

---

---

REPUBLIC OF SOUTH AFRICA

---

---

**EXPLANATORY MEMORANDUM**

ON THE

**INCOME TAX BILL, 1982**

---

---

REPUBLIC OF SOUTH AFRICA

---

---

**EXPLANATORY MEMORANDUM ON THE INCOME  
TAX BILL, 1982**

---

---

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. Certain of those amendments introduce far-reaching changes in two important areas the first of which relates to the manner in which the income tax liability of a substantial group of taxpayers will in future be determined and collected, and the second to the fiscal incentives which are granted to industrialists in economic development areas. An outline at the beginning of this memorandum of how the new Final Deduction System will operate and of the changes in some of the fiscal incentives to industrialists will facilitate the understanding of the numerous amendments to the principal Act made necessary by the new systems.

*THE FINAL DEDUCTION SYSTEM*

1. Under the existing provisions of the principal Act every taxpayer is required to submit an annual return of income which is processed by the Commissioner for Inland Revenue who then sends the taxpayer a notice of assessment showing (a) the amounts at which the latter's taxable income and rebates have been determined, (b) the gross amount of normal tax payable thereon, (c) the amount of employees tax deducted by his employer from his remuneration, (d) the amount of provisional tax (if any) paid by him during the year of assessment and (e) the net amount payable by, or due to, the taxpayer

2. It has been found that if certain relatively minor modifications are built into the present system the amount of income tax recovered by way of employees tax from the remuneration of a large number of taxpayers whose income consists almost entirely of salary or wages will be sufficient to cover their total tax liability for the year, thus rendering the submission of a return unnecessary. Not only can the taxpayers concerned thus be freed from what is sometimes a time-consuming and burdensome task, but the Commissioner will benefit by not having to issue and process several hundred thousand returns.

The first steps towards the introduction of the Final Deduction System were taken last year when section 31 of the Income Tax Act, 1981, introduced certain provisions which were designed to enable the Commissioner to issue employees tax deduction tables (IRP 10) embodying some of the features of the new system which are detailed below. Those new tables came into force on 1 March 1982.

## 3. Broadly the Final Deduction System embraces the following:—

- (1) Except in the circumstances mentioned lower down, natural persons who are not provisional taxpayers and 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 will, with effect from the year of assessment which commenced on 1 March 1982, no longer be required to submit an annual income tax return. Within certain limits the names of these persons will be removed from the income tax register and, unless their circumstances subsequently change, the last year in respect of which they will receive an income tax return will be that which ended on 28 February 1982.
- (2) In order to ensure that an amount as near as possible to the actual tax liability is deducted by way of employees tax it is essential that there should be only one rate of tax in the income band R1 to R7 000 and, having regard to the rate of tax which at present applies in the band R6 001 to R7 000, it is clear that that rate must be 10 per cent. (The 20 per cent surcharge in the case of taxpayers who are not married will continue to apply.)
- (3) It will immediately be apparent that by increasing the tax rate in the income band R1 to R6 000 to 10 per cent the tax liability of all individuals will be increased and that the tax liability of those whose taxable income exceeds R6 000 will be increased by exactly R120. In order to overcome this problem all taxpayers will be granted an additional rebate of R120. Taxpayers with taxable incomes in excess of R6 000 will find that their tax liability has been neither increased nor decreased while persons with taxable incomes of less than R6 000 will find that their tax liability has been reduced, compared with the previous year of assessment, in some cases by up to R50.

The following examples illustrate the effect of these changes. In both cases the taxpayer is a married salary or wage earner whose wife does not work. The couple have no children and for the purposes of the example the standard deduction of R300 in respect of medical expenses and certain other deductions (see subparagraph (5) below) and the standard rebate of R30 in respect of insurance premiums and other contributions (see subparagraph (6) below) have been ignored.

*Example I*

Remuneration after deduction of pension contributions	R7 000
Gross normal tax at 1982 rates .....	R 580
Primary rebate .....	200
Normal tax payable .....	R 380
Gross normal tax at proposed new rates .....	R 700
Proposed primary rebate .....	320
Normal tax payable .....	R 380

*Example II*

Remuneration after deduction of pension contributions	R5 000
Gross normal tax at 1982 rates	R 400
Primary rebate	200
Normal tax payable	R 200
Gross normal tax at proposed new rates	R500
Proposed primary rebate	320
Reduction in tax payable	R 20

- (4) In terms of section 20A of the principal Act the first R1 400 of the earnings of a married woman is excluded from the taxable income of her husband. This amount will now be increased to R1 600.
- (5) A standard deduction of R300 (R200 in the case of an unmarried person) will be made from income in lieu of any claim for medical expenses, donations to educational institutions etc., expenses claimed by physically disabled persons, tool allowances, and so on.
- (6) A standard rebate of R30 (R25 in the case of unmarried persons) in respect of insurance premiums and subscriptions to provident and benefit funds will be granted.
- (7) The first R100 of a taxpayer's investment income will be exempt from tax. This is to ensure that those taxpayers whose taxable income is R7 000 or less, but who have a modest amount of investment income, will not need to complete an income tax return. The exemption will be applied first of all to the taxpayer's income from interest and, if that is less than R100, the balance will be set off against his income derived from a unit trust company on shares included in a unit portfolio comprised in a unit trust scheme in property shares. (This latter type of income, although termed a dividend, is for income tax purposes treated as interest.) Any unutilised balance of the R100 which remains will be set off against the taxpayer's dividend income.

*Example*

Interest received	R 50
Dividends on shares in a property trust	25
Dividends from public companies	300
	<u>R375</u>
Interest and dividend on shares in property trust	R 75
Less exemption	75
Taxable	<u>Nil</u>
Dividends	R300
Less unused balance of proposed exemption	25
Gross amount of dividends subject to tax	<u>R275</u>

This balance of R275 is, of course, subject to further deduction as provided for in section 19 of the principal Act.

- (8) The standard deduction of R300 (R200 in the case of an unmarried person), the standard rebate of R30 (R25 in the case of an unmarried person), the R100 exemption in respect of investment income and, where relevant, the R1 600 deduction in respect of the earnings of a married woman, will apply to all taxpayers even though their taxable income exceeds R7 000.
- (9) As mentioned earlier, employees tax deduction tables (IRP 10) embodying all these reliefs (except, of course, those in connection with the first R100 of investment income) came into operation on 1 March 1982. If the taxation proposals included in this Bill are adopted revised tables will have to be prepared and will probably come into force on 1 July 1982, but they will not, of course, alter the tax liability of an individual having a taxable income of R7 000 or less in any way.
- (10) Every taxpayer whose taxable income is less than R7 000 and who is not called on to submit an income tax return in respect of the year ending 28 February 1983 will have the right to put in a return and claim a refund of the employees tax over-deducted from his remuneration if he can show that the standard deduction referred to under subparagraph (5) above and the standard rebate referred to in subparagraph (6) are less than the amounts to which he would have been entitled had the normal provisions of the Act been applied. Thus, if the taxpayer can show, for example, that his medical expenses and donations deductible under sections 18 and 18A, respectively, were say, R500 he will be entitled to claim a refund of the amount by which his employees tax deductions exceed his tax liability as calculated in terms of the ordinary rules laid down in the Act. He may also be entitled to claim a refund if, for example, a child was born to him during the year, he married during the year, or he worked for only a part of the year.

4. As a result of all these built-in reliefs a large number of taxpayers will find that their tax liability has been somewhat reduced and that they will have the added advantage of not having to submit an income tax return. At the same time any taxpayer who has not been required to submit a return but who finds that the full reliefs to which he is entitled in terms of the principal Act exceed the standard reliefs he may, in a manner which will be prescribed by the Commissioner, claim a refund of the employees tax which has been overpaid.

#### *REGIONAL DEVELOPMENT INCENTIVES*

1. For some years the incentives granted to industrialists to establish new undertakings, or to expand existing undertakings, particularly in economic development areas, have taken a number of forms but consisted broadly of the following:—

- (1) Cash grants provided mainly by the Department of Industries, Commerce and Tourism;
- (2) Subsidies in the form of, for example, reduced rail and harbour tariffs;
- (3) Income tax incentives in the form of special allowances which reduce the undertaking's liability for tax.

Of these three forms of assistance the emphasis has largely been on the tax incentives, and particularly the "tax holiday" provided for in section 21*ter* of the principal Act.

2. The White Paper and the Information Document tabled in the House of Assembly on 31 March 1982 recommended, in so far as economic development areas are concerned, a change in emphasis in the direction of cash incentives rather than those in the form of tax reliefs. The new types of incentives came into force on 1 April. This Explanatory Memorandum is concerned only with the changes being made to the tax incentives and at this point it is necessary to make it clear that those changes do not affect the metropolitan areas in any way.

The term economic development area, as used in the principal Act, includes deconcentration points, industrial development points and other industrial points which are referred to in the Information Document.

3. Under the proposals *existing* undertakings in economic development areas may choose between the following:—

- (a) they may retain their existing incentives unchanged; or
- (b) they may elect to go over to the new system of incentives set out in the Information Document for the remainder of their concession period.

Unless the Minister otherwise directs, application for permission to make the change must be made not later than 31 March 1983.

*New* undertakings will have no such option open to them but will be obliged to accept the new forms of incentives.

Where an *existing* undertaking is *expanded* on or after 1 April 1982, but not later than 31 March 1984, the taxpayer will likewise be permitted to take either the incentives to which he is already entitled or the new types of incentives. The new incentives will, however, apply to all expansions taking place as from 1 April 1984.

4. The new system which, as already indicated, lays emphasis on cash payments to industrialists rather on tax reliefs which are not usually of immediate benefit to the taxpayer, has the following features:—

- (1) An electricity subsidy will be paid by the Decentralization Board so as to bring the cost of electric power in an economic development area into line with prices charged by the Electricity Supply Commission in the area of its Eastern Transvaal Undertaking. In most cases the subsidy will be paid to a local authority which will be expected to pass on the benefit to all its consumers. Such payments will have no income tax implications since the industrial users concerned will merely claim the actual amount paid in respect of electric power. A few consumers are, however, supplied direct by Escom and they will receive cash subsidies from the Decentralization Board—see paragraph 3.3.4 of the Information Document. Those subsidies will be subject to tax.
- (2) Paragraph 3.3.5 of the Information Document provides for the payment to industrialists of a subsidy on the interest payable on loans raised for the purpose of meeting the cost of erecting

houses for key personnel. Where the economic development area is situated in the RSA the subsidy will be payable by the Decentralization Board and it will not be exempt from income tax.

- (3) Employers in economic development area who incur expenses in training their employees are, in terms of section 11*sept* of the principal Act, granted a special allowance equal to 125 per cent of those items of expenditure which fall within the definition of training expenses. At the effective rate of 46,2 per cent in respect of companies this particular allowance results in a saving to the taxpayer of R57,75 for every R100 spent.

This is one area where the taxpayer will be given no choice. With effect from the taxpayer's first full financial year beginning after 1 April 1982 the training incentive will be payable in cash by the Department of Manpower at the rate mentioned above. This particular cash grant will be exempt from income tax—see paragraph 3.3.7 of the Information Document, as read with paragraph 7.2 of that document.

- (4) Perhaps the most important of the new allowances is the one pertaining to labour. Some details are given in paragraph 3.4.1 of the Information Document.

As in the case of the cash training incentive, this payment will be exempt from income tax in the hands of the industrialist.

To a large extent this particular payment (which will be made by the Decentralization Board) takes the place of the tax holiday which for some thirteen years has been granted in terms of section 21*ter* of the principal Act.

- (5) Paragraph 3.4.2 of the Information Document deals with subsidies payable in respect of interest on amounts borrowed to finance new projects in economic development areas, or the expansion of existing projects in such areas.

The subsidies will be payable by the Decentralization Board and will be subject to tax.

- (6) Paragraph 3.4.2 of the Information Document provides also for the payment of a rental subsidy where the industrialist hires premises in an economic development area. The subsidies will likewise be payable by the Decentralization Board and be subject to tax.

- (7) In certain circumstances an industrialist who moves his undertaking to a specified economic development area will be entitled to claim his re-location expenses (up to a maximum of R500 000) from the Decentralization Board. Certain of these expenses will be of a capital nature and not deductible for income tax purposes. To the extent that such expenses may be taken into account for income tax purposes the subsidy will not be exempt from tax.

- (8) It is expected that some industrialists will call in consultants to assist them in drawing up detailed applications for the incentives provided for under the new scheme. Since the fees payable to such consultants are of a preliminary or capital nature they are not deductible under the existing provisions of the principal Act.

Because industrialists will not be reimbursed for this type of expenditure it has been decided that it must be allowed as a deduction for income tax purposes—see paragraph 3.5.2 of the Information Document.

5. Because the new scheme will not apply outside economic development areas it follows that the existing industrial incentives in the principal Act must be retained for the benefit of industrialists in metropolitan areas. Certain amendments proposed in the Bill make it clear, however, that an industrialist in an economic development area who is granted assistance under the new arrangements ceases to qualify for any special reliefs under the principal Act.

Having completed this outline of the Final Deduction System and the Regional Development Incentives it is possible to examine the various clauses of the Bill in greater detail.

## 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 1983, or 30 June 1983, 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.

In terms of paragraph 1 (h) of the Schedule persons other than companies are liable for a loan levy equal to 5 per cent of the amount of normal tax payable after deducting the rebates provided for in section 6 of the principal Act. The loan levy is not payable (a) if the taxpayer's taxable income does not exceed R7 000; or (b) if the amount of normal tax payable after deduction of the rebates is less than R150. In determining the amount of loan levy payable fractions of a rand are disregarded. See also the notes under Clause 31.

### *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 1982 to 31 March 1983, 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: 42 cents per R1 (paragraph 1 (b) of the Schedule). To the tax determined as above is added a surcharge of 10 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 15 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 15 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 15 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): 42 cents per R1 (paragraph 1 (g) of the Schedule). To the tax determined as above is added a surcharge of 10 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

### *Loan levy*

This clause makes it clear that the additional 5 per cent payable in terms of paragraph 1 (h) of the Schedule shall be a loan portion as referred to in the Fifth Schedule to the principal Act.

## CLAUSE 3

### *Definitions: Amendments to section 1 of the principal Act*

*Subclause (1) (a)* inserts a new paragraph in the definition of “gross income” the purpose of which is to make it clear that subsidies paid in terms of the new Regional Development Plan to industrialists operating in economic development areas are brought within the tax net. As explained in paragraph 4 of the outline of the Regional Development Incentives two of these subsidies will, however, be exempt from tax, and provision for such exemptions is made in terms of the two new paragraphs introduced into section 10 (1) of the principal Act by clause 6 (1) (h) of the Bill.

The amendment introduced by *subclause (1) (b)* amends paragraph (m) of the definition of “gross income” in section 1 of the principal Act and must be read together with the new proviso (dd) to section 11 (w) of the said Act which is introduced by clause 7 (1) (f). The amendment

makes it clear that the proceeds of an insurance policy on the life of an employee of the taxpayer will be taxed in the hands of the taxpayer if premiums paid on that policy have, in terms of section 11 of the principal Act, been allowed as a deduction in the determination of the taxpayer's taxable income. This amendment is deemed in terms of *subclause (2) (b)* to have taken effect as from the commencement of years of assessment ending on or after 25 May 1982.

One of the conditions in terms of which a fund may be recognized as a pension fund is that not more than one-third of the annuities payable under the rules of the fund may be commuted for a single payment unless the total amount of the annuities does not exceed R120. The amendment introduced by *subclause (1) (c)* increases that sum to R250. *Subclause (1) (d)* introduces a similar amendment into the definition of "retirement annuity fund" in section 1 of the principal Act.

#### CLAUSE 4

##### *Rating formula: Amendments to section 5 of the principal Act*

Section 5 (10) of the principal Act lays down rules for the calculation of the normal tax payable on certain special types of income such as (a) remuneration paid to a mineworker in respect of work done as a member of a proto team; (b) bonuses or gratuities paid to an employee on retirement; (c) excess plantation farming profits; (d) excess profits arising out of damage caused by fire to a farmer's sugar cane fields; (e) the taxable portion of a lump sum benefit received from a pension, provident or retirement annuity fund; or (f) any gain on an insurance policy which is taxable in terms of the Sixth Schedule to the principal Act. In essence, tax is payable on these special receipts at the taxpayer's average rate of tax on his taxable income for the year before the addition of these special receipts.

Except in respect of the amendment introduced by *subclause (1) (c)*, the amendments introduced by this clause arise out of the imposition of a loan levy on individuals and the introduction of the Final Deduction System. The factor "D" introduced into the formula by *subclause (d)* represents the sum of R120 which is the amount referred to in paragraph 3 (3) of the outline of the Final Deduction System. But for this amendment persons in receipt of the special types of income referred to above would have had the tax payable on such income marginally increased as a result of the introduction of the Final Deduction System. The amendment introduced by *subclause (e)* is also designed to neutralize the effect of the Final Deduction System which required the raising of the rate of normal tax in the income band R1 to R6 000 from 8 per cent to 10 per cent.

*Subclause (c)*: In terms of section 7A (4) of the principal Act any bonus, gratuity or compensation paid to an employee upon or because of his impending retirement (within 5 years) may, in certain circumstances and at the option of the taxpayer, be taxed in three equal annual instalments. Section 7A (4) of the principal Act provides further that each instalment shall be subject to tax at the special rate of tax provided for in section 5 (10) of the said Act.

The amendment made by *subclause (c)* to section 5 (10) of the principal Act will, in respect of any bonus, gratuity or compensation which accrues to a taxpayer on or after 1 October 1982, restrict the amount which will qualify for the special rate of tax provided for in the said section 5 (10), to a figure equal in total to three times the annual average of the

amounts derived by the taxpayer during the three years of assessment which immediately preceded the year of assessment under charge by way of remuneration as defined in paragraph 1 of the Fourth Schedule to the said Act. Thus, if a taxpayer whose annual average remuneration as aforesaid is R15 000 receives a retirement gratuity of R96 000 (after deducting any amount exempt from tax in terms of section 10 (1) (x) of the principal Act) and elects to spread that amount over three years, R32 000 of the latter amount will qualify for taxation at the special rate in the year of retirement and R13 000 (i.e.  $3 \times R15\ 000 = R45\ 000$  less R32 000 = R13 000) in the next year. The balance of R19 000 (i.e. R32 000 less the R13 000) will be taxed at the taxpayer's ordinary rate of tax as will be the final one-third of the retirement gratuity (i.e. R32 000) in the third year.

Where a taxpayer who received or receives a bonus, compensation or gratuity of the nature referred to above before 1 October 1982 and he has elected or elects to have it spread over three years, the instalments still to be taxed will not be affected by the amendment effected in terms of subclause (c).

#### CLAUSE 5

##### *Rebates: Amendments to section 6 of the principal Act*

The amendments introduced by this clause are also a direct result of the introduction of the Final Deduction System. In this connection see paragraph 3 (3) of the outline. *Subclause (a)* increases the primary rebate in respect of married persons from R200 to R320 and *subclause (b)* increases the primary rebate in respect of unmarried persons from R120 to R240.

In paragraph 3 (6) of the outline reference is made to a standard minimum rebate in respect of life insurance premiums paid by a taxpayer and subscriptions or contributions made by him to provident and benefit funds. The proviso introduced by *subclause (c)* makes provision for such a rebate which is calculated at the rate of 10 per cent of the premiums or contributions.

#### CLAUSE 6

##### *Exemptions: Amendments to section 10 of the principal Act*

*Subclause (1) (a)* empowers the Commissioner to grant exemption from tax to a pension fund or a retirement annuity fund managed or controlled in an independent State. The Commissioner will have to be satisfied that those States will grant reciprocal exemption to funds managed and controlled in South Africa.

*Subclauses (1) (b), (c) and (d)* increase the exemptions granted in respect of interest accruing on certain investments with the Post Office.

In terms of section 10 (1) (i) (xii) and (xiii) of the principal Act the dividends on certain building society investments (which dividends are normally treated as interest for the purposes of the said Act) are exempt from tax provided the rate of the dividend paid on the investments does not exceed a rate approved by the Minister. *Subclauses (1) (e) and (f)* provide in effect that where a bonus or other distribution is paid on these investments after 1 April 1982 and the amount of the dividends, including such bonus or other distribution, exceeds in the aggregate the percentage yield approved by the Minister the exemption will not apply.

The new exemptions introduced by *subclause (1) (g)* arise out of the introduction of the Final Deduction System and their purpose is explained in paragraph 3 (7) of the outline.

Certain industrialists who train employees receive payments from the industrial councils relating to their particular industry and, in some cases, from funds which were established in terms of section 48A (1) of what was formerly known as the Industrial Conciliation Act (now the Labour Relations Act). The latter type of fund is now constituted in terms of section 39 (4) of the Manpower Training Act, 1981, hence the amendment effected by *subclause (1) (h)*.

*Subclause (1) (i)*: In connection with the introduction into the principal Act of the proposed new section 10 (1) (zC), reference should be made to paragraph 4 (3) and (4) of the outline of the new Regional Development Plan and to the first portion of the explanation under *clause 3* above. The purpose of the proposed new section 10 (1) (zD) is explained in paragraph 4 (7) of the said outline.

*Subclause (2)* indicates from what date certain of the amendments shall be deemed to have taken effect.

#### CLAUSE 7

##### *General deductions allowed in the determination of taxable income: Amendments to section 11 of the principal Act*

Section 11 (g) of the principal Act provides that where a taxpayer hires land or buildings and is obliged in terms of the lease to effect improvements thereon, the cost of those improvements may be claimed as a deduction in the determination of taxable income, generally over the period of the lease. It is, however, possible for a taxpayer to claim more than one deduction in respect of the same improvements effected by him. For example, if the improvements he is obliged to effect consist of housing for his employees, he would, in addition to the section 11 (g) allowance, also be entitled to claim a deduction under section 11 (t) in respect of a portion of the cost of the dwellings.

The purpose of the new paragraph (v) which *clause 7 (1) (a)* inserts in section 11 (g) of the principal Act is to ensure that where the taxpayer is granted relief under some other section of the Act, the section 11 (g) allowance will be so restricted that the total amount allowed to the taxpayer does not exceed 100 per cent of the cost of the improvements effected in terms of the lease.

Section 11 (n) of the principal Act makes provision not only for the deduction of current contributions to a retirement annuity fund but also for the deduction of a limited amount in respect of arrear contributions where the taxpayer who has discontinued his contributions is allowed, in terms of the rules of the fund, to be reinstated as a full member. The amendment effected by *subclause (1) (b)* increases the admissible deduction in respect of arrear contributions from R1 000 to R1 500. The proviso introduced by *subclause (1) (c)* will permit arrear contributions which have been disallowed solely by reason of the fact that they exceeded the prescribed limit, to be carried forward and rank for deduction in a future year of assessment. In terms of *subclause (2) (c)* this latter amendment takes effect as from the commencement of years of assessment ended or ending on or after 28 February 1978.

The amendments effected by *subclause (1) (d)* to section 11 (o) of the principal Act are consequent upon the introduction into the Act, by *clause 13*, of the new section 13ter which provides for deductions in respect of

residential buildings. Section 11 (o) provides for the granting of a scrapping allowance where certain assets are disposed of at a figure which effectively results in a loss to the taxpayer. The amendments extend these particular provisions to losses arising out of the scrapping of residential buildings referred to in section 13*ter*, subject, of course, to the usual safeguards.

Where a taxpayer incurs expenditure in connection with the erection of a dwelling for occupation by one of his employees, or where he advances or donates any amount to be used for the erection of a dwelling for occupation by one of such employees, he may, in terms of section 11 (t) of the principal Act, claim an allowance equal to 50 per cent of the amount so incurred, advanced or donated, subject to a maximum allowance of R4 000 in respect of any one dwelling. The amendment effected to section 11 (t) by *subclause (1) (e)* increases the maximum allowance per dwelling to R6 000.

The amendment effected to section 11 (w) of the principal Act by *subclause (1) (f)* must be looked at in conjunction with the amendment made to paragraph (m) of the definition of "gross income" in section 1 by *clause 3 (1) (b)*. In terms of the said section 11 (w) premiums paid by a taxpayer under a policy on the life of an employee may, in certain circumstances, be allowed as a deduction in the determination of that taxpayer's taxable income. In terms of the new proviso (*dd*) to section 11 (w) the allowance will in future be granted in respect of policies which are generally known as term policies. The amendment relates to policies the proposals for which are made in writing on or after May 1982.

#### CLAUSE 8

##### *Exporters allowance: Amendments to section 11bis of the principal Act*

Section 11*bis* (4) of the principal Act lays down what items of expenditure constitute "marketing expenditure" for the purposes of the exporters allowance. In a recent decision handed down by the Income Tax Special Court it was ruled that the wording of section 11*bis* (4) (*f*) was wide enough to include the commission paid by an exporter to a clearing and forwarding agent in a foreign country. The amendment introduced by *subclause (1)* ensures that the said subsection 4 (*f*) will in future be limited in scope to commissions and remuneration paid for orders for goods and for the clearing and forwarding of the exported goods in the export country. *Subclause (2)* states the date from which the amendment is deemed to have taken effect.

#### CLAUSE 9

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

Section 37 of the Manpower Training Act, 1981 (Act No. 56 of 1981) provides as follows:—

"37. The registrar (of Manpower Training) may, for the purposes of an employees training allowance as referred to in section 11*sept* of the Income Tax Act, 1962 (Act No. 58 of 1962), after consultation with the board and having due regard to the objects of this Act, approve the training of employees at a training centre in an area or territory—

- (a) for which a legislative assembly has been established in terms of the provisions of the National States Constitution Act, 1971 (Act No. 21 of 1971); or

(b) which formed part of the Republic and became an independent State by an Act of Parliament.”

In terms of the definition in the principal Act, however, the term “training centre of scheme” includes only a centre or scheme which is *registered* under the Manpower Training Act, 1981.

The purpose of the amendment effected by *subclause (1) (a)* is to ensure that training centres *approved* by the Registrar of Manpower Training as set out above will qualify as training centres for the purposes of section 11*sept* of the principal Act.

In considering the amendment introduced by *subclause (1) (b)* reference should be made to the amendment effected by *clause 6 (1) (h)*. Payments made by industrial councils and certain funds to employers who train labour were hitherto exempt from tax in terms of section 10 (1) (zB) of the principal Act and will henceforth be exempt in terms of sections 10 (1) (zB) and 10 (1) (zC), respectively. Section 11*sept* (7) of the Act provides, however, that the amount of a taxpayer’s training expenses shall be reduced by the payments received from industrial councils but makes no reference to amounts received from funds established in terms of section 39 (4) of the Manpower Training Act. The amendment introduced by *subclause (1) (b)* corrects this shortcoming in the Act. The new subsection (8) which *subclause (1) (c)* introduces into section 11*sept* arises out of the new Regional Development Plan and reference should be made to paragraph 4 (3) of the outline. The new subsection (8) provides that to the extent to which an industrialist operating in an economic development area receives a training allowance in cash from the Department of Manpower he will not be entitled to an allowance in terms of section 11*sept*. In terms of the new section 10 (1) (zC), which is introduced by *clause 6 (1) (i)*, the said cash allowance will be exempt from tax.

#### CLAUSE 10

*Allowance in respect of consultants’ fees: Insertion of section 11oct in the principal Act*

The reason for the introduction of the new section is given in paragraph 4 (8) of the outline of the new Regional Development Plan.

#### CLAUSE 11

*Deductions in respect of machinery or plant used in a process of manufacture: Amendment to section 12 of the principal Act*

Section 12 (5) was inserted in the principal Act by section 12 (1) (i) of the Income Tax Act, 1981, and provided for the claw-back of a portion of the machinery initial and investment allowances if the lessor under a lease of machinery or plant disposes of his interest under the lease or of his right to receive rent under the lease and such disposal takes place within five years reckoned from the commencement of the period for which the machinery or plant has been let.

The amendment made by this clause to subsection (5) (b) extends the claw-back provision to cases where the taxpayer disposes of only a portion of his interest in a lease or his right to receive rent under the lease.

*Subclause (2)* provides that the amendment shall apply in respect of years of assessment ended or ending on or after the date of promulgation of the Income Tax Act, 1982.

## CLAUSE 12

*Deductions in respect of hotel equipment: Amendment to section 12A of the principal Act*

This clause introduces into section 12A (5) (b) of the principal Act an amendment similar to the one referred to immediately above but dealing with the disposal of a portion of a lease relating to hotel equipment or of a right to receive rent under the lease.

In terms of *subclause (2)* this amendment will have effect in the same manner as that introduced by *clause 11*.

## CLAUSE 13

*Deduction in respect of residential buildings: Insertion of new section 13ter in the principal Act*

The new section provides incentives to taxpayers who erect "residential units" (a) for the purpose of letting them to tenants at a profit or (b) for occupation by *bona fide* full-time employees. In order to qualify for the incentive the taxpayer must engage in a "housing project" which involves the erection of at least five residential units. The term "residential unit" is defined in subsection (1) as meaning "any self-contained residential accommodation consisting of more than one room (but excluding any hostel, hotel or similar accommodation) the erection of which was commenced by the taxpayer on or after 1 April 1982 and which was erected under a housing project of the taxpayer".

The incentives are in two parts, namely the residential building annual allowance equal to 2 per cent of the cost to the taxpayer of the residential unit erected by him, and the residential building initial allowance equal to 10 per cent of the cost to the taxpayer of such unit (subsections (2) and (3)). If a residential unit is erected on property not owned by the taxpayer, then in terms of subsection (4) the taxpayer may not claim the allowances unless he is entitled to occupation for at least ten years. Subsection (5) provides that the *initial* allowance in respect of any unit shall be granted in the year in which at least five of such units are let or occupied for the first time. The *annual* allowance in respect of any unit commences as from the same year. Should any unit in respect of which the initial and annual allowances have been granted cease, within a period of ten years, to be available for letting or occupied as required by the section, then in terms of subsection (7) the annual allowance will cease and a portion of the initial allowance must be written back and taxed. Subsection (8) provides that, to the extent that a portion of the initial allowance has been so written back and taxed, the recoupment and scrapping provisions in section 8 (4) (a) and 11 (o), respectively, of the principal Act shall not apply. Finally, subsections (9) and (10) provide that the allowances deductible under this or any other section of the principal Act shall not exceed the cost of any residential unit.

## CLAUSE 14

*Deduction of donations to universities, colleges and certain educational funds: Amendments to section 18A of the principal Act*

The scope of section 18A of the principal Act was considerably expanded in terms of the amendments effected in terms of section 16 of the Income Tax Act, 1981. Whereas previously the donations deductible for income tax purposes were limited to those made to universities, colleges and to the fund established under the National Study Loans and Bursaries

Act, 1964, the amendment made in 1981 permits the deduction of donations to an "educational fund" which term includes, in addition to the fund referred to above, any special fund established solely for the purpose of receiving donations to be devoted towards the carrying out of any "specified educational project" and any special fund administered and controlled by an educational trust. The expression "specified educational project" was defined to include the erection of buildings, the acquisition of land and the purchase of certain items of capital equipment.

The amendments effected by this clause broaden the scope of the section still further by removing the restriction in respect of donations to the two types of special fund referred to above. *Subclause (1) (d)* deletes the definition of "specified educational project" while *subclauses (1) (a) and (b)* make consequential amendments to the definition of "educational fund" in subsection (1) which make it clear that donations may in future be used to defray current expenditure as well as for the acquisition of capital items. The amendments at the same time make it clear that the funds may not apply donations for the purpose of defraying the tuition or boarding fees of, or for the purpose of granting any bursary to, any person nominated by a donor to such fund.

The amendments introduced in terms of section 16 of the Income Tax Act, 1981, had the effect *inter alia* of preventing universities and colleges and the special funds controlled by educational trusts from accepting donations intended to be used for the purpose of defraying students' fees or the granting of bursaries. The amendments effected by *subclauses (1) (c) and (1) (e)* remove this total prohibition and make it clear that the income tax deduction will be denied to the taxpayer only where he has nominated the person who is to benefit from his donation. *Subclause (1) (f)* also corrects a printing error in the Income Tax Act, 1981. The amendments effected by *subclause (1) (g) and (h)* are consequent upon the deletion of the definition of the expression "specified educational project".

## CLAUSE 15

### *Deductions and set-off from income derived from dividends: Amendments to section 19 of the principal Act*

*Subclause (1) (a)*: This amendment arises out of the introduction of the Final Deduction System and its purpose is explained in paragraph 3 (7) of the outline. The parallel reliefs in respect of interest are introduced by clause 6 (1) (g). For technical reasons it is necessary to allow the relief in respect of dividends as a deduction and not as an exemption under section 10 of the principal Act.

*Subclause (1) (b)*: This amendment is also consequent upon the introduction of the Final Deduction System and provides for a limitation of the deduction in respect of expenditure incurred in producing dividends which are subject to the deduction provided for in the new subsection (1A).

*Subclause (1) (c)*: The amendment effected by this subclause is consequent upon the amendment made to sections 10 (1) (i) (xii) and (xiii) of the principal Act by clauses 6 (1) (e) and (f).

*Subclause (2)* deals with the coming into force of the amendment made in terms of subclause (1) (c).



## CLAUSE 16

*Deduction in respect of earnings of married women: Amendment to section 20A of the principal Act*

This is another amendment made necessary by the introduction of the Final Deduction System. See paragraph 3 (4) of the outline.

## CLAUSE 17

*Special deduction in respect of undertakings in economic development areas: Amendments to section 21ter of the principal Act*

*Subclause (1) (a)*: This is merely a textual amendment.

*Subclauses (1) (b) and (c)*: The amendments effected by these clauses arise out of the coming into force of the new Regional Development Plan. As explained in paragraph 3 of the outline an industrialist who has already been granted a tax holiday under section 21ter of the principal Act in respect of his undertaking in an economic development area may elect to convert the unused portion of his special deduction into a cash subsidy under the new system. The new subsection (3C) introduced by *subclause (1) (b)* provides that where the industrialist changes to the new system he must forgo the balance of his tax holiday. The amendments effected by *subclause (1) (c)* lay down time limits for the submission of applications for a special deduction in terms of section 21ter of the principal Act.

*Subclause (2)* provides for the date of coming into force of these amendments.

## CLAUSE 18

*Deduction in lieu of certain deductions under the principal Act: Insertion of new section 24E in the principal Act*

In this connection reference should be made to paragraph 3 (5) of the outline of the Final Deduction System.

*Subsection (2)* provides that where the deductions to which a taxpayer is entitled in terms of certain sections of the Act exceed the standard deduction provided for in the new section 24E that standard deduction shall not apply and the taxpayer will, of course, be entitled to claim his actual expenditure, subject to the limitations provided for in the principal Act—see paragraph 3 (10) of the outline

## CLAUSE 19

*Determination of taxable income derived from insurance business: Amendments to section 28 of the principal Act*

In terms of section 28 (1) of the principal Act the taxable income of a long-term insurer is deemed to be 30 per cent of the taxpayer's gross investment income, *less certain exclusions*. *Subclause (1) (a)* provides that the said percentage shall be increased to *forty*. In terms of *subclause (2) (a)* the amendment is deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 April 1982.

One of the exclusions from gross investment income referred to above is the amount derived by the taxpayer from the investment of funds at-

tributable to any long-term insurance business carried on by him in the Republic with any pension fund or retirement annuity fund. *Subclause (1) (b)* extends this exclusion to income derived from the investment of funds attributable to long-term insurance business carried on by the taxpayer in independent States which formerly formed part of the Republic with any fund referred to in section 10 (1) (dA) of the principal Act. The said section is introduced into the principal Act by *clause 6 (1) (a)*.

*Subclause (1) (c)* introduces another exclusion into section 28 (1) (a) of the principal Act the purpose of the new item (iv) being to grant relief from South African tax in respect of income arising from the investment of funds derived by a long-term insurer from business carried on in a country the territory of which formerly formed part of the Republic. The relief will be granted only if the said income is subject to tax in the other country, no relief is available under a double taxation agreement and no tax is imposed by the other country on income derived by the long-term insurer from business carried on by him in the Republic.

In terms of *subclause (2) (b)* the amendments effected by *subclauses (1) (b)* and *(c)* shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 January 1981.

#### CLAUSE 20

*Non-resident shareholders' tax: Income subject to tax: Amendment to section 42 of the principal Act*

This amendment is consequent upon the insertion in section 10 (1) of the principal Act, by *clause 6 (1) (a)*, of the new paragraph (dA) which provides an exemption from normal tax of the receipts and accruals of pension funds and retirement annuity funds managed and controlled in countries the territory of which formerly formed part of the Republic.

#### CLAUSE 21

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

This amendment is likewise consequent upon the insertion of the new paragraph (dA) in section 10 (1) of the principal Act.

#### CLAUSE 22

*Notice by the Commissioner requiring returns for assessment of taxes under the principal Act and manner of furnishing returns and interim returns: Amendments to section 66 of the principal Act*

The amendments effected by this clause flow largely from the introduction of the Final Deduction System. As will be seen from the outline of that system certain taxpayers who are liable for income tax will no longer be required to submit annual returns. The amendments effected by *subclause (a)* to section 66 (1) of the principal Act provide for this new situation by laying down who shall in future be required to submit a return.

*Subclause (b)* effects a textual amendment—see notes under subclause *(d)*.

*Subclause (c)* introduces a new subsection (5A) into section 66 of the principal Act. The purpose of this amendment will be apparent from what is said in paragraph 3 (10) of the outline of the Final Deduction System.

*Subclause (d)*: The amendment effected by this Clause is consequent on the deletion, in terms of subclause *(b)*, of paragraph *(b)* of subsection (5) of section 66 of the principal Act. Words similar to those now inserted in section 66 (6) were to be found in section 66 (5) *(b)* of the principal Act.

### CLAUSE 23

#### *Additional assessments: Amendments to section 79 of the principal Act*

The insertion in terms of this clause of a further paragraph, numbered (v), in the proviso to section 79 of the principal Act also arises out of the introduction of the Final Deduction System. In terms of the new paragraph a taxpayer who, under the Final Deduction System, has not been required to render a return of income for a year of assessment will be entitled to finality after a period of three years, reckoned from the end of the relevant year of assessment, unless *(a)* the amount of employees tax which should have been withheld from the taxpayer's remuneration was not so withheld or *(b)* the amount of employees tax so withheld was less than what it should have been and the Commissioner is not satisfied that the withholding of the lesser amount was not due to collusion between the employer and the taxpayer or to the furnishing by the taxpayer of incorrect personal particulars to the employer.

### CLAUSE 24

#### *Payment of tax pending appeal: Amendments to section 88 of the principal Act*

In terms of section 88 of the principal Act a taxpayer's obligation to pay the amount of tax assessed against him is not suspended by reason of the fact that he has noted an objection or appeal. The section provides further however that if an assessment is altered on appeal any amount of tax paid in excess by the taxpayer shall be refunded with interest at the rate of 7,5 per cent. The amendments effected by *clause 24* increase to 10 per cent per annum the rate at which interest is payable in respect of periods after 30 June 1982.

### CLAUSES 25 AND 26

#### *Interest on overdue payments of tax: Amendments to sections 89 and 89bis of the principal Act*

Sections 89 and 89bis of the principal Act specify when the various taxes due in terms of the Act (normal tax, non-resident shareholders tax, non-residents tax on interest, tax on royalties, undistributed profits tax, employees tax and provisional tax) shall be paid and provide further that where the tax is not paid within the period specified interest shall be paid by the taxpayer on the outstanding amount at the rate of 7,5 per cent per annum.

The amendments effected by *clauses 25 and 26* increase to 10 per cent per annum the rate at which interest shall be payable. The increased rate of interest is payable on amounts outstanding after 30 June 1982.

*Clause 25 (1)* also deletes certain obsolete provisions from section 89 of the principal Act.

## CLAUSE 27

*Refunds: Insertion of new subsection (3) in section 102 of the principal Act*

This is yet another amendment made necessary by the introduction of the Final Deduction System. In terms of subsection (3) of section 102 of the principal Act a taxpayer who, under the Final Deduction System, has not been required to render a return of income for a year of assessment will not, after a period of three years, reckoned from the end of that year of assessment, be entitled to claim a refund of any amount of employees tax withheld from his remuneration.

## CLAUSE 28

*Computation of taxable income derived from farming operations: Amendments to item (i) of paragraph 12 of the First Schedule to the principal Act*

Subject to certain limitations, a farmer may, in terms of paragraph 12 of the First Schedule to the principal Act, deduct certain items of capital expenditure in determining his taxable income from farming operations. One of those items is the cost of the carrying of electric power from the main transmission lines to the farm apparatus. The amendment effected by *subclause (1) (a)* to item (1) (i) of the said paragraph extends the concession to expenditure incurred by the farmer under a new type of agreement which has been introduced by the Electricity Supply Commission in connection with the supply of electric power for farming purposes.

A farmer may also deduct the cost of dwellings erected by him for the use of his employees and their families, subject to a limit of R5 000 per employee. The amendment effected to paragraph 12 (5) by *subclause (1) (b)* increases the limit to R6 000 per employee.

## CLAUSE 29

*Equalization of tax rates of farmers: Amendments to paragraph 19 of the First Schedule to the principal Act*

In terms of the abovementioned paragraph a farmer may elect to have his normal tax liability calculated on a basis in terms of which his taxable income from farming is taken into account at the average of such taxable income for the current and four preceding years of assessment.

The amendments effected in terms of this clause are broadly the counterpart of those effected by *clause 4* to section 5 of the principal Act and arise principally out of the imposition of the loan levy and the introduction of the Final Deduction System.

*Subclause (1) (a)* amends both the wording of paragraph 19 (1) (a) of the First Schedule to the principal Act and the formula in that paragraph. The amendment to the wording relates to the imposition of loan levy while the formula is amended by the introduction of two factors, namely "K" and "L". The purpose of these factors is explained later.

*Subclause (1) (b)* amends the definition of factor "A" in the formula, introducing a reference to the loan levy and to factor "K".

*Subclause (1) (c)* introduces a textual amendment in subparagraph 19 (1) (d) of the said First Schedule.

*Subclause (1) (d)* inserts a new item (i) in subparagraph 19 (1) of the said First Schedule in which factor "K" in the formula represents the

amount of any bonus, gratuity or compensation paid to an employee upon or because of his impending retirement (within five years) which, in certain circumstances and at the option of the taxpayer, may be taxed in three equal annual instalments and which, in terms of section 7A (4A) of the principal Act, as read with section 5 (10) of that Act, may be excluded in determining the rate at which normal tax is payable for the year. By excluding this type of income in determining the rate at which tax on such income is determined, the taxpayer's tax liability is invariably reduced. The amendment effected by *subclause (1) (d)*, as read with that effected to the formula by *subclause (1) (a)*, extends, retrospectively to the year of assessment ended 28 February 1982, this concession in respect of retirement bonuses, gratuities or compensation to farmers who have elected equalized rates of tax in terms of paragraph 19 of the First Schedule to the principal Act.

The second portion of the new item *(i)* which is introduced by this subclause is the equivalent of the amendments effected to section 5 (10) *(d)* of the principal Act by clause 4 *(c)* in connection with the same concession applying to taxpayers other than farmers. The purpose of this second portion is explained in the notes dealing with clause 4 *(c)*.

*Subclause (1) (d)* also inserts a new item *(j)* in paragraph 19 (1) of the said First Schedule in which factor "L" in the said formula is said to represent an amount of R120. This is the amount referred to in paragraph 3 (3) of the outline of the Final Deduction System. Because of the raising of the rate of tax payable in the income band R1 to R6 000 from 8 per cent to 10 per cent the amount of normal tax payable on the first R6 000 of taxable income has been increased by R120. Factor "L" cancels out the effect of this increase.

*Subclause (1) (e)*: The amendment effected in terms of this subsection is the counterpart of the one effected by clause 4 *(e)* and is likewise designed to neutralize the effect of the raising of the rate of tax in the income band R1 to R6 000.

*Subclause (2)* provides for the coming into force of the amendments effected by *subclause (1)*.

### CLAUSE 30

#### *Abnormal receipts from farming operations: Amendment to paragraph 20 of the First Schedule to the principal Act*

The amendments effected by this clause are consequent upon the re-introduction of rebates in terms of the Income Tax Act, 1980, and the imposition of the loan levy in terms of this Act.

### CLAUSE 31

#### *Loan portion of the normal tax: Amendment to paragraph 12 of the Fifth Schedule to the principal Act*

At present a natural person over the age of 60 years is not liable for the loan levy if his taxable income does not exceed R5 000. The amendment effected in terms of this clause to paragraph 2 (4) of the Fifth Schedule to the principal Act will in future grant exemption to persons over the age of 70 years if their taxable income for the year of assessment does not exceed R15 000.

## CLAUSE 32

*Loan portion of the normal tax: Amendment to paragraph 7 of the Fifth Schedule to the principal Act*

Simple interest at the rate of 5 per cent per annum has for many years been payable on loan levy held to the credit of a taxpayer.

The amendments effected by this clause to paragraph 7 of the said Schedule increase that rate of interest to 8 per cent per annum in respect of loan levy paid for years of assessment ending on or after 28 February 1983.

## CLAUSE 33

*Standardized deductions and small income relief for year of assessment ending 28 February 1983: Repeal of section 31 of the Income Tax Act, 1981*

Section 31 of the Income Tax Act, 1981, enacted certain substantive provisions designed to facilitate the introduction of the Final Deduction System. In view of the many amendments in connection with the Final Deduction System now being made to the principal Act in terms of this Bill the aforementioned substantive provisions are no longer required and are therefore being repealed by this clause.

## CLAUSE 34

*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 1983, except where otherwise provided or the text otherwise indicates.

## CLAUSE 35

This clause gives the short title of the amending Act.