the last day of February 1978, 1979, 1980 or 1981 and was disallowed in part (i.e. to the extent that it exceeded R1 000) will to the extent of the excess be allowed to be carried forward.

Subclause (1) (f): In terms of section 11 *(m)* of the principal Act an annuity paid by a taxpayer to a dependant of a former employee or to a dependant of a former partner may, to the extent that the annuity does not exceed R1 000, be deducted from the taxpayer's income derived from trade. In terms of the amendment the maximum deductible amount is to be increased to R2 000.

Subclause (1) (g): The amendment to section 11 *(o)* of the principal Act relates to the scrapping allowance granted in respect of machinery, plant etc. and is similar in effect to the amendment introduced by *subclause (1) (b)* to section 11 *(e)*.

CLAUSE 10

*Exporters' allowances: Amendments to section 11*bis *of the principal Act*

The amendments introduced by this clause, apart from certain textual improvements, provide for new allowances to be granted to exporters with effect from years of assessment which end or ended on or after 1 September 1980.

The allowances are to take the form of a compensation allowance (to be granted to persons other than persons carrying on mining operations under a mining lease) or a compensation credit (to be granted to persons carrying on mining operations under a mining lease). In both cases the person concerned will, in effect, be granted a reduction of normal tax of an amount determined by the Director-General: Industries, Commerce and Tourism as compensation in respect of inputs or value added. As the reduction of tax is to apply for normal tax purposes only, and not for the purposes of calculating the lease consideration payable under a mining lease, the form of the allowance in the case of a mining undertaking conducted under a mining lease is to be in the form of a tax credit instead of a deduction from income. If the deduction or credit cannot be utilised in full in the year of assessment in respect of which it is authorised, the amount not utilised may be carried forward to the following year of assessment. The contemplated export incentive scheme, which is to be approved by the Minister of Industries, Commerce and Tourism in consultation with the Minister of Finance, is to be administered by the Director-General: Industries, Commerce and Tourism. The function of the Commissioner for Inland Revenue will be confined to granting the allowances or credits as and when approved and notified by the said Director-General. As it is expected that in some cases it will be necessary to revise assessments already raised or to raise an additional assessment where a determination of the Director-General is amended or withdrawn, the Commissioner will, in terms of the proposed provisions, have the power to make the necessary adjustments notwithstanding the fact that the relevant original assessment may have become final. These provisions will be found in the definition of *"export incentive scheme"* introduced by *subclause (1)*

(d) and in the provisions of the new subsections (6) and (7) introduced by *subclause (1) (j)*.

CLAUSE 11

*Employees training allowance: Amendments to section 11*sept *of the principal Act*

This clause introduces certain textual amendments to section 11*sept* of the principal Act which are necessitated by the repeal of the Black Employees In-Service Training Act, 1979, and the In-Service Training Act, 1979, and the passing of the Manpower Training Act, 1981.

In terms of section 31(9) of the Manpower Training Act, 1981, the provisions of that section do not apply in respect of training in connection with which the provisions of any agreement have in terms of section 48 of the Labour Relations Act, 1956, been declared binding. In terms of the new paragraph *(b)* added by *subclause (1) (a)* to the definition of "training centre or scheme", a centre for such training may nevertheless be recognised for the purposes of the training allowance under section 11*sept* of the principal Act if the registrar of manpower training is satisfied that, but for the said agreement having been declared binding, the said centre would have been registered or deemed to have been registered under the Manpower Training Act, 1981.

Subclause (1) (e) substitutes a new subsection for the existing subsection (7) of the principal Act. The existing provisions of that subsection are no longer of any practical significance. The new subsection provides for any amount received by an employer for the training of employees from a fund established under an industrial council agreement contemplated in section 48 (1) *(d)* of the Labour Relations Act, 1956, to be deducted from the employee's training expenses determined under section 11*sept* (5) and (6) for the purposes of the training allowance. Any amount so received is exempt from normal tax under section 10 (1) *(z*B*)* of the principal Act and the new section 11*sept* (7) ensures that a double advantage is not received.

CLAUSE 12

Initial and investment allowances in respect of manufacturers' machinery and plant: Amendments to section 12 of the principal Act

Subclauses (1) (b), (d), (e) and (f): In terms of the amendments to section 12 (2A) of the principal Act the qualifying period for the granting of the machinery investment allowance to manufacturers is to be extended from 30 June 1983 to 30 June 1985.

Subclause (1) (g) inserts in section 12 of the principal Act a subsection numbered (3A), in terms of which the cost of certain machinery or plant is deemed to be the cost which, in the opinion of the Commissioner, a person would, if he had acquired the machinery or plant under a cash transaction concluded at arm's length on the relevant date, have incurred in respect of the direct cost of acquisition, including the direct cost of installation or erection thereof. The machinery or plant in respect of which the new subsection applies is machinery or plant brought into use on or after 24 August 1981, but excluding machinery or plant delivered to a purchaser under an agreement concluded not later than that date by which the purchaser was obliged to take delivery thereof at a fixed price or a price determinable under the agreement without any adjustment for taxation under the principal Act.

Subclause (1) (i) adds to section 12 of the principal Act a new

subsection numbered (5) in terms of which the machinery initial allowance and the machinery investment allowance may not be granted to a lessor of machinery or plant under a lease concluded on or after 2 October 1981 unless the period of the lease is at least 5 years or, in the case of machinery or plant which in the opinion of the Commissioner for Inland Revenue has a shorter life, such shorter period as the Commissioner may approve. In terms of paragraph *(b)* of the new subsection (5) if the lessor under a lease of machinery or plant concluded on or after that date disposes of his interest under the lease or his right to receive rent under the lease and such disposal takes place within 5 years reckoned from the commencement of the period for which the machinery or plant has been let or the shorter period referred to above, any machinery initial and investment allowances granted in respect of the machinery or plant under section 12 are to be included in his income, an allowance, however, being made for the expired portion of the lease if warranted.

CLAUSE 13

Allowances in respect of hotel equipment: Amendments to section 12A of the Principal Act

The amendments introduced by this clause to section 12A of the principal Act relate to the determination of the cost of hotel equipment as determinable for the purposes of the allowances provided for in that section, and to the granting or withdrawal of such allowances in the case of leased hotel equipment. These amendments are similar to the amendments introduced by clause 12 (1) *(g)* and *(i)* in regard to the allowances in respect of manufacturing machinery or plant.

CLAUSE 14

Investment allowance in respect of buildings used in a process of manufacture: Amendments to section 13 of the principal Act

In order to qualify for the building investment allowance, the erection of certain industrial buildings must commence not later than 30 June 1983 and such buildings must be brought into use not later than 30 June 1984. Where existing industrial buildings are merely being improved, the improvements must be commenced not later than 30 June 1983 and completed not later than 30 June 1984.

The amendments effected by this clause to section 13 of the principal Act extend those dates by two years to 30 June 1985 and 30 June 1986 respectively.

CLAUSE 15

Medical and dental expenses: Amendments to section 18 of the principal Act

The amendments provide for the inclusion in the medical and dental expenses which are within certain limits, deductible from income under section 18 of the principal Act of the following kinds of expenditure which at present do not qualify for deduction, namely—

(a) the cost of medicines supplied by medical practitioners, dentists and certain other practitioners, and

(b) expenditure on medical services and medicines incurred outside the Republic where such services and medicines are substantially similar to the services rendered and medicines supplied in the Republic and which come within the provisions of section 18 (1) *(b)*.

CLAUSE 16

Donations to universities, colleges and educational funds: Substitution of section 18A of the principal Act

In terms of the new provisions of section 18A of the principal Act, as proposed by this clause, donations to certain educational funds will qualify as deductions from the taxable incomes of taxpayers in the same way as donations to universities, colleges and the National Study Loans and Bursaries Fund do at present.

A definition of *"educational fund"* is introduced. It includes, first, the National Study Loans and Bursaries Fund; second, any special fund established solely for the purpose of receiving donations to be devoted exclusively towards the carrying out of any "specified educational project" in the Republic provided the fund is administered and controlled by an educational authority providing secondary school education or the principal or governing body of an educational institution described in paragraph *(b)* (ii), (iii) or (iv) of the definition, e.g. a secondary school or a teachers' training institution; and third, a special fund established in the Republic and administered and controlled by an educational trust referred to in paragraph *(c)*. The special fund controlled by any such educational trust may be used for financing a specified educational project for a school or institution described in paragraph *(b)* (i.e. one within the Republic) or a similar school or institution in a country formerly forming part of the Republic, or for the benefit of a university or college for purposes other than the defraying of students' fees or the granting of bursaries. Donations to ordinary school funds or to any fund controlled by an ordinary primary school will not qualify.

"Specified educational project" (an expression used in the definition of "educational fund") is defined to include the erection of buildings, the acquisition of land and the purchase of movables in the form of laboratory, sports or workshop equipment, visual or audio-visual aids and motor vehicles seating more than six persons where such buildings, land or movables are used wholly or mainly for educational purposes.

The definition of *"university"* is amended to include a university established by a law of any country which formerly formed part of the Republic. Donations to any such university will qualify for deduction in the same manner as donations to universities in the Republic. In terms of the amendment to section 18A (2) *(a)* donations to universities or colleges for purposes of defraying students' fees or the granting of bursaries will not qualify for deduction.

Provision is made for the withdrawal of the exemption as applicable to any particular educational fund referred to in paragraph *(b)* of the definition of that expression if malpractices or irregularities occur (see the new section 18A (5), (6) and (7)).

CLAUSE 17

Deductions from income in the form of dividends: Amendments to section 19 of the principal Act

In terms of the amendments introduced by *paragraphs (a) and (b)* of this clause, references to paragraphs *(i)* and *(j)* of section 11 of the principal Act are inserted in section 19 (1) and (2) of that Act. The position of a shareholder who cannot recover a dividend due to him or finds the prospect of payment to be doubtful is catered for in the said paragraphs by the granting of appropriate deductions from income. The

deletion of the proviso to section 19 (1) is a textual improvement, the proviso being a relic of the past with no significance at present.

The amendment to section 19 (3) introduced by *paragraph (c)* of this clause is consequential upon the introduction of the new section 8D by *clause 7*.

CLAUSE 18

Deduction in respect of married women's earnings: Amendment of section 20A

This clause increases from R1 200 to R1 400 that portion of the earnings of a taxpayer's wife which, in terms of section 20A of the principal Act, is free of normal tax.

CLAUSE 19

*Deduction in respect of expenditure incurred by physically disabled persons: Amendments to section 21*quat *of the principal Act*

In terms of the first amendments introduced by this clause the provisions of section 21*quat* of the principal Act are amended to permit the deduction of expenditure necessarily incurred by a taxpayer or his wife in consequence of any physical disability of a child in respect of whom the taxpayer is entitled to a rebate under section 6 (3) *(a)* of the said Act.

The second amendment increases the maximum allowance under section 21*quat* from R1 200 (at present applicable to husband and wife) to R2 400 per family.

CLAUSE 20

Deduction of certain expenditure incurred in respect of keypoints: Insertion of section 24D in the principal Act

The new section 24D introduced by this clause provides for the deduction of certain expenditure incurred in the performance of acts ordered, performed or executed under the provisions of the National Key Points Act, No. 102 of 1980, in respect of National Key Points and expenditure incurred in providing security in respect of certain specified important places as contemplated in the said Act.

The new section is to apply with effect from 1 September 1978.

CLAUSE 21

Determination of taxable income of co-operatives: Amendments to section 27 of the principal Act

Subclause (1) (a), (c), (g) and (h): In terms of section 27 of the principal Act agricultural co-operatives are entitled to a storage building investment allowance, which is based on the cost of buildings used for storing or packing pastoral, agricultural or other farm products produced by the co-operative's members, and to a special machinery investment allowance on new or unused machinery or plant used by the co-operative directly for storing, packing or processing the aforementioned products. For practical purposes these allowances are the counterpart of the building investment allowance, granted in respect of the cost of certain industrial buildings, and the machinery investment allowance granted in respect of new or unused machinery or plant brought into use and used directly in a process of manufacture. As in the case of the latter allowances, the period during which the allowances provided for in section 27 of the principal Act

may be granted is also subject to a time limit and the purpose of the amendments effected by this clause is to extend that time limit by two years, that is to 30 June 1985 or 30 June 1986, as the case may be. Compare the amendments to sections 12 and 13 of the principal Act which are to be effected in terms of clauses 12 (1) *(b), (d), (e)* and *(f)* and 14, respectively.

Subclause (1) (b), (c) and (d): The amendments relate to the determination of the cost of machinery or plant for the purposes of the special machinery initial and investment allowances granted to agricultural co-operatives. The amendments are similar to the amendments to section 12 of the principal Act introduced by clause 12 (1) *(a), (c)* and *(g)*.

Subclause (1) (e): The amendment to section 27 (5A) of the principal Act is of a textual nature.

Subclause (1) (f): The new subsection (5B) introduced by this subclause in effect replaces section 170 of the Co-operatives Act, 1981, the repeal of which is proposed by *clause 32*. The new subsection provides a practical rule for the treatment of a new co-operative which comes into being in pursuance of a conversion of one kind of co-operative into another kind or a conversion of a company into a co-operative or an amalgation of two or more co-operatives under the said Act. The principle already laid down in subsection (5A) in regard to amalgamations under the Co-operative Societies Act, 1939, is extended to the situations mentioned so as to treat the previously existing co-operative, co-operatives or company and the new co-operative as being one and the same co-operative as from the year of assessment during which the conversion or amalgamation takes place.

CLAUSE 22

Undistributed profits tax definitions: Amendment to section 49 of the principal Act

In terms of this clause the definition of "distributable income" in section 49 of the principal Act is to be amended so as to increase the "plough-back" allowance granted to public companies in respect of the dividend portion of their total net profits from 35 to 50 per cent.

CLAUSE 23

Exemptions from donations tax: Amendments to section 56 of the principal Act

The amendment to section 56 (1) *(h)* of the principal Act introduced by *paragraph (a)* of this clause should be read with the amendment to section 10 introduced by clause 8 (1) *(c)*. The effect is to exempt from donations tax any donations made to a political party registered under section 36 of the Electoral Act, No. 45 of 1979.

The amendment to section 56 (2) *(a)* of the principal Act introduced by *paragraph (b)* of this clause increases the maximum exemption in respect of casual donations made during any year of assessment from R1 000 to R2 000.

CLAUSE 24

Exemptions from non-residents tax on interest: Amendment to section 64C of the principal Act

The amendment to section 64C of the principal Act introduced by this clause relates to dividends (regarded as interest) going to non-residents in

respect of Special Tax-Free Indefinite Period shares in building societies, and is consequential upon the amendment to section 10 of that Act introduced by clause 8 (1) *(i)*.

CLAUSE 25

Double taxation agreements: Amendment to section 108 of the principal Act

The amendment, which deletes a reference to the Senate, is of a textual nature.

CLAUSE 26

Farmers' livestock values: Amendment to paragraph 5 of the First Schedule to the principal Act

In terms of the amendments introduced to paragraph 5 of the First Schedule to the principal Act, all farming livestock is, with effect from the end of the year of assessment ending on 28 February 1983, to be accounted for at standard value. Purchased breeding stock purchased at prices in excess of values laid down in paragraph 5 (1A) have hitherto been accounted for at the purchase price thereof less a depreciation allowance equal to 25 per cent of the purchase price for each year of assessment during which the livestock has been held and not disposed of. In terms of the transitional provisions introduced by this clause only such purchased breeding stock as was acquired during the year ended 28 February 1981 or 1982 will be separately accounted for in the latter year, the depreciation allowance in respect of such stock purchased during the year ended 28 February 1981 being 75 per cent of the purchase price and of that purchased during the year ended 28 February 1982 being 50 per cent of the purchase price. Purchased breeding stock acquired during the year ended 29 February 1980 or earlier is to be accounted for at standard value.

CLAUSE 27

Development expenditure incurred by farmers: Amendments to paragraph 12 of the First Schedule to the principal Act

The effects of the various amendments to paragraph 12 of the First Schedule to the principal Act which are introduced by this clause are summarised as follows:

(1) In terms of paragraph 12 (1) of the First Schedule a farmer is entitled to deduct from his income the cost of certain farm machinery and implements. In terms of paragraph 12 (2) no wear and tear or scrapping allowance may be made under section 11 *(e)* or *(o)* of the principal Act in respect of such machinery or implements where a deduction has been made in respect thereof under paragraph 12 (1). A doubt has arisen as to whether a farmer may make a choice of a deduction under paragraph 12 (1) or deductions under section 11 *(e)* and *(o)*. The amendment to the opening words of paragraph 12 (1) introduced by *subclause (1) (a)* and the amendment to paragraph 12 (2) introduced by *subclause (1) (d)* are designed to make it clear that the only allowable deduction is that provided for in paragraph 12 (1). In terms of *subclause (2)* those amendments, which confirm Inland Revenue practice, are to apply with effect from the year of assessment ended on 28 February 1978. The proviso to that clause, however, provides that any assessments made for the years ended on the last day of February 1978 to 1981, inclusive,

allowing deductions under section 11 *(e)* and *(o)* shall, so far as such deductions are concerned, not be disturbed. Provision is made in paragraph (ii) of the proviso to *subclause (2)* for an appropriate adjustment to be made in the year of assessment ending on 28 February 1982.

(2) The amendments introduced by *subclause (1) (e)* to subparagraphs (3) and (3A) of paragraph 12 of the First Schedule and the insertion by *subclause (1) (f)* of a new subparagraph (3B) in the said paragraph 12, relate to the treatment of recoupments of expenditure allowed to farmers in respect of the acquisition of farm machinery and implements.

The amendments introduced by *subclause (1) (e)* are of a textual nature.

The new subparagraph (3B) (introduced by *subclause (1)(f)*) provides for the situation that arises when expenditure on farm machinery or implements has been carried forward from a previous year of assessment and, before the expenditure can be deducted from income, the machinery or implements are sold for a consideration which has to be included in the farmer's income as a recoupment. The solution to the problem proposed by the new subparagraph (3B) is to allow the recoupment to be set off against the balance brought forward (called the qualifying balance), thus reducing or expunging the amount to be included in income and at the same time reducing the qualifying balance.

(3) The amendment introduced by *subclause (1) (b)* to paragraph 12 (1) *(f)* of the First Schedule confirms the practice of Inland Revenue to allow the cost of extensions, additions or improvements to farm buildings as a deduction from farming income as well as the cost of erection of the buildings as such. The amendment to paragraph 12 (5) introduced by *subclause (1) (g)* is of a consequential nature.

(4) In terms of the amendment introduced by *subclause (1) (c)* to paragraph 12 (1) *(j)* of the First Schedule the cost of aircraft used solely or mainly for crop-spraying is to qualify as a deduction from farming income. At present a wear and tear allowance is granted under section 11 *(e)* of the principal Act.

CLAUSE 28

Taxation of lump sum benefits paid by pension and provident funds: Amendment to paragraph 1 of the Second Schedule to the principal Act

The amendment to formula A introduced by this clause will have the effect of increasing the tax-free portion of a lump sum benefit from a pension or provident fund by 50 per cent where the formula is applicable. The amendment is to apply as from the year of assessment ended on 28 February 1981.

CLAUSE 29

Gains under insurance policies: Amendments to paragraph 14 of the Sixth Schedule to the principal Act

In terms of paragraph 14 of the Sixth Schedule to the principal Act an insurance policy which is a standard policy for the purposes of the Schedule (the benefits thereunder not being taxable) becomes a non-

standard policy in certain circumstances (the benefits thereunder then becoming taxable). The non-payment of premiums or the variation or surrender of a policy or the conversion thereof into a fully-paid policy may in certain circumstances have this result. Provision is, however, made for the exclusion of small policies from this rule, thereby reducing administrative work which is relatively unproductive. Normally a policy the premiums under which for the current and the four preceding years of assessment do not exceed R2 000 is regarded as a "small" policy. This amount was fixed in 1972 and is in terms of this clause to be increased to R4 000.

CLAUSE 30

Retrospectivity of section 21 of the Income Tax Act, 1980

This clause provides that section 21 of the Income Tax Act, 1980, shall be deemed to have taken effect as from years of assessment ending on or after 1 April 1980. That section amended section 49 of the principal Act so as to increase the "plough-back" allowance granted to companies for undistributed profits tax purposes in respect of trading profits.

CLAUSE 31

Standardised deductions and small income relief for the year of assessment ending on 28 February 1983

This clause contains provisions designed to facilitate a change in the method of collecting normal tax in the case of taxpayers whose taxable incomes do not exceed R7 000 and consist entirely or almost entirely of salaries, wages and other remuneration subject to the deduction of employees tax. The provisions are to apply with effect from 1 March 1982 in respect of the year of assessment commencing on that date and ending on 28 February 1983. It is anticipated that the majority of salaried taxpayers in the income category R1–R7 000 will find that their employees tax deductions will almost exactly equal their liability for normal tax and the necessity for tax assessments in these cases will fall away. In order to make this possible certain structural changes, as proposed in this clause, are necessary. The Commissioner for Inland Revenue will, on the strength of these changes, be enabled to provide appropriate amended employees tax deduction tables to take effect on 1 March 1982. This clause is of a preliminary or transitional nature and it is anticipated that further legislation will in due course be necessary to round off the scheme. It is not proposed that assessments in the income category mentioned should be entirely eliminated. In those exceptional cases where employees tax deductions substantially exceed or fall short of the taxpayer's liability for normal tax and in the case of self-employed taxpayers and provisional taxpayers assessments will still be necessary.

The provisions of this clause are, in so far as they are applicable, to apply to all taxpayers in the income category mentioned. It is proposed in *subclause (2)* that the rate of normal tax in the case of any taxpayer whose taxable income (as determined before deducting the special deductions mentioned hereunder) does not exceed R7 000 in the year of assessment ending on 28 February 1983, shall be 10 per cent of the taxpayer's taxable income. This rate is as respects taxable incomes up to R6 000 higher than the present rate of 8 per cent. It will be seen, however, that the cumulative effect of the further rebate of R120 provided for in *subclause (2)* and the special deductions and standard insurance rebate provided for in *subclause (1)* will effectively reduce tax liability in all cases except where the standard deduction or standard rebate is inadequate. The

exceptional cases will, as indicated, be catered for by means of assessments or employees tax directives, where necessary.

The special deductions and standard insurance rebate for which provision is made in *subclause (1)* are as follows:

(1) A *standard deduction* will be made from income in lieu of any deductions that may be made under the provisions of the Act other than contributions to pension and retirement annuity funds and business expenditure. The standard deduction, which will be R300 for a married person or R200 for an unmarried person, will in the majority of cases adequately cater for medical expenses, donations to universities, expenses incurred by physically disabled persons etc. Where the standard deduction is inadequate, e.g. where the taxpayer has heavy medical expenses, an assessment will be necessary to give the appropriate relief. (*Subclause (1) (a)*)

(2) The maximum amount which may be deducted from *the earnings of a married woman* under section 20A of the principal Act is increased from R1 400 to R1 600. This will facilitate the drawing up of appropriate employees tax tables for married women, so as to eliminate as far as possible assessments where both husband and wife have earnings. It will not be possible to provide tables to cater for all cases and exceptional cases will continue to be dealt with administratively or by way of assessments. *(Subclause (1) (b))*

(3) *A standard rebate for insurance premiums*, subscriptions to provident and benefit funds etc. of R30 for married persons and R25 for unmarried persons is provided for in *subclause (1) (c)*. If the rebate proves to be insufficient the necessary relief will be obtainable by way of an assessment.

The special deductions and standard insurance rebate referred to above are to apply to all individual taxpayers including those whose taxable incomes exceed R7 000. The new employees tax tables are in terms of *subclause (3)* to be drawn up in such manner that the special deductions and standard insurance rebate, as well as the special rebate of R120 provided for in *subclause (2)*, are taken into account.

An effect of this clause is that the tax threshold of a married person under 60, without children or dependants and whose wife has no earnings, will be raised from the existing R2 500 to R3 200, or R3 800 if the standard deduction of R300 and the insurance rebate of R30 are taken into account, while the threshold of an unmarried person under 60, without children or dependants, will be raised from R1 500 to R2 400, or R2 850 if the standard deduction of R200 and the insurance rebate of R25 are taken into account.

CLAUSE 32

This clause repeals section 170 of the Co-operatives Act, 1981. This provision is, with certain changes in wording, to be taken up in the Income Tax Act, 1962—see *clause 21 (1) (f)*.

CLAUSE 33

Commencement of certain amendments

This clause provides that the amendments to the principal Act effected by the amending Act are to apply with effect from years of assessment ending on or after 1 January 1982, except where otherwise provided or the context otherwise indicates.

CLAUSE 34

This clause gives the short title of the amending Act.