

No. 61, 1957.]

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.

ACT

To fix the rates of normal and super income tax in respect of the year of assessment ending the thirtieth day of June, 1957, to provide for the repayment of certain portions of the said taxes to the taxpayers concerned and for the payment of a portion of the normal tax payable by certain companies into provincial revenue funds and to amend the law relating to income tax.

(English text signed by the Officer Administering the Government.)
(Assented to 21st June, 1957.)

BE IT ENACTED by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Rates of normal
and super tax.

1. (1) In terms of sub-section (2) of section *five* and sub-section (2) of section *twenty-three* respectively of the Income Tax Act, 1941 (Act No. 31 of 1941), hereinafter referred to as the principal Act, the rates of normal and super tax to be levied for the year of assessment ending the thirtieth day of June, 1957, shall be as follows:

(A) In so far as normal tax is concerned—

(a) in respect of the taxable income (excluding so much as is derived from mining operations carried on in the Union by any company, but including so much as the Commissioner determines to be attributable to the inclusion in the gross income derived from mining in the Union for gold, of any amount referred to in paragraph (f) of the definition of "gross income" in section *seven* of the principal Act)—

(i) in the case of all companies, except as provided in paragraph (b) of sub-section (1) of section *two* of this Act, for each pound of the taxable income, six shillings and sixpence;

(ii) in the case of persons other than companies, for each pound of the taxable income not exceeding nine thousand three hundred pounds, eighteen pence increased by one one-thousandth of a penny for each pound of such taxable income in excess of one pound, and for each pound of the taxable income over and above nine thousand three hundred pounds, thirty-seven pence: Provided that for a married person the rate for each pound of the taxable income not exceeding nine thousand three hundred pounds shall be fifteen pence increased by one one-thousandth of a penny for each pound of such taxable income in excess of one pound, and for each pound of the taxable income over and above nine thousand three hundred pounds, thirty-four pence: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this item (including the foregoing proviso thereto) a sum equal to twenty-five per centum of the net amount arrived at after deducting the rebates provided for in section *thirteen* of the principal Act from the amount of tax so calculated;

(b) in respect of so much of the taxable income as has been derived by any company from mining in the Union for gold (but with the exclusion of so much of the taxable income as the Commissioner determines to be attributable to the inclusion in the gross income of any amount

referred to in paragraph (f) of the definition of "gross income" in section *seven* of the principal Act), on each pound of the taxable income a percentage determined in accordance with the formula:

$$y = 60 - \frac{360}{x}$$

in which formula (and in the formulae set out in the proviso hereto) y represents such percentage and x the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed twenty thousand pounds, the rate of tax shall not exceed a percentage determined in accordance with the formula:

$$y = 20 \left(1 - \frac{6}{x} \right)$$

and if such taxable income exceeds twenty thousand pounds, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20

in the formula $y = 20 \left(1 - \frac{6}{x} \right)$ by one for each completed amount of twelve hundred and fifty pounds by which the said taxable income exceeds twenty thousand pounds;

- (c) in respect of so much of the taxable income as has been derived by any company from mining in the Union for diamonds, for each pound of the taxable income, nine shillings and six pence;
- (d) in respect of so much of the taxable income as has been derived by any company from mining operations (other than mining for gold or diamonds) carried on by such company in the Union, for each pound of the taxable income, six shillings and six pence;
- (e) in respect of so much of the taxable income of any company, the sole or principal business of which in the Union is mining for gold and the determination of the taxable income of which for the period assessed does not result in an assessed loss, as the Commissioner determines to be attributable to the inclusion in its gross income of any amount referred to in paragraph (f) of the definition of "gross income" in section *seven* of the principal Act, for each pound so determined to be attributable to the inclusion of any such amount, the amount by which the average rate of normal tax as determined under paragraph (b) of sub-section (2) exceeds the rate prescribed in item (i) of sub-paragraph (a).
- (B) In so far as super tax is concerned, for each pound of the income subject to super tax not exceeding nine thousand three hundred pounds, two shillings increased by one four-hundredth of a penny for each pound of such income subject to super tax in excess of one pound, and for each pound of the income subject to super tax over and above nine thousand three hundred pounds, five shillings and ten pence: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this paragraph a sum equal to twenty-five per centum of the net amount arrived at after deducting the rebates provided for in section *twenty-nine* of the principal Act from the amount of tax so calculated.
- (2) (a) For the purposes of paragraph (A) of sub-section (1) income derived from mining in the Union for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of the mining for gold, and

any income which, in the opinion of the Commissioner, results directly from mining for gold.

- (b) For the purposes of sub-paragraph (e) of paragraph (A) of sub-section (1), the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with the said sub-paragraph for the period assessed) paid by the company concerned in respect of its aggregate taxable income from gold mining for the period from the first day of July, 1916, to the end of the period assessed, by the number of the pounds contained in the said aggregate taxable income.
- (c) The tax determined in accordance with any one of the sub-paragraphs (a) to (e) of paragraph (A) of sub-section (1), shall be payable in addition to the tax determined in accordance with any other of the said sub-paragraphs.

(3) For the purposes of assessing any tax imposed by a provincial council in the exercise of its powers under the Financial Relations Consolidation and Amendment Act, 1945 (Act No. 38 of 1945), on the incomes of persons, the amounts of normal tax and super tax payable under the Income Tax Acts of the Union by any taxpayer in respect of the year of assessment ending the thirtieth day of June, 1957, shall be deemed to be equal to the respective amounts which would have been payable as normal tax and super tax if the provisions relating to the addition referred to in the second proviso to item (ii) of sub-paragraph (a) of paragraph (A) of sub-section (1) and in the proviso to paragraph (B) of the said sub-section had not been enacted.

Portions of the normal tax payable by certain companies to be paid into the provincial revenue funds.

2. (1) (a) Notwithstanding the provisions of sub-section (1) of section *five* of the principal Act, two-thirteenths of each completed one pound of any amount of tax determined in accordance with item (i) of sub-paragraph (a) of paragraph (A) of sub-section (1) of section *one* of this Act (hereinafter referred to as the provincial portion of the normal tax), shall accrue for the benefit of the respective provincial revenue funds in such proportions as may be determined by the Governor-General by proclamation in the *Gazette* and shall in the said proportions be paid into the said provincial revenue funds in accordance with the laws relating to the collection, banking and custody of provincial revenues as though it were a tax imposed by the provincial councils of the said provinces on the incomes of companies.
- (b) The provincial portion of the normal tax prescribed in item (i) of sub-paragraph (a) of paragraph (A) of sub-section (1) of section *one* of this Act shall not be payable by any company, the sole or principal business of which in the Union is mining for gold, in respect of so much of its taxable income as the Commissioner determines to be attributable to the inclusion in its gross income of any amount referred to in paragraph (f) of the definition of "gross income" in section *seven* of the principal Act, and for the purpose of sub-paragraph (e) of paragraph (A) of sub-section (1) of section *one* of this Act the rate of tax prescribed in item (i) of the said sub-paragraph (a) shall be deemed to be five shillings for each pound of the taxable income.

(2) The provisions of this section shall come into operation on the first day of July, 1957.

Certain portions of the normal and super tax to be repayable to the taxpayers concerned.

3. (1) Notwithstanding the provisions of sub-section (1) of section *five* and sub-section (1) of section *twenty-three* respectively of the principal Act, the following portions of the normal and super tax determined in accordance with the provisions of section *one* of this Act in respect of any person for the year of assessment ending the thirtieth day of June, 1957 (hereinafter referred to as the loan portions of the normal and super tax), shall be repayable to such person in the manner and at the time hereinafter provided, namely—

- (a) one-thirteenth of each completed one pound of the amount of the tax determined in accordance with item (i) of sub-paragraph (a) of paragraph (A) of sub-section (1) of the said section;

- (b) two twenty-fifths of each completed one pound of the amount of the tax determined in accordance with item (ii) of the aforesaid sub-paragraph after the deduction of the rebates provided for in section *thirteen* of the principal Act;
- (c) one-nineteenth of each completed one pound of the amount of the tax determined in accordance with sub-paragraph (c) of the aforesaid paragraph;
- (d) one-thirteenth of each completed one pound of the amount of the tax determined in accordance with sub-paragraph (d) of the aforesaid paragraph;
- (e) two twenty-fifths of each completed one pound of the amount of the tax determined in accordance with paragraph (B) of the aforesaid sub-section after the deduction of the rebates provided for in section *twenty-nine* of the principal Act.
- (2) (a) The liability for the payment of any unpaid amount of the loan portions of the normal and super tax due by any person shall cease upon the death, insolvency or liquidation (in the case of a company) of that person, and the estate of a deceased or insolvent person or a company in liquidation shall not be liable for the payment of any of the loan portions of the normal and super tax in respect of any income received by or accrued to or in favour of such estate or such company in liquidation: Provided that nothing in this paragraph contained shall be construed as relieving any trust created under the will of a deceased person from liability for the payment of any of the loan portions of the normal and super tax in respect of any income received by or accrued to or in favour of such trust.
- (b) A person to whom the provisions of section *fifteen* of the principal Act apply and who has no recognized agent in the Union other than the master of the ship or the pilot of the aircraft concerned, shall not be liable for the payment of any of the loan portions of the normal and super tax in respect of his taxable income determined in accordance with the said provisions.
- (c) The loan portion of the normal tax prescribed in item (i) of sub-paragraph (a) of paragraph (A) of sub-section (1) of section *one* of this Act shall not be payable by any company, the sole or principal business of which in the Union is mining for gold, in respect of so much of its taxable income as the Commissioner determines to be attributable to the inclusion in its gross income of any amount referred to in paragraph (f) of the definition of "gross income" in section *seven* of the principal Act.
- (d) No person (other than a company) not ordinarily resident nor carrying on business in the Union and no company not registered nor carrying on business in the Union, shall be liable for the payment of the loan portions of the normal and super tax.
- (3) The provisions of section *sixty-five* of the principal Act shall not apply in relation to the loan portions of the normal and super tax.
- (4) There shall from time to time be paid to the credit of the loan account referred to in the General Loans Consolidation and Amendment Act, 1917 (Act No. 22 of 1917), amounts equal to the amounts which the Commissioner determines to have been collected in respect of the loan portions of the normal and super tax.
- (5) (a) The Commissioner shall, at such time as he may decide, but not later than the end of the period referred to in paragraph (c), issue to every person who has paid any of the loan portions of the normal and super tax, a certificate for the amount so paid by such person: Provided that in the event of the death, insolvency or liquidation (in the case of a company) of the person concerned before the issue of such certificate, the Commissioner may instead of issuing such certificate repay to the estate of such person or to the company

in liquidation the amount paid by the person concerned in respect of any loan portions of the normal and super tax together with simple interest at the rate of four and one-half per centum per annum on each completed one pound of such amount calculated from the date of payment of such amount by such person to the date on which the said amount is repaid by the Commissioner in terms of this proviso.

- (b) If any person has failed to pay the full amount due by him in respect of the normal and super tax or in respect of such tax and any interest payable thereon under sub-section (2) of section *eighty-three* of the principal Act, the Commissioner shall appropriate to those portions of the normal and super tax which are not loan portions and to any interest payable as aforesaid, in such order as he may in any particular case determine, so much of the amount paid by such person as may be necessary to discharge his liability in respect of those portions of the normal and super tax which are not loan portions and of such interest, and such person or his estate or (in the case of a company) the company in liquidation shall be entitled to a certificate or repayment, as the case may be, under paragraph (a) only in respect of the balance (if any) of the amount paid which has not been so appropriated.
- (c) A certificate issued in terms of paragraph (a) shall not be transferable and shall, save in such special circumstances and on such conditions as the Governor-General may prescribe, not be redeemable until the expiry of a period of five years from the date of payment of the amount in respect of which such certificate has been issued: Provided that if in the opinion of the Commissioner the circumstances of the case warrant such action, he may, subject to such conditions as he may impose, pay the amount due under any certificate to a person other than the person to whom that certificate was issued in terms of paragraph (a).
- (d) Upon expiry of the period referred to in paragraph (c), the relevant certificate shall become redeemable forthwith and may be redeemed in such manner as the Governor-General may prescribe.
- (e) Any such certificate shall bear simple interest at the rate of four and one-half per centum per annum for the period referred to in paragraph (c) on each completed one pound of the amount of the loan portion of the normal and super tax in respect of which such certificate has been issued, which interest may be included in the face value of the certificate and shall not be payable before the date on which such certificate is redeemed.
- (f) (i) Where the amount in respect of which any certificate has or would, but for the proviso to paragraph (a), have been issued, was paid by instalments, the date of payment of the last of such instalments shall for the purposes of this sub-section be deemed to be the date of payment of that amount.
- (ii) If in the case of any taxpayer who in terms of section *fifty-six* of the principal Act has on or before the first day of July, 1957, made any provisional payment in respect of the taxes leviable under this Act, the amount so paid is on finality of the assessment found to be equal to or in excess of the amount (including the amount of the loan portion of the normal tax) properly chargeable, the date of payment of the loan portion of the normal tax shall be deemed to be the first day of July, 1957.
- (g) Notwithstanding anything to the contrary in any other law contained, no stamp duty shall be payable in respect of any receipt given by any person for the payment to him of any amount in terms of the proviso to paragraph (a) or upon the redemption of any certificate which has been issued in terms of this sub-section.
- (h) The provisions of the General Loans Consolidation and Amendment Act, 1917 (Act No. 22 of 1917),

shall in so far as they may be applicable, and subject to the provisions of this section, *mutatis mutandis* apply in respect of certificates issued in terms of this sub-section.

(6) The Governor-General may make regulations as to all matters which he considers it necessary or expedient to prescribe in order that the purposes of this section may be achieved, and may in such regulations prescribe penalties for any contravention thereof or failure to comply therewith not exceeding a fine of twenty-five pounds.

(7) The regulations made under the Income Tax Act, 1953 (Act No. 34 of 1953), and published under Government Notice No. 727 of 1955 in the *Gazette* of the 1st April, 1955, shall *mutatis mutandis* apply for purposes of this section and shall be deemed to have been made in terms of sub-section (6).

(8) The Governor-General may by proclamation in the *Gazette* determine a date after which assessments for the payment of the loan portions of the normal and super taxes shall not be issued by the Commissioner.

(9) The provisions of this section shall come into operation on the first day of July, 1957.

Amendment of section 1 of Act 31 of 1941, as amended by section 2 of Act 39 of 1945, section 3 of Act 55 of 1946, section 2 of Act 40 of 1948, section 2 of Act 45 of 1949, section 2 of Act 56 of 1952, section 2 of Act 43 of 1955 and section 2 of Act 55 of 1956.

4. (1) Section *one* of the principal Act is hereby amended by the insertion after the definition of "married person" of the following definition:

"'mining for gold' or 'to mine for gold' includes mining for uranium or to mine for uranium;".

(2) The amendment effected by sub-section (1) shall be deemed first to have taken effect in respect of assessments for the year of assessment which ended on the thirtieth day of June, 1951.

Amendment of section 10 of Act 31 of 1941, as amended by section 3 of Act 34 of 1942, section 4 of Act 26 of 1943, section 2 of Act 47 of 1944, section 5 of Act 39 of 1945, section 6 of Act 55 of 1946, section 3 of Act 40 of 1948, section 5 of Act 45 of 1949, section 4 of Act 56 of 1952, section 4 of Act 34 of 1953 and section 5 of Act 55 of 1956.

5. Paragraph (i) of sub-section (1) of section *ten* of the principal Act is hereby amended by the insertion after the words "Union Loan Certificates" of the words "or interest received in respect of any loan portion of the normal and super tax imposed under the Income Tax Act, 1953, or any subsequent Income Tax Act of the Union".

Amendment of section 11 of Act 31 of 1941, as amended by section 4 of Act 34 of 1942, section 5 of Act 26 of 1943, section 6 of Act 39 of 1945, section 7 of Act 55 of 1946, section 4 of Act 40 of 1948, section 6 of Act 45 of 1949, section 5 of Act 56 of 1952, section 5 of Act 34 of 1953, section 2 of Act 55 of 1954, section 5 of Act 43 of 1955 and section 6 of Act 55 of 1956.

6. Sub-section (2) of section *eleven* of the principal Act is hereby amended by the substitution for paragraphs (r) and (s) of the following paragraphs:

"(r) notwithstanding the provisions of paragraphs (a), (b) and (g) of section *twelve*, an allowance not exceeding one hundred pounds in respect of fees which the Commissioner is satisfied were paid by the taxpayer during the year of assessment to any nursing home in connection with any confinement of his wife, or to—

(i) any dentist or medical practitioner for dental and medical services rendered to; or

(ii) any duly registered nursing home or hospital in respect of the illness of,

the taxpayer or his wife or his children or step-children referred to in paragraph (a) of sub-section (2) of section *thirteen*;

(s) notwithstanding the provisions of paragraphs (a) and (b) of section *twelve*, so much as the Commissioner may allow of any expenditure incurred by any dentist or medical practitioner in respect of whom the Dental

Association of South Africa or the Medical Association of South Africa, as the case may be, certifies in such form as the Commissioner may prescribe that he—

- (i) has practised his profession for not less than three years; and
- (ii) has incurred such expenditure during the year of assessment in respect of the attendance by him of any post-graduate study course approved by such Association, to improve his qualifications for the carrying on of his profession in the Union.”.

Amendment of section 20 of Act 31 of 1941, as amended by section 11 of Act 55 of 1946, section 4 of Act 52 of 1947, section 6 of Act 40 of 1948, section 3 of Act 64 of 1951 and section 8 of Act 55 of 1956.

7. Section *twenty* of the principal Act is hereby amended—

(a) by the addition of the following paragraph to sub-section (2)*bis*, the existing sub-section becoming paragraph (a):

“(b) For the purpose of paragraph (a), any amount calculated under paragraph (c) of the definition of “capital expenditure” in sub-section (10) in respect of any year of assessment shall be deemed to be capital expenditure incurred on the last day of such year of assessment.”;

(b) by the insertion in paragraph (b) of the definition of “capital expenditure” in sub-section (10) after the word “interest” of the words “and other charges”;

(c) by the substitution, with effect from the date of commencement thereof, for paragraph (c) of the definition of “capital expenditure” in sub-section (10) of the following paragraph:

“(c) in the case of any deep level gold mine, an amount calculated as nearly as may be in the manner prescribed for the calculation of the capital allowance provided for in sub-section (3) of section *nineteen* of the Precious and Base Metals Act, 1908 (Act No. 35 of 1908), of Transvaal (in this paragraph referred to as the Gold Law), at the rate of five per centum per annum on the amount of the unredeemed balance of the aggregate of—

- (i) the expenditure referred to in paragraphs (a) and (b), excluding any interest and other charges on loans referred to in paragraph (b);
- (ii) the amount (if any) allowed to rank as capital expenditure in terms of section *twenty-one*;
- (iii) any expenditure incurred during any period of production on development on any reef on which at the date of such development stoping has not yet commenced; and
- (iv) the amount calculated in terms of this paragraph up to the end of the year of assessment immediately preceding the year of assessment under charge,

for the period from the end of the month in which the expenditure is actually incurred or is in terms of paragraph (b) of sub-section (2)*bis* deemed to be incurred, up to the end of the year of assessment immediately preceding the first year of assessment in respect of which the determination of the taxable income derived from the working of such mine does not result in an assessed loss: Provided that—

(aa) the amount under this paragraph shall not be calculated for any period during which mining operations are not carried on in accordance with the terms of the relevant lease;

(bb) notwithstanding anything to the contrary in any law contained, the amount under this paragraph shall not be taken into account for the purpose of calculating the capital allowance provided for in sub-section (3) of section *nineteen* of the Gold Law or for the purpose of determining the profits of which a share is payable to the State in terms of any mining lease; and

(cc) the provisions of sub-sections (4) and (4)*bis* of section *nineteen* of the Gold Law shall, in so far as they can be applied, apply *mutatis mutandis* for the purpose of determining the unredeemed balance of the

aggregate of the amounts referred to in sub-paragraphs (i) to (iv) of this paragraph;”.

Amendment of section 54ter of Act 31 of 1941, as inserted by section 10 of Act 43 of 1955.

8. (1) Section *fifty-four ter* of the principal Act is hereby amended—

(a) by the insertion after the definition of “donee” in sub-section (1) of the following definition:

“‘fair market value’ in relation to immovable property on which *bona fide* farming operations are being carried on, means at the option of the donor either—

(a) the fair market value thereof; or

(b) an amount to be determined in accordance with the provisions of sub-section (1)*bis* as representing the aggregate of the fair agricultural or pastoral value of the land and the value which any improvements situated thereon may be expected to add to such value of the land (which aggregate is hereinafter referred to as the surface value) together with the fair market value of any mineral rights attaching to the land, as at the date upon which the donation takes effect;” and

(b) by the insertion after sub-section (1) of the following sub-section:

“(1)*bis* (a) In the case of any property in respect of which the donor elects the value determined in accordance with paragraph (b) of the definition of ‘fair market value’ in sub-section (1), the donor shall lodge an application in the prescribed form in duplicate for a determination of the surface value of that property with the magistrate of the district in which such property is situate.

(b) (i) Any magistrate with whom any such application has been lodged shall forward both copies thereof to any land bank valuator selected by him who has been appointed in terms of section *seventy* of the Land Bank Act, 1944 (Act No. 13 of 1944), with instructions to make a valuation of the surface value of the property in question.

(ii) The provisions of the Land Bank Act, 1944, applicable to valutors appointed under the said Act, and any instructions issued from time to time by the Land Bank to such valutors in connection with the exercise of their duties, shall apply to any such valuator instructed to make a valuation of the surface value of any such property, as though he were making a valuation for land bank purposes.

(iii) Fees and travelling expenses shall be paid by the donor to any such valuator in accordance with the tariffs applicable to the valuations of property for land bank purposes.

(c) Any land bank valuator to whom any such application in duplicate has been referred, shall cause the particulars of his valuation of the surface value of the property in question to be inserted on both copies of the application and shall within three days from the date on which his valuation was made forward one copy to the donor and the remaining copy to the magistrate for transmission to the Commissioner.

(d) (i) The Commissioner shall thereupon determine the surface value of the property in question, which determination shall be subject to the provisions of paragraph (e), or may refer the matter to the Board of the Land Bank as constituted under section *four* of the Land Bank Act, 1944 (in this section referred to as the Board), for its determination of such value.

(ii) The Commissioner shall at the same time determine the fair market value of the mineral rights attaching to the property in question and shall advise the donor of the values determined by him under this paragraph and shall indicate in such advice whether the determination of the surface value of the property was made by him or by the Board.

- (e) If the donor considers himself aggrieved by the Commissioner's determination of the surface value of any property in terms of paragraph (d) he shall notify the Commissioner thereof in writing within twenty-one days or such further period as the Commissioner may allow from the date of the advice referred to in the said paragraph and the Commissioner shall thereupon cause the matter to be referred to the Board for review.
- (f) (i) For the purposes of its determination under paragraph (d) or (e) the Board shall apply the same principles and follow the same practice and procedure as in the case of a determination by it of the value of property for land bank purposes.
- (ii) Any person duly authorized thereto by the Board shall at all reasonable times have full access to the property the value of which is being determined by the Board.
- (g) There shall be no appearance by or on behalf of either party before the Board, whose decision shall be final and shall be communicated in duplicate to the Commissioner who shall forward one copy thereof to the donor."

(2) The amendments effected by sub-section (1) shall be deemed to have come into operation in respect of donations which take or have taken effect on or after the first day of April, 1957.

Amendment of section 54*quat* of Act 31 of 1941, as inserted by section 10 of Act 43 of 1955 and amended by section 14 of Act 55 of 1956.

9. (1) Section *fifty-four quat* of the principal Act is hereby amended—

(a) by the addition to sub-section (1), with effect from the date of commencement of the said section, of the following paragraph:

"(m) if such property consists of a right (other than a fiduciary, usufructuary or other like interest) to the use or occupation of property used for farming purposes, for no consideration or for a consideration which is not an adequate consideration, and the donee is a child of the donor."; and

(b) by the substitution in paragraph (b) of sub-section (2) for the words "two thousand" of the words "five thousand".

(2) The amendment effected by paragraph (b) of sub-section (1) shall apply in respect of donations which take or have taken effect on or after the twentieth day of March, 1957.

Amendment of section 54*sex* of Act 31 of 1941, as inserted by section 10 of Act 43 of 1955.

10. The following sub-section is hereby substituted for sub-section (2) of section *fifty-four sex* of the principal Act with effect from the date of commencement of the said section:

"(2) Where in the case of any donation the last of the legal formalities for a valid donation is or was complied with on or after the twenty-fourth day of March, 1955, and before the thirty-first day of December, 1957, that donation shall for the purpose of section *fifty-four bis* be deemed to have taken effect before the first mentioned date if it is proved to the satisfaction of the Commissioner that the donor had taken all reasonable steps to complete such formalities before that date and that he was prevented from doing so because he could not finance the incidental expenditure or because of other circumstances beyond his control: Provided that if the subject matter of any such donation was delivered before the twenty-fourth day of March, 1955, that donation shall be deemed to have taken effect before that date."

Amendment of section 54*dec* of Act 31 of 1941, as inserted by section 10 of Act 43 of 1955.

11. Section *fifty-four dec* of the principal Act is hereby amended—

(a) by the insertion in sub-section (4) after the word "property" where it occurs for the first time of the words "other than property whereof the fair market value has been determined in accordance with the provisions of sub-section (1)*bis* of section *fifty-four ter*"; and

(b) by the insertion in sub-section (6) after the words "of this section" of the words "and any determination by the Commissioner under sub-paragraph (ii) of paragraph (d) of sub-section (1)*bis* of section *fifty-four ter* of the mineral rights attaching to any property".

Amendment of section 65 of Act 31 of 1941, as amended by section 16 of Act 34 of 1942, section 11 of Act 47 of 1944 and section 9 of Act 39 of 1945.

12. (1) The following sub-section is hereby substituted for sub-section (2) of section *sixty-five* of the principal Act:

“(2) (a) The Commissioner may remit the additional charge imposed under sub-section (1) or any part thereof as he may think fit: Provided that, unless he is of the opinion that there were extenuating circumstances, he shall not so remit if he is satisfied that any act or omission of the taxpayer referred to in paragraph (a), (b) or (c) of sub-section (1) was done with intent to evade taxation.

(b) In the event of the Commissioner deciding not to remit the whole of the additional charge imposed under sub-section (1), his decision shall be subject to objection and appeal.

(c) Notwithstanding the provisions of paragraph (a), the Commissioner may either before or after an assessment is issued agree with the taxpayer on the amount of the additional charge to be paid, and the amount so agreed upon shall not be subject to any objection and appeal.”.

(2) The amendment effected by sub-section (1) shall first take effect in respect of any assessment issued on or after the date of commencement of this Act.

Amendment of section 79 of Act 31 of 1941, as amended by section 15 of Act 45 of 1949.

13. (1) The following sub-section is hereby substituted for sub-section (13) of section *seventy-nine* of the principal Act.

“(13) Subject to the provisions of this Act, the court may—

(a) in the case of any assessment under appeal, order such assessment to be amended, reduced or confirmed, or may, if it so thinks fit, refer the assessment back to the Commissioner for further investigation and assessment;

(b) in the case of any appeal against the amount of the additional charge imposed by the Commissioner under sub-section (1) of section *sixty-five*, reduce, confirm or increase the amount of the additional charge so imposed;

(c) in the case of any other decision of the Commissioner which is subject to appeal, confirm or amend such decision.”.

(2) Sub-section (1) shall come into operation on the date of commencement of this Act.

Insertion of section 94*bis* in Act 31 of 1941.

14. The following section is hereby inserted in the principal Act after section *ninety-four*:

“Prevention of or relief from double taxation in the Union and South-West Africa.

94*bis*. (1) The Minister of Finance may enter into an agreement with the Administrator of the territory of South-West Africa, whereby arrangements are made with a view to the prevention, mitigation or discontinuance of the levying, under the laws of the Union and of the said territory, of income tax in respect of the same income, or to the rendering of reciprocal assistance in the administration of, and in the collection of taxes under the income tax laws of the Union and of the said territory.

(2) The provisions of sub-sections (2), (3), (4), (5) and (6) of section *ninety-four* shall *mutatis mutandis* apply in respect of an agreement referred to in sub-section (1) of this section: Provided that in the said application any reference in the said provisions to the Governor-General or to a proclamation by the Governor-General, shall be construed as a reference to the Minister of Finance and to a notice by the said Minister, respectively.”.

Amendment of the Third Schedule to Act 31 of 1941, as added by section 7 of Act 52 of 1947, and amended by section 7 of Act 40 of 1948, section 17 of Act 45 of 1949, section 6 of Act 64 of 1951 and section 5 of Act 55 of 1954.

15. (1) The Third Schedule to the principal Act is hereby amended by the addition at the end thereof of the following paragraph:

“22. For the purpose only of calculating the rates of normal and super tax payable in respect of any year of assessment, by any farmer whose sugar cane fields have been damaged by fire, there shall be deducted from the taxable income and income subject to super tax of such farmer for such year of assessment so much of that taxable income as is proved to the satisfaction of the Commissioner to have been derived from the disposal of sugar cane as a result of fire in his cane fields and which but for such fire would not have been derived by him in that year, but in no case shall the rate of tax be less than that applicable to

the first pound of taxable income or income subject to super tax, as the case may be, and nothing herein contained shall be construed as relieving such farmer from liability for taxation under this Act upon any portion of his taxable income.”.

(2) The amendment effected by sub-section (1) shall be deemed first to have taken effect in respect of assessments for the year of assessment ended upon the thirtieth day of June, 1956.

Amendment of section 18 of Act 55 of 1956.

16. Notwithstanding anything to the contrary contained in section *eighteen* of the Income Tax Act, 1956, the amendments effected by paragraph (c) of sub-section (1) of section *twelve* of that Act, and the amendments effected by section *thirteen* of that Act, except the amendments to sub-paragraphs (i) and (ii) of paragraph (f) of section *fifty-one* of the principal Act, shall first be deemed to have taken effect in respect of assessments for the year of assessment ended upon the thirtieth day of June, 1955.

Commencement of certain amendments.

17. Except where otherwise provided in this Act the amendments effected by this Act shall, save in the case of the amendments effected by sections *eleven* and *fourteen*, first take effect in respect of assessments for the year of assessment ending on the thirtieth day of June, 1957.

Short title.

18. This Act shall be called the Income Tax Act, 1957.