

JOHANNESBURG, 8 MAY 1941.

EXTRAORDINARY

BUITENGEWONE



THE UNION OF SOUTH AFRICA

Government Gazette

Staatskroerant

VAN DIE UNIE VAN SUID-AFRIKA

Vol. CXXIV.] PRICE 6d.

CAPE TOWN, 8TH MAY, 1941.
KAAPSTAD, 8 MEI 1941.

PRYS 6d. [No. 2906.

DEPARTMENT OF THE PRIME MINISTER AND
OF EXTERNAL AFFAIRS.

The following Government Notice is published for
general information.

No. 671.

8th May, 1941.

It is notified that His Excellency the Governor-General
has been pleased to assent to the following Acts which
are hereby published for general information:—

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DEPARTEMENT VAN DIE EERSTE MINISTER
EN VAN BUITELANDSE SAKE.

Onderstaande Goewermentskennisgewing word vir
algemene informasie gepubliseer.

No. 671.

8 Mei 1941.

Hierby word bekendgemaak dat dit Sy Eksellensie die
Goewerneur-generaal behaag het om sy goedkeuring te
heg aan onderstaande wette wat hiernee, vir algemene
informasie, gepubliseer word:—

BLADSY.

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No. 29, 1941.]

ACT

To provide for the taxation of new motor cars delivered or deemed to be delivered in certain circumstances.

*(Signed by the Governor-General in English.)
(Assented to 5th May, 1941.)*

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

Definitions.

1. In this Act unless the context indicates otherwise—
 - “agreement” means any agreement whatsoever by or under which the right to use a motor car permanently or for a defined or undefined period is disposed of or acquired;
 - “Commissioner” means the Commissioner for Inland Revenue;
 - “motor dealer” means a person who as a business or trade, manufactures, assembles, or deals in motor vehicles;
 - “motor dealer’s licence” means a special licence which is issued to any motor dealer in terms of any motor vehicle law and which relieves him from the obligation imposed upon him by that law to effect the registration of any particular motor vehicle owned, kept or used by him in the course of his business or trade;
 - “motor vehicle” means any vehicle designed for propulsion on a road by means of any power (other than human or animal power or electrical power communicated to the vehicle through a conductor) without the aid of rails;
 - “motor car” means a motor vehicle which is designed solely or primarily for the conveyance of persons not exceeding eight in number, but does not include—
 - (a) a motor cycle or motor cycle and side car; or
 - (b) a motor vehicle not exceeding five hundred pounds in weight which is specially constructed (and not merely adapted) for the use of persons who suffer from some physical defect or disability;
 - “new motor car” means a motor car which has never been used on any road otherwise than—
 - (a) in connection with any delivery thereof; or
 - (b) under the authority of a motor dealers’ licence
 - “motor vehicle law” means any law in force anywhere in the Union relating to the registration of motor vehicles;
 - “registration” means the registration or licensing of a particular motor vehicle under any motor vehicle law whether such registration or licensing is effected with or without the payment of any fee, and includes the registration or licensing of a particular motor vehicle effected by the transfer of an existing registration or licence to that motor vehicle from any other motor vehicle;
 - “tax” means the New Motor Car Sales Tax imposed by this Act;
 - “weight” means the weight of a motor vehicle ready to travel on the road, excluding the weight of water or fuel carried but including the weight of all accessories and tools supplied by the makers as standard equipment, and in the case of electric vehicles the weight of accumulators.

Levy of tax.

2. There shall be paid for the benefit of the Consolidated Revenue Fund, a tax (to be called the New Motor Car Sales Tax) at the rate of one penny in respect of each one pound of the weight of every new motor car delivered or deemed to be delivered on or after the first day of April, 1941, in pursuance of any agreement.

No. 29, 1941.]

WET

Om voorsiening te maak vir die belasting van nuwe motors wat afgelewer is, of in sekere omstandighede geag word afgelewer te wees.

*(Deur die Goewerneur-generaal in Engels geteken.)
(Goedgekeur op 5 Mei 1941.)*

DIT WORD BEPAAL deur Sy Majesteit die Koning, die Senaat en die Volksraad van die Unie van Suid-Afrika, as volg :—

1. In hierdie Wet, tensy uit die samehang anders blyk, Woordbepaling beteken—

- „ooreenkoms”, enige ooreenkoms hoegenaamd, waardeur of ingevolge waarvan die reg om 'n motor permanent of vir 'n bepaalde of onbepaalde tydperk te gebruik, van die hand gesit of verkry word ;
- „Kommissaris”, die Kommissaris van Binnelandse Inkomste ;
- „motorhandelaar”, 'n persoon wat as 'n besigheid of bedryf motorvoertuie vervaardig, inmekaar sit of daarin handel dryf ;
- „motorhandelaarslisensie”, 'n spesiale lisensie wat aan 'n motorhandelaar uitgereik word kragtens een of ander wet op motorvoertuie, en wat hom onthef van die verpligting deur daardie wet aan hom opgelê om 'n bepaalde motorvoertuig waarvan hy eienaar is of wat deur hom aangehou of gebruik word in die loop van sy besigheid of bedryf, te laat regstreer ;
- „motorvoertuig”, 'n voertuig ontwerp om voortbeweeg te word op 'n pad deur middel van een of ander krag (behalwe mense- of dierekrag, of elektriese krag na die voertuig oorgebring deur middel van 'n geleier) sonder die hulp van spore ;
- „motor”, 'n motorvoertuig wat uitsluitlik of hoofsaaklik ontwerp is vir die vervoer van hoogstens agt persone, maar omvat nie—
 - (a) 'n motorfiets of 'n motorfiets en sywaentjie nie; of
 - (b) 'n motorvoertuig met 'n gewig van hoogstens vyfhonderd pond wat spesiaal gebou is (en nie slegs daarvoor geskik gemaak nie) vir die gebruik van persone wat aan een of ander liggaamlike gebrek of ongeskiktheid ly nie ;
- „nuwe motor”, 'n motor wat nooit op 'n pad gebruik is nie, behalwe—
 - (a) in verband met 'n aflewering daarvan; of
 - (b) met die magtiging van 'n motorhandelaarslisensie ;
- „wet op motorvoertuie”, enige wet met betrekking tot die registrasie van motorvoertuie, wat waar ook al in die Unie van krag is ;
- „registrasie”, die registrasie of lisensiëring van 'n bepaalde motorvoertuig kragtens een of ander wet op motorvoertuie, ditsy sodanige registrasie of lisensiëring met of sonder die betaling van geld geskied, en sluit dit die registrasie of lisensiëring van 'n bepaalde motorvoertuig in wat geskied as gevolg van die oordrag van 'n bestaande registrasie of lisensie aan daardie motorvoertuig van enige ander motorvoertuig ;
- „belasting”, die verkoopsbelasting op nuwe motors deur hierdie Wet opgelê ;
- „gewig”, die gewig van 'n motorvoertuig gereed om op die pad te loop, uitsluitende die gewig van water of brandstof wat dit bevat, maar met inbegrip van die gewig van alle toebehorens en gereedskap wat as standaard-toerusting deur die fabrikant verskaf word, en in die geval van elektriese voertuie die gewig van opgaarbatterye.

2. Daar word ten bate van die Gekonsolideerde Inkomste- Helsing van fonds 'n belasting (wat die verkoopsbelasting op nuwe motors belasting heet) betaal teen die skaal van een pennie op elke pond van die gewig van elke nuwe motor wat op of na die eerste dag van April 1941 ingevalgelyke 'n ooreenkoms afgelewer is of geag word afgelewer te wees.

Circumstances in which new motor car deemed to be delivered.

3. A new motor car shall be deemed to be delivered in pursuance of an agreement—

- (a) if a motor dealer, notwithstanding any motor dealer's licence which he may hold, is by any motor vehicle law required to effect the registration of that new motor car, or applies for the registration thereof; or
- (b) if any person who is not the holder of a motor dealer's licence imports that new motor car into the Union.

Circumstances in which new motor car actually delivered is deemed not to be delivered.

4. A new motor car shall for the purposes of this Act be deemed not to be delivered in pursuance of an agreement, if it is delivered—

- (a) to the Government of the Union or to any provincial administration;
- (b) to the Government of any of the States—members of the British Commonwealth of Nations other than the Union;
- (c) to any person for use solely as an ambulance;
- (d) to any motor dealer by any other motor dealer if the former is the holder of a motor dealer's licence;
- (e) to any person who carries on business as a motor dealer outside the Union for sale by him outside the Union.

When tax due and payable; by whom and to whom payable.

5. (1) Subject to the provisions of sub-sections (2) and (3), the tax payable in respect of any new motor car shall be due and payable when that new motor car is delivered in pursuance of an agreement, and shall be paid by the person by whom that new motor car is so delivered.

(2) Subject to the provisions of sub-section (3), the tax in respect of any new motor car which, in terms of section *three*, is deemed to be delivered in pursuance of an agreement shall be due and payable—

- (a) in the case referred to in paragraph (a) of that section, when an obligation to effect the registration thereof first arises, or when an application for such registration is first made, whichever event first occurs, and shall be paid by the person who is obliged to discharge the obligation or who makes the application as the case may be; and
- (b) in the case referred to in paragraph (b) of that section, when the car is released by the collector of customs at the port of entry, and shall be paid by the person who has imported the car.

(3) The tax payable in respect of any new motor car which was delivered or which in terms of section *three* is deemed to have been delivered on or after the first day of April, 1941, and before the date on which this Act is first published in the *Gazette* as a law, shall be due and payable on the day immediately after the date on which the Act is so published.

(4) The tax in respect of any new motor car shall be paid to the receiver of revenue of the district in which the person by whom the tax is payable resides or carries on business.

(5) If the tax in respect of any new motor car is not paid by the person by whom it is payable in terms of sub-section (1), the tax may be recovered from the person by whom the right to use that new motor car in pursuance of an agreement may have been acquired: Provided that any person from whom any tax has been recovered in terms of this sub-section may recover the amount thereof from the person by whom the tax should have been paid in terms of sub-section (1).

(6) Any person by whom tax is payable in respect of any new motor car shall, immediately on payment thereof, deliver to the person by whom the registration of that new motor car is required to be effected the receipt, or a duplicate thereof, issued in acknowledgment of such payment.

(7) Notwithstanding anything to the contrary contained in any agreement entered into before the thirteenth day of March, 1941, the tax paid in respect of any new motor car delivered on or after that date in pursuance of that agreement may be recovered by the person by whom the tax has been paid from the person by whom the right to use the new motor car in pursuance of that agreement was acquired.

3. 'n Nuwe motor word geag ingevolge 'n ooreenkoms afgelewer te wees— Omstandighede waarin nuwe motor geag word afgelower te wees.

- (a) as 'n motorhandelaar, ondanks 'n motorhandelaars-lisensie wat hy besit, deur een of ander wet op motor-voertuie verplig word om daardie nuwe motor te laat regstreer, of as hy om die registrasie daarvan aansoek doen; of
- (b) as 'n persoon wat nie die besitter van 'n motorhandelaars-lisensie is nie, sodanige nuwe motor in die Unie invoer.

4. By toepassing van die bepalings van hierdie Wet, word 'n nuwe motor geag nie ingevolge 'n ooreenkoms afgelewer te word nie, wanneer dit afgelewer word— Omstandighede waarin nuwe motor wat werklik afgelower word, geag word nie afgelower te wees nie.

- (a) aan die Regering van die Unie of aan 'n provinsiale administrasie;
- (b) aan die Regering van enigeen van die State, lede van die Britse Stategemeenskap, behalwe die Unie;
- (c) aan 'n persoon uitsluitlik vir gebruik as 'n ambulans;
- (d) aan 'n motorhandelaar deur 'n ander motorhandelaar, as eersgenoemde die besitter van 'n motorhandelaars-lisensie is;
- (e) aan iemand wat as motorhandelaar buite die Unie besigheid dryf, om deur hom buite die Unie verkoop te word.

5. (1) Behoudens die bepalings van sub-artikels (2) en (3) Wanneer belasting verskuldig en is die belasting, betaalbaar ten opsigte van 'n nuwe motor, betaalbaar is; deur verskuldig en betaalbaar wanneer daardie nuwe motor ingevolge 'n ooreenkoms afgelewer word en word dit betaalbaar deur wie en aan wie die persoon deur wie die nuwe motor aldus afgelewer word.

(2) Behoudens die bepalings van sub-artikel (3) is die belasting ten opsigte van 'n nuwe motor wat ingevolge artikel drie geag word ingevolge 'n ooreenkoms afgelewer te wees, verskuldig en betaalbaar—

- (a) in die in paragraaf (a) van daardie artikel bedoelde geval, wanneer 'n verpligting om dit te laat regstreer vir die eerste maal ontstaan, of wanneer aansoek om sodanige registrasie vir die eerste maal gedoen word, na gelang van watter gebeurtenis die eerste plaasvind, en word betaal deur die persoon wat die verpligting moet nakom of wat die aansoek doen, na gelang van die geval; en
- (b) in die in paragraaf (b) van daardie artikel bedoelde geval, wanneer die motor deurgelaat word deur die ontvanger van doeane by die inklaaringshawe, en word deur die persoon wat die motor ingevoer het, betaal.

(3) Die belasting betaalbaar ten opsigte van 'n nuwe motor wat afgelewer is of wat ingevolge artikel drie geag word afgelewer te gewees het op of na die eerste dag van April 1941, en voor die datum waarop hierdie Wet vir die eerste maal as 'n wet in die Staatskoerant aangekondig word, is verskuldig en betaalbaar op die dag onmiddellik na die datum waarop die Wet aldus aangekondig word.

(4) Die belasting ten opsigte van 'n nuwe motor word betaal aan die ontvanger van inkomste van die distrik waarin die persoon deur wie die belasting betaalbaar is woonagtig is of besigheid dryf.

(5) Indien die belasting ten opsigte van 'n nuwe motor nie betaal word deur die persoon deur wie dit ingevolge sub-artikel (1) betaalbaar is nie, kan die belasting verhaal word op die persoon deur wie die reg om sodanige nuwe motor te gebruik ingevolge 'n ooreenkoms verkry is: Met dien verstande dat 'n persoon op wie 'n belasting ingevolge hierdie sub-artikel verhaal is, die bedrag daarvan op die persoon deur wie die belasting ooreenkomsdig sub-artikel (1) betaal moes geword het, kan verhaal.

(6) 'n Persoon deur wie belasting ten opsigte van 'n nuwe motor betaalbaar is, moet onmiddellik na die betaling daarvan die kwitansie of 'n duplikaat daarvan, wat as ontvangsbewys van sodanige betaling uitgereik word, aan die persoon deur wie die registrasie van daardie nuwe motor uitgevoer moet word, oorhandig.

(7) Ondanks andersluidende bepalings vervat in 'n ooreenkoms wat voor die dertiende dag van Maart 1941 aangegaan is, kan die belasting wat betaal is ten opsigte van enige nuwe motor wat op of na daardie datum ingevolge daardie ooreenkoms afgelewer is, verhaal word deur die persoon deur wie die belasting betaal is, van die persoon deur wie die reg om sodanige nuwe motor te gebruik ingevolge daardie ooreenkoms verkry is.

Motor cars may not be registered unless tax paid.

(1) Notwithstanding anything to the contrary contained in any motor vehicle law, no authority appointed in terms of any such law for the registration of motor vehicles shall permit the registration of any motor car to be effected unless that authority is satisfied that no tax is payable in respect of that motor car, or, if tax is payable, unless the person who applies for the registration of the motor car has first surrendered to that authority in respect of the motor car the receipt or a duplicate thereof, issued in acknowledgment of the tax paid thereon.

(2) The authority mentioned in sub-section (1) shall satisfy himself that the receipt or duplicate thereof surrendered to him as aforesaid refers to the motor car to be registered, and shall upon the registration of the motor car, endorse on the document issued in respect thereof and on all copies thereof the number, date and place of issue of the receipt and the amount of tax paid.

(3) Nothing in this section shall be deemed to defer the date on or before which any registration of a motor car is required to be effected, or on or before which any fees payable in respect of such registration are required to be paid, or to relieve any person from payment of any penalties which may accrue in terms of any motor vehicle law for late payment of such fees, if the late payment is due to inability or failure to produce a receipt or a duplicate thereof issued in acknowledgment of the tax paid in respect of the motor car : Provided that if such inability or failure is due to the failure or neglect of any other person to comply with the provisions of sub-section (6) of section five, the person who is liable for the payment of any penalties, as aforesaid, and who has paid such penalties may recover the amount thereof from such other person.

Declarations.

7. Every person by whom tax is payable in respect of any new motor car shall furnish to the receiver of revenue to whom the tax is payable a declaration on the form prescribed in terms of section thirteen giving such particulars as may be required to determine the amount of the tax, and the receiver of revenue shall be entitled to refuse to accept payment of the tax unless accompanied by a declaration as aforesaid.

Evidence of weight of new motor car.

8. (1) The Commissioner may require any motor dealer to furnish the weight of a new motor car of any type or model, which that dealer manufactures, assembles or deals in, together with such other particulars relating thereto as may be necessary for the administration of this Act.

(2) Any person who has in his control or custody any particular new motor car or any type or model of a new motor car and any motor dealer who, in terms of sub-section (1), is required to furnish the weight of any type or model of a new motor car, may be required by the Commissioner to cause that new motor car or a new motor car of that type or model to be weighed in the presence of, and on a weighbridge approved by, the Commissioner.

(3) The Commissioner may from time to time on the information obtained by him under this section determine the weight of new motor cars of any type or model, and for the purposes of this Act the weight so determined by him shall, unless the contrary is proved, be accepted as the correct weight of new motor cars of that type or model.

Power to call for documents and information.

9. For the purpose of ascertaining whether any tax is payable in accordance with the provisions of this Act, the Commissioner may call upon any person to produce any deeds, books, accounts, invoices, trade-lists, stock-lists, shipping or customs documents or any other document he may deem necessary, or to furnish any information which may be reasonably required for that purpose.

Dealers to render returns.

10. (1) Every motor dealer who in any calendar month delivers in pursuance of any agreement any new motor car or cars (other than any new motor car or cars to which paragraph (d) of section four applies) shall, not later than the tenth day of the next succeeding month, furnish to the receiver of revenue of the district in which he carries on business a return

6. (1) Ondanks andersluidende bepalings in enige wet Motors mag nie op motorvoertuie vervat, mag geen gesag wat ooreenkomstig geregistreer word 'n sodanige wet vir die registrasie van motorvoertuie aangewys tensy belasting is, toelaat dat 'n motor geregistreer word nie tensy daardie gesag oortuig is dat daar geen belasting ten opsigte van daardie motor betaalbaar is nie, of as daar belasting betaalbaar is, tensy die persoon wat om die registrasie van die motor aansoek doen eers ten opsigte van daardie motor, die kwitansie of 'n duplikaat daarvan, wat as ontvangsbewys van die daarop betaalde belasting uitgereik is aan bedoelde gesag oorhandig het.

(2) Die in sub-artikel (1) vermelde gesag moet hom daarvan vergewis dat die kwitansie, of duplikaat daarvan, wat aan hom oorhandig is soos voormeld, betrekking het op die motor wat geregistreer moet word, en moet, by registrasie van die motor, die nommer, datum en plek van uitreiking van die kwitansie en die bedrag van die betaalde belasting op die dokument wat ten opsigte daarvan uitgereik word en op alle afskrifte daarvan aanteken.

(3) Geen bepaling van hierdie artikel word geag die datum waarop of voor welke die registrasie van 'n motor moet geskied, of waarop of voor welke gelde betaalbaar ten opsigte van sodanige registrasie betaal moet word, uit te stel nie, of om enige persoon te onthef van die betaling van boetes wat ingevolge een of ander wet op motorvoertuie mag oploop ten gevolge van die laat betaling van sodanige gelde, as die laat betaling toe te skryf is aan sy onvermoë of versuim om 'n kwitansie of 'n duplikaat daarvan uitgereik as ontvangsbewys van die belasting ten opsigte van die motor betaal, oor te lê: Met dien verstande dat as sodanige onvermoë of versuim daaraan toe te skryf is dat 'n ander persoon versuim of nagelaat het om aan die bepalings van sub-artikel (6) van artikel vyf te voldoen, die persoon wat aanspreeklik is vir die betaling van boetes soos voormeld, en wat sodanige boetes betaal het, die bedrag daarvan op sodanige ander persoon kan verhaal.

7. Elke persoon deur wie belasting ten opsigte van 'n nuwe Verklaringsmotor betaalbaar is, moet aan die ontvanger van inkomste aan wie die belasting betaalbaar is, 'n verklaring verstrek op die vorm ooreenkomstig artikel dertien voorgeskryf, waarin sodanige besonderhede aangegee word as wat nodig is om die bedrag van die belasting vas te stel, en die ontvanger van inkomste is geregtig om te weier om betaling van die belasting te ontvang, tensy dit vergesel gaan van 'n verklaring soos voormeld.

8. (1) Die Kommissaris kan van enige motorhandelaar Bewys van gewig vereis om die gewig te verstrek van 'n nuwe motor van enige van nuwe motors. soort of model wat daardie handelaar vervaardig of inmekaar sit of waarin hy handel dryf, tesame met sulke ander besonderhede met betrekking daartoe, as wat vir die uitvoering van hierdie Wet nodig is.

(2) Van elke persoon wat 'n bepaalde nuwe motor of 'n nuwe motor van enige soort of model onder sy beheer of in sy bewaring het, en van elke motorhandelaar van wie ooreenkomstig sub-artikel (1) vereis word om die gewig van 'n nuwe motor van een of ander soort of model te verstrek, kan deur die Kommissaris vereis word om daardie nuwe motor of 'n nuwe motor van daardie soort of model in die teenwoordigheid van, en op 'n weegbrug goedgekeur deur die Kommissaris te laat weeg.

(3) Die Kommissaris kan van tyd tot tyd op grond van die gegewens deur hom ingevolge hierdie artikel verkry, die gewig van nuwe motors van enige soort of model bepaal, en die aldus deur hom bepaalde gewig word, by die toepassing van hierdie Wet, tensy die teendeel bewys word, aangeneem as die juiste gewig van nuwe motors van daardie soort of model.

9. Die Kommissaris kan, ten einde vas te stel of belasting ooreenkomstig die bepalings van hierdie Wet betaalbaar is, van enige persoon vereis om aktes, boeke, rekeninge, fakture, handelslyste, voorraadlyste, verskepings- of doeane-dokumente of enige ander dokument wat hy nodig ag, oor te lê, of om enige inligting wat redelikerwys vir daardie doel nodig mag wees te verstrek. Bovoegdheid om dokumente en inligting op te eis.

10. (1) Elke motorhandelaar wat gedurende een of ander kalendermaand, 'n nuwe motor of motors ingevolge 'n ooreenkoms aflewer (behalwe 'n nuwe motor of nuwe motors waarop paragraaf (d) van artikel vier van toepassing is) moet, nie later nie as die tiende dag van die eersvolgende maand aan die ontvanger van inkomste van die distrik waarin hy besigheid dryf 'n opgaaf verstrek op die vorm ooreenkomstig artikel

on the form prescribed in terms of section *thirteen* giving such particulars as may be required in regard to the new motor car or cars so delivered by him.

(2) The first return furnished under the provisions of this Act by any motor dealer carrying on business on the date on which this Act is first published in the *Gazette* as a law shall include the period from the first day of April, 1941, to the close of the calendar month prior to the date on which the Act is so published.

Right of provinces to impose taxes in respect of motor vehicles not affected.

Penalties.

11. Nothing in this Act shall be deemed to affect the right of any province to legislate for the licensing or taxation of motor vehicles and the tax imposed by this Act shall be additional to any tax which may have been or may be imposed by any provincial council.

12. (1) Any person who wilfully makes a false declaration or return, or knowingly makes one which contains any mis-statement, or conceals or fails to disclose any fact necessary for the correct determination of tax in terms of this Act, shall be guilty of an offence and liable to a fine not exceeding fifty pounds or in default of payment to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(2) Any person who—

- (a) fails to comply with the provisions of section *ten*, or with any demand made under this Act; or
- (b) obstructs or interferes with the Commissioner or any officer referred to in sub-section (2) of section *thirteen* in the performance of his duties under this Act,

shall be guilty of an offence and liable to a fine not exceeding twenty-five pounds, or in default of payment to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

Administration of Act.

13. (1) The Commissioner shall be responsible for the administration of this Act and may prescribe any forms, returns or declarations required for the purpose.

(2) The powers conferred and the duties imposed upon the Commissioner under the provisions of this Act may be exercised or performed by the Commissioner personally or by any officer engaged in carrying out the said provisions under the control, direction or supervision of the Commissioner.

(3) Any notice or communication issued or signed by any officer referred to in sub-section (2) may be withdrawn and amended by the Commissioner or by the officer concerned and shall, for the purposes of the said provisions, until it has been so withdrawn, be deemed to have been issued or signed by the Commissioner.

Recovery of tax.

14. The tax shall be a debt due to the Government of the Union and may be recovered by the Commissioner in any court of competent jurisdiction.

Short title and commencement.

15. This Act shall be called the New Motor Car Sales Tax Act, 1941, and shall be deemed to have come into operation on the first day of April, 1941.

dertien voorgeskryf, waarin sodanige besonderhede as wat verlang mag word in verband met die nuwe motor of motors aldus deur hom afgelewer, vermeld word.

(2) Die eerste opgaaf ingevolge die bepalings van hierdie Wet verstrek deur 'n motorhandelaar wat besigheid dryf op die dag wanneer hierdie Wet vir die eerste maal as 'n wet in die *Staatskoerant* aangekondig word, moet die tydperk vanaf die eerste dag van April 1941, tot die end van die kalendermaand voor die datum waarop die Wet aldus aangekondig word, insluit.

• 11. Die bepalings van hierdie Wet word nie geag inbreuk te maak op die reg van 'n provinsie om wette te maak vir die lisensiëring of belasting van motorvoertuie nie en die deur hierdie Wet opgelegde belasting, word gehef bo en behalwe enige belasting wat deur 'n provinsiale raad opgelê mag gewees het of opgelê mag word.

12. (1) Elke persoon wat opsetlik 'n valse verklaring of Boetes. opgaaf doen, of willens en wetens een doen wat 'n verkeerde voorstelling inhoud, of enige feit wat nodig is vir die juiste vaststelling van belasting ooreenkomsdig hierdie Wet verberg of versuim om dit te openbaar, is aan 'n misdryf skuldig en strafbaar met 'n boete van hoogstens vyftig pond of by wanbetaling met gevangenisstraf vir 'n tydperk van hoogstens ses maande of met beide sodanige boete en gevangenisstraf.

(2) Elke persoon wat—

- (a) in gebreke bly om te voldoen aan die bepalings van artikel *tien*, of aan enige vereiste ingevolge hierdie Wet gestel; of
- (b) die Kommissaris of 'n amptenaar in sub-artikel (2) van artikel *dertien* bedoel, belemmer of hinder in die uitvoering van sy pligte ingevolge hierdie Wet, is aan 'n misdryf skuldig en strafbaar met 'n boete van hoogstens vyf-en-twintig pond, of by wanbetaling met gevangenisstraf vir 'n tydperk van hoogstens drie maande of met beide sodanige boete en gevangenisstraf.

13. (1) Die Kommissaris is verantwoordelik vir die uitvoering van hierdie Wet en kan alle vorms, opgawes of verklarings wat vir die doel nodig is, voorskryf.

(2) Die bevoegdhede aan die Kommissaris verleen en die pligte hom opgelê ingevolge die bepalings van hierdie Wet, kan deur die Kommissaris persoonlik of deur enige amptenaar wat aan bedoelde bepalings uitvoering gee onder die beheer, leiding of toesig van die Kommissaris, uitgeoefen of nagekom word.

(3) Enige kennisgewing of mededeling deur 'n in sub-artikel (2) bedoelde amptenaar uitgereik of onderteken, kan deur die Kommissaris of deur die betrokke amptenaar ingetrek of gewysig word en word, totdat dit aldus ingetrek is, vir die oogmerke van bedoelde bepalings geag deur die Kommissaris uitgereik of onderteken te gewees het.

14. Die belasting is 'n skuld verskuldig aan die Regering Invordering van van die Unie en kan deur die Kommissaris in enige bevoegde belasting. hof verhaal word.

15. Hierdie Wet heet die Wet op Verkoopsbelasting op Kort titel en Nuwe Motors, 1941, en word geag op die eerste dag van April inwerkingtreding. 1941, in werking te getree het.

ACT

To provide for the taxation of incomes and to consolidate and amend the law relating thereto.

*(Signed by the Governor-General in English.)
(Assented to 7th May, 1941.)*

ARRANGEMENT OF SECTIONS.

PRELIMINARY.

Section.

1. Interpretation.

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ADMINISTRATION.

2. Officer by whom Act shall be administered.
3. Exercise of powers and performance of duties.
4. Preservation of secrecy.

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INCOME TAX.

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5. Levy of normal tax and rates thereof.
6. Rates of normal tax.
7. Definitions for purposes of Chapter II.
8. Reinvestment and accumulation of income.
9. Circumstances in which amounts deemed to have accrued within the Union.
10. Exemptions.
11. Determination of taxable income.
12. Cases in which no deductions shall be made.
13. Normal tax rebates.
14. Taxation of income derived from farming.
15. Assessment of shipowners, etc., whose principal office is outside the Union.
16. Assessment in the case of submarine cable or wireless business.
17. Persons carrying on business which extends beyond the Union.
18. Insurance business.
19. Taxable income of public servants.
20. Calculation of redemption allowance and unredeemed balance of capital expenditure in connection with mining operations.
21. Calculation of capital expenditure on change of ownership of a mining property.
22. Hire-purchase or other agreements providing for postponement of passing of ownership of property concerned.

PART II.

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23. Levy of super tax and rates thereof.
24. Super tax rate.
25. Meaning of "income subject to super tax".
26. Assessment for normal tax to be final for super tax purposes.
27. Method of determining amount of income subject to super tax.
28. Set-off.
29. Super tax rebate.

No. 31, 1941.]

WET

Om voorsiening te maak vir die belasting van inkomstes en om die wette dienaangaande te konsolideer en te wysig.

(Deur die Goewerneur-generaal in Engels geteken.)
(Goedgekeur op 7 Mei 1941.)

INDELING VAN ARTIKELS.

INLEIDENDE BEPALINGS.

Artikel.

1. Woordbepaling.

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2. Amptenaar belas met uitvoering van Wet.
3. Uitoefening van bevoegdhede en nakoming van pligte.
4. Geheimhouding.

HOOFSTUK II.

INKOMSTEBELASTING.

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Normale Belasting.

5. Heffing van normale belasting en skale daarvan.
6. Skale van normale belasting.
7. Woordbepaling vir oogmerke van Hoofstuk II.
8. Weerbelegging en ophoping van inkomste.
9. Omstandighede waarin beskou word dat bedrae in die Unie toegeval het.
10. Vrystellings.
11. Vasstelling van belasbare inkomste.
12. Gevalle waarin geen vermindering plaasvind nie.
13. Kortings op normale belasting.
14. Belasting van inkomste uit boerdery verkry.
15. Aanslag van reders ens. wie se hoofkantoor buite die Unie is.
16. Aanslag in die geval van ondersese kabel- of draadloosbesigheid.
17. Persone wat besigheid dryf wat hom tot buite die Unie uitstrek.
18. Versekeringsbesigheid.
19. Belasbare inkomste van staatsamptenare.
20. Berekening van toegelate bedrag vir delging van kapitaaluitgawe en ongedelde balans van kapitaaluitgawe in verband met mynwerksaamhede.
21. Berekening van kapitaaluitgawe by verandering van eienaar van 'n myneindom.
22. Huurkoop- of ander ooreenkoms waarvolgens oorgang van eiendomsbesit van betrokke goed uitgestel word.

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23. Heffing van superbelasting en skale daarvan.
24. Skaal van superbelasting.
25. Beteenis van „aan superbelasting onderhewige inkomste“.
26. Aanslag vir normale belasting is finaal vir doeleindes van superbelasting.
27. Wyse waarop bedrag van aan superbelasting onderhewige inkomste vasgestel word.
28. Bedrae in vergelyking gebring.
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- 30. Exemptions from super tax.
- 31. Return of payments in respect of bearer warrants.
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- 34. Determination of company's status.
- 35. Determination of income of a private company.
- 36. Determination by Commissioner of shareholder's rights to participate in profits or income of private company.
- 37. Apportionment of income of private company to shareholders.
- 38. Private company not chargeable with normal and super tax on apportioned income.
- 39. Exemptions from apportionment.
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- 41. Levy of non-resident shareholders' tax.
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- 43. Person liable for the tax.
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- 50. Definitions for purposes of Part V of Chapter II.
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- 66. Additional assessments.
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36. Vasstelling deur Kommissaris van regte van aandeelhouers om in wins of inkomste van private maatskappy te deel.
37. Toedeling van inkomste van private maatskappy aan aandeelhouers.
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60. Plig van maatskappye om opgawes te verstrek.
61. Opgaaf van aandelebesit.
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94. Voorkoming of verligting van dubbele belasting.
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96. Herroeping en wysiging van wette.
97. Kort titel en inwerkingtreding.

EERSTE BYLAE.

Berekening van Belasbare Inkomste verkry uit die Besigheid van Versekering.

TWEEDE BYLAE.

Herroope Wette.

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

PRELIMINARY.

Interpretation.

1. In this Act, unless the context otherwise indicates—
“agent” includes any partnership, company or any other body of persons corporate or unincorporate when acting as an agent;

“assessment” means—

- (a) the determination of an amount upon which any tax leviable under this Act is chargeable; or
- (b) the determination of any loss ranking for set-off; or
- (c) the determination of the amount of the taxable income or income subject to super tax of a private company, apportionable among the shareholders of such company;

“company” includes—

- (a) any association incorporated by or under or registered or deemed to be registered under any law in force in the Union or in any part thereof; or
- (b) any association which is incorporated or registered outside the Union, but carries on business or has an office or place of business therein; or
- (c) any association which is incorporated or registered outside the Union and is a shareholder in or member of any company as defined in paragraph (a) or (b) of this definition, either directly, or indirectly by reason of the fact that it is a shareholder in or member of any other company;

“dependant” in relation to any taxpayer means—

- (a) any person incapacitated by old age, infirmity or any other reason satisfactory to the Commissioner from maintaining himself; and
- (b) any child (other than the child or step-child of such taxpayer) under the age of eighteen years on the last day of the year of assessment,

towards whose maintenance the taxpayer has expended in cash or otherwise during the year of assessment not less than thirty pounds;

“dividend” means all amounts distributed by a company (not being an association or institution to which paragraph (c) of sub-section (1) of section ten applies) to its shareholders, and in this definition the expression “amounts distributed” includes—

- (a) in relation to a company that is being wound up or liquidated, any profits distributed, whether in cash or otherwise, other than those of a capital nature, earned before or during the winding up or liquidation; and
- (b) in relation to a company that is not being wound up or liquidated any profits distributed, whether in cash or otherwise, and whether of a capital nature or not, including an amount equal to the nominal value of any bonus shares, debentures or securities awarded to the shareholders; and
- (c) in the event of the partial reduction of the capital of a company, any cash or the value of any asset which is given to a shareholder in excess of the cash equivalent of the nominal value by which the shares of that shareholder are reduced; and

DIT WORD BEPAAL deur Sy Majesteit die Koning, die Senaat en die Volksraad van die Unie van Suid-Afrika, as volg :—

INLEIDENDE BEPALINGS.

1. In hierdie Wet, tensy uit die samehang anders blyk— Woordbepaling.
- omvat „agent” 'n venootskap, maatskappy of enige ander liggaam van persone ditsy met regspersoonlikheid beklee al dan nie, wanneer hy as 'n agent optree ; beteken „aanslag”—
- (a) die vasstelling van 'n bedrag waarop 'n ingevolge hierdie Wet hefbare belasting opgelê kan word ; of
 - (b) die vasstelling van 'n verlies om in vergelyking gebring te word ; of
 - (c) die vasstelling van die bedrag van die belasbare inkomste of aan superbelasting onderhewige inkomste van 'n private maatskappy wat aan die aandeelhouers van sodanige maatskappy toegedeel kan word ;
- omvat „maatskappy”—
- (a) 'n vereniging ingelyf deur of ingevolge of geregiestreer of geag geregistreer te wees ingevolge 'n wet wat in die Unie of in enige gedeelte daarvan van krag is ; of
 - (b) 'n vereniging wat buite die Unie ingelyf of geregiestreer is, maar wat in die Unie besigheid dryf of 'n kantoor of besigheidsplek het ; of
 - (c) 'n vereniging wat buite die Unie ingelyf of geregiestreer is en 'n aandeelhouer is in of lid is van 'n maatskappy soos omskryf in paragraaf (a) of (b) van hierdie omskrywing, ditsy regstreeks of onregstreeks ten gevolge daarvan dat hy 'n aandeelhouer in of lid van 'n ander maatskappy is ;
- beteken „afhanklike”, met betrekking tot 'n belastingpligtige—
- (a) iedereen wat deur hoë ouderdom, swakhed, of om enige ander rede wat die Kommissaris bevredigend ag, nie in staat is om homself te onderhou nie ; en
 - (b) 'n kind (wat nie die kind of stiefkind van sodanige belastingpligtige is nie) onder die leeftyd van agtien jaar op die laaste dag van die jaar van aanslag,
- aan wie se ouderhoud die belastingpligtige gedurende die jaar van aanslag minstens dertig pond in kontant of andersins uitgegee het ;
- beteken „dividend” alle bedrae deur 'n maatskappy (wat nie 'n vereniging of inrigting is waarop paragraaf (c) van sub-artikel (1) van artikel *tien* van toepassing is nie) aan sy aandeelhouers uitgekeer, en omvat die uitdrukking „uitgekeerde bedrae” in hierdie omskrywing—
- (a) met betrekking tot 'n maatskappy wat gelikwideoor word, alle winste ditsy in kontant of andersins uitgekeer, behalwe dié van 'n kapitale aard, wat voor of gedurende die likwidasie verdien is ; en
 - (b) met betrekking tot 'n maatskappy wat nie gelikwideoor word nie, alle winste ditsy in kontant of andersins uitgekeer, en ditsy van 'n kapitale aard al dan nie, met inbegrip van 'n bedrag gelyk aan die nominale waarde van bonus-aandele, obligasies of effekte aan die aandeelhouers toegeken ; en
 - (c) in die geval van die gedeeltelike vermindering van die kapitaal van 'n maatskappy, alle kontant of die waarde van alle bate wat aan 'n aandeelhouer gegee word en meer beloop as die ekwivalent in kontant van die nominale waarde waarmee die aandele van daardie aandeelhouer verminder word ; en

(d) in the event of the reconstruction of a company, any cash or the value of any asset which is given to a shareholder in excess of the nominal value of the shares held by him before the reconstruction;

"local authority" means any divisional council, rural council, municipal council, town council, village council, town board, local board, village management board, health committee or school board, district council, the Transkei General Council, the Pondoland General Council and any local or general council established under the provisions of Act No. 23 of 1920, and also includes the Rand Water Board;

"married person" means any person who—

(a) during any portion of the period in respect of which the assessment is made was married or was a widower or a widow; or

(b) during the whole of such period was divorced or separated under a judicial order or written agreement, provided such person is entitled to the deduction in respect of a child under paragraph (a) of sub-section (2) of section thirteen;

"mining operations" and "mining" include every method or process by which any mineral is won from the soil or from any substance or constituent thereof;

"prescribed" means prescribed by or under this Act;

"regulation" means a regulation lawfully made and in force under this Act;

"tax" or "the tax" or "taxation" means any tax leviable under this Act;

"taxpayer" means any person chargeable with any tax leviable under this Act and, for the purposes of any provision relating to any return, includes every person required by this Act to furnish such return;

"this Act" includes the regulations;

"trustee", in addition to every person appointed or constituted such by act of parties, by will, by order or declaration of court or by operation of law, includes an executor or administrator, tutor or curator, and any person having the administration or control of any property subject to a trust, usufruct, *fidei commissum* or other limited interest, or acting in any fiduciary capacity or having, either in a private or an official capacity, the possession, direction, control or management of any property of any person under legal disability;

"year of assessment" means any period of twelve months in respect of which any tax or duty leviable under this Act is chargeable.

CHAPTER I.

ADMINISTRATION.

Officer by whom
Act shall be
administered.

2. (1) The Commissioner for Inland Revenue (hereinafter referred to as "the Commissioner") shall be responsible for carrying out the provisions of this Act.

(2) For the purposes of this Act, "Commissioner for Inland Revenue" includes any person lawfully acting in that capacity.

(3) A notice in the *Gazette* that any person has been appointed to hold office as Commissioner for Inland Revenue or to act in that capacity, shall be conclusive evidence of such appointment without further proof.

Exercise of
powers and
performance
of duties.

3. (1) The powers conferred and the duties imposed upon the Commissioner by or under the provisions of this Act or any amendment thereof or by or under the provisions of the Income Tax Act, 1940, or any amendment thereof, may be exercised or performed by the Commissioner personally, or by any officer engaged in carrying out the said provisions under the control, direction or supervision of the Commissioner.

- (d) in die geval van die rekonstruksie van 'n maatskappy, alle kontant en die waarde van alle bate wat aan 'n aandeelhouer gegee word en meer beloop as die nominale waarde van die aandele wat voor die rekonstruksie deur hom besit is ; beteken „plaaslike bestuur” 'n afdelingsraad, landelike raad, munisipale raad, stadsraad, dorpsraad, stads-komitee, plaaslike bestuursraad, dorpsbestuursraad, gesondheidskomitee of skoolraad, distrikstraad, die Algemene Raad van Trauskei, die Algemene Raad van Pondoland en 'n plaaslike of algemene raad ingestel ingevolge die bepalings van Wet No. 23 van 1920, en sluit dit ook die Randwaterraad in ; beteken „getroude persoon” 'n persoon wat—
- (a) gedurende enige gedeelte van die tydperk ten opsigte waarvan die aanslag gedoen word getroud was of 'n wewenaar of weduwee was ; of
 - (b) gedurende die hele sodanige tydperk uit die eg geskei was of van tafel en bed geskei was ingevolge 'n geregtelike bevel of skriftelike ooreenkoms, mits bedoelde persoon geregtig is op die korting ten opsigte van 'n kind ingevolge paraagraaf (a) van sub-artikel (2) van artikel dertien ; omvat „mynuwerksaamhede” en „myn” elke metode of proses waarby een of ander mineraal gewin word uit die grond of uit 'n bestanddeel of selfstandigheid daarvan ; beteken „voorgeskrewe” soos voorgeskryf deur of ingevolge hierdie Wet ; beteken „regulasie” 'n regulasie wettig uitgevaardig en van krag ingevolge hierdie Wet ; beteken „belasting” of „die belasting” enige belasting hefsbaar ingevolge hierdie Wet ; beteken „belastingpligtige” 'n persoon belasbaar met 'n belasting hefsbaar ingevolge hierdie Wet en, vir die doelindes van een of ander bepaling met betrekking tot 'n opgaaf, sluit dit elke persoon in wat ingevolge hierdie Wet sodanige opgaaf moet verstrek ; omvat „hierdie Wet” die regulasies ; beteken „trustee”, benewens elke persoon aangestel of benoem as sodanig deur die wil van partye, deur testament, by bevel of verklaring van 'n hof of volgens wet, ook 'n eksekuteur of administrateur, voog of kurator, en enige persoon wat die administrasie of beheer het van goed onderhewig aan 'n trust, vruggebruik, *fidei commissum* of ander beperkte reg, of wat in 'n fidusière hoedanigheid optree of wat ditsy in 'n private of 'n amptelike hoedanigheid die besit, beheer, toesig of bestuur van of oor goed van 'n regsonbevoegde persoon het ; beteken „jaar van aanslag” 'n tydvak van twaalf maande ten opsigte waarvan 'n belasting of reg hefsbaar ingevolge hierdie Wet vorderbaar is.

HOOFSTUK I.

ADMINISTRASIE.

2. (1) Die Kommissaris van Binnelandse Inkomste (hierna Amptenaar belas die „Kommissaris” genoem) is verantwoordelik vir die uitvoering van die bepalings van hierdie Wet.

(2) Vir die oogmerke van hierdie Wet beteken „Kommissaris van Binnelandse Inkomste” ook iemand wat wettig in daardie hoedanigheid optree.

(3) 'n Kennisgewing in die Staatskoerant dat iemand aangestel is om die amp van Kommissaris van Binnelandse Inkomste te beklee of om in daardie hoedanigheid op te tree, is afdoende bewys van sodanige aanstelling sonder verdere bewys.

3. (1) Die bevoegdhede aan die Kommissaris verleen en die Uitoefening van pligte hom opgelê deur of ingevolge die bepalings van hierdie bevoegdhede en nakoming van Wet of 'n wysiging daarvan of deur of ingevolge die bepalings pligte. van die Inkomstebelastingwet, 1940, of 'n wysiging daarvan, kan deur die Kommissaris persoonlik, of deur 'n amptenaar wat aan bedoelde bepalings uitvoering gee onder die beheer, leiding of toesig van die Kommissaris, uitgeoefen of nagekom word.

(2) Any decision made and any notice or communication issued or signed by any such officer may be withdrawn or amended by the Commissioner, or by the officer concerned, and shall, for the purposes of the said provisions, until it has been so withdrawn, be deemed to have been made, issued or signed by the Commissioner.

Preservation of secrecy.

4. (1) Every person employed in carrying out the provisions of this Act shall preserve, and aid in preserving, secrecy with regard to all matters that may come to his knowledge in the performance of his duties in connection with those provisions, and shall not communicate any such matter to any person whatsoever other than the taxpayer concerned or his lawful representative nor suffer or permit any such person to have access to any records in the possession or custody of the Commissioner except in the performance of his duties under this Act or by order of a competent court of law.

(2) Every person so employed shall, before acting under this Act, take and subscribe before a magistrate or justice of the peace, such oath of fidelity or secrecy as may be prescribed: Provided that an oath of secrecy taken and subscribed under the provisions of any previous Income Tax Acts of the Union by any person who is employed in carrying out the provisions of this Act shall be deemed to be an oath taken and subscribed in terms of this sub-section.

(3) Every person who, in contravention of the provisions of this section or of the true intent of the oath of fidelity or secrecy taken by him and without lawful excuse, reveals any matter or thing which has come to his knowledge in the course of his official duties to any person whatsoever or suffers or permits any person to have access to any records in the possession or custody of the Commissioner, shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding two years.

(4) Any person who acts in the execution of his office before he has taken the prescribed oath shall be guilty of an offence and be liable on conviction to a fine not exceeding ten pounds

CHAPTER II.

INCOME TAX.

PART I.

Normal Tax.

Levy of normal tax and rates thereof.

5. (1) There shall be paid annually for the benefit of the Consolidated Revenue Fund, an income tax (in this Act referred to as the normal tax) in respect of the taxable income, as defined in this Chapter, received by or accrued to or in favour of any person during the year of assessment ending the thirtieth day of June, 1941, and each succeeding year of assessment thereafter.

(2) The rates of tax chargeable in respect of each such succeeding year of assessment shall be fixed annually by Parliament, but the rates fixed by this Act for the year of assessment ending the thirtieth day of June, 1941, and the rates fixed by any Act of Parliament in respect of any subsequent year of assessment shall be deemed to continue in force until the next such determination of rates and shall be applied for the purposes of calculating the tax payable in respect of any taxable income received by or accrued to or in favour of any person during the next succeeding year of assessment if, in the opinion of the Commissioner, the calculation and collection of the tax chargeable in respect of such taxable income cannot be postponed until after the rates for that year have been determined without risk of loss of revenue: Provided that after the next such determination of rates any tax paid in pursuance of such interim application shall be adjusted in accordance with such subsequent rates; for which purpose amounts paid in excess shall be refunded and amounts short-paid shall be recoverable.

Rates of normal tax.

6. (1) The rates of normal tax to be levied in respect of the year of assessment ended on the thirtieth day of June, 1941, shall be—

(2) 'n Beslissing deur so 'n amptenaar gegee en 'n kennisgewing of mededeling deur hom onderteken of uitgerek kan deur die Kommissaris of deur die betrokke amptenaar ingetrek of gewysig word, en word totdat dit aldus ingetrek is, vir die oogmerke van bedoelde bepaling geag deur die Kommissaris gegee, uitgerek of onderteken te gewees het.

4. (1) Iedereen wat diens doen by die uitvoering van die Geheimhouding. bepalings van hierdie Wet, moet ten aansien van alle sake wat in die vervulling van sy pligte in verband met daardie bepalings tot sy kennis kom, geheimhouding bewaar en help bewaar, en mag nie 'n sodanige saak aan iemand, wie ook al, behalwe die betrokke belastingpligtige of sy wettige verteenwoordiger mee-deel nie, en mag nie so iemand toelaat of veroorloof om toegang te hê tot stukke wat in die besit of onder die bewaring van die Kommissaris is nie, behalwe in die uitvoering van sy pligte ingevolge hierdie Wet of op bevel van 'n bevoegde gereghof.

(2) Iedereen wat aldus in diens geneem is, moet, voordat hy ingevolge hierdie Wet optree, sodanige eed van getrouwheid of geheimhouding as wat voorgeskryf mag word, voor 'n magistraat of vrederegter afgelê en onderteken: Met dien verstande dat 'n eed van geheimhouding wat ingevolge die bepalings van vorige Inkomstebelastingwette van die Unie afgelê en onderteken is deur iemand wat diens doen by die uitvoering van die bepalings van hierdie Wet, geag word 'n ingevolge hierdie sub-artikel aangelegde en ondertekende eed te wees.

(3) Iedereen wat in stryd met die bepalings van hierdie artikel of met die ware bedoeling van die eed van getrouwheid of van geheimhouding deur hom afgelê, en sonder wettige verontskuldiging enige saak of ding wat in die loop van sy amptpligte tot sy kennis gekom het, aan enige persoon hoegenaamd openbaar, of enige persoon toelaat of veroorloof om toegang te hê tot stukke in die besit of onder die bewaring van die Kommissaris, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met gevangenisstraf vir 'n tydperk van hoogstens twee jaar.

(4) Iemand wat by die uitoefening van sy amp optree voor dat hy die voorgeskrewe eed afgelê het, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens tien pond.

HOOFTUK II.

INKOMSTEBELASTING.

DEEL I.

Normale Belasting.

5. (1) Daar word jaarliks ten bate van die Gekonsolideerde Hessing van Inkomstefonds, 'n inkomstebelasting (in hierdie Wet die normale belasting genoem) betaal op die belasbare inkomste, soos in hierdie Hoofstuk omskryf, ontvang deur of toegeval aan of ten gunste van enige persoon gedurende die jaar van aanslag wat op die dertigste dag van Junie 1941 eindig, en elke daaropvolgende jaar van aanslag daarna.

(2) Die belastingskale hefsbaar ten opsigte van elke sodanige volgende jaar van aanslag word jaarliks deur die Parlement vasgestel, maar die skale deur hierdie Wet vasgestel vir die jaar van aanslag wat op die dertigste dag van Junie 1941 eindig, en die skale vasgestel deur 'n Parlements-wet ten opsigte van enige daaropvolgende jaar van aanslag, word geag van krag te bly tot die volgende sodanige vasstelling van belastingskale, en word toegepas vir die doel van berekening van die belasting betaalbaar ten opsigte van belasbare inkomste ontvang deur of toegeval aan of ten gunste van enige persoon gedurende die daaropvolgende jaar van aanslag indien, volgens oordeel van die Kommissaris, die berekening en innig van die belasting hefsbaar ten opsigte van sodanige belasbare inkomste nie uitgestel kan word tot ná die vasstelling van die skale vir daardie jaar sonder gevaar van verlies van inkomste nie: Met dien verstande dat alle belastings wat ingevolge so 'n tussentydse toepassing betaal is, ná die volgende sodanige vasstelling van belastingskale gewysig word ooreenkomsdig sodanige volgende skale; vir watter doel te veel betaalde bedrae terugbetaal word en te min betaalde bedrae ingevorder kan word.

6. (1) Die skale van die normale belasting wat gehef word Skale van normale ten opsigte van die jaar van aanslag wat op die dertigste dag belasting, van Junie 1941 eindig, is—

- (a) in the case of companies the sole or principal business of which in the Union is mining for gold, for each pound of taxable income, three shillings;
- (b) in the case of companies the sole or principal business of which in the Union is mining for diamonds, for each pound of taxable income, four shillings;
- (c) in the case of all other public companies, for each pound of taxable income, three shillings and six pence;
- (d) in the case of persons other than those referred to in paragraphs (a), (b) and (c), for each pound of taxable income eighteen pence increased by one one-thousandth of a penny for each pound of the taxable income in excess of one pound subject to a maximum rate of three shillings and three pence in every pound: Provided that for a married person the rate for each pound of taxable income shall be fifteen pence increased by one one-thousandth of a penny for each pound of the taxable income in excess of one pound, subject to a maximum rate of three shillings in every pound;
- (e) in the case of any company or person other than a company, who derives any portion of his income from mining in the Union for gold, in respect of each pound of the taxable amount so derived a percentage determined in accordance with the following formula:

$$y = 40 - \frac{500}{x}$$

in which y represents such percentage and x the ratio, expressed as a percentage, which the taxable income derived from mining for gold bears to the income derived therefrom.

- (2) (a) For the purposes of paragraph (e) of sub-section (1), income derived from mining in the Union for gold shall include any income derived from silver, osmiridium 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 purpose of determining the taxable amount referred to in the said paragraph there shall be deducted from the taxable income derived from mining for gold an abatement of an amount of twenty thousand pounds, or where the period assessed is less than twelve months, an abatement of an amount which bears to twenty thousand pounds the same proportion as the said period bears to twelve months, reduced in either case by one pound for every completed four pounds by which the taxable income so derived exceeds twenty thousand pounds, or the proportionate part of twenty thousand pounds, as the case may be, and the amount remaining after deduction of the abatement so calculated shall be the taxable amount for the purposes of the said paragraph.
- (c) The tax determined in accordance with the said paragraph shall be payable in addition to any tax determined in accordance with paragraphs (a), (b), (c) and (d) of sub-section (1).

Definitions for purposes of Chapter II.

7. For the purposes of this Chapter—

- “gross income” means the total amount whether in cash or otherwise received by or accrued to or in favour of any person, excluding such receipts or accruals of a capital nature as are not receipts or accruals referred to in paragraphs (a) to (h) hereunder, in any year or period assessable under this Chapter from any source within the Union or deemed to be within the Union, and includes the following—
- (a) any amount so received or accrued by way of annuity;
 - (b) any amount so received or accrued in respect of services rendered, whether due and payable under a contract of service or not;
 - (c) any amount so received or accrued in commutation of amounts due under any contract of employment or service;
 - (d) any amount received or accrued from another person, as premium or like consideration paid by such other person for the right of use or

- (a) in die geval van maatskappye wie se enigste of ver- naamste besigheid in die Unie die myn van goud is, drie sjielings op elke pond van die belasbare inkomste;
- (b) in die geval van maatskappye wie se enigste of ver- naamste besigheid in die Unie die myn van diamante is, vier sjielings op elke pond van die belasbare inkomste;
- (c) in die geval van alle ander publieke maatskappye, drie sjielings en ses pennies op elke pond van die belasbare inkomste;
- (d) in die geval van ander persone as dié wat in paragrafe (a), (b) en (c) vermeld word, een sjieling en ses pennies op elke pond van die belasbare inkomste, verhoog met een-duisendste van 'n pennie op elke pond van die belasbare inkomste wat een pond te bove gaan, maar met drie sjielings en drie pennies op elke pond as maksimum van die skaal: Met dien verstande dat die skaal vir 'n getroude persoon op elke pond van die belasbare inkomste vyftien pennies is, verhoog met een-duisendste van 'n pennie op elke pond van die belasbare inkomste wat een pond te bove gaan, maar met drie sjielings op elke pond as maksimum van die skaal;
- (e) in die geval van 'n maatskappy of 'n ander persoon as 'n maatskappy, wat enige gedeelte van sy inkomste uit die myn van goud in die Unie verkry, ten opsigte van elke pond van die aldus verkreeë belasbare bedrag, 'n persentasie vasgestel ooreenkomsdig die volgende formule:

$$y = 40 - \frac{500}{x}$$

waarin y bedoelde persentasie voorstel en x die verhouding, in 'n persentasie uitgedruk, waarin die belasbare inkomste uit die myn van goud verkry, staan tot die inkomste daaruit verkry.

- (2) (a) Vir die doeleindes van paragraaf (e) van sub-artikel (1) sluit inkomste uit die myn van goud in die Unie verkry ook inkomste in wat verkry is van silwer, osmiridium of ander minerale wat in die loop van die myn van goud gewin mag word, en enige inkomste wat volgens die mening van die Kommissaris, regstreeks uit die myn van goud voortvloei.
- (b) Ten einde die belasbare bedrag in vermelde paragraaf bedoel, vas te stel, word van die belasbare inkomste uit die myn van goud verkry, 'n korting afgetrek van 'n bedrag van twintigduisend pond, of wanneer die tydperk waarvoor aangeslaan word minder as twaalf maande is, 'n korting van 'n bedrag wat in dieselfde verhouding staan tot twintigduisend pond as dié waarin daardie tydperk staan tot twaalf maande, verminder in albei gevalle met een pond vir elke vol-tallige vier pond waarmee die aldus verkreeë belasbare inkomste twintigduisend pond, of die eweredige gedeelte van twintigduisend pond, na gelang van die geval, te bove gaan, en die bedrag wat oorbly nadat die aldus berekende korting afgetrek is, is die belasbare bedrag vir die oogmerke van bedoelde paragraaf.
- (c) Die belasting ooreenkomsdig bedoelde paragraaf vas- gestel, is betaalbaar benewens enige belasting vasgestel ooreenkomsdig paragrafe (a), (b), (c) en (d) van sub- artikel (1).

7. Vir die oogmerke van hierdie Hoofstuk beteken— Woordbepaling vir „bruto-inkomste”, die totale bedrag, ditsy in kontant of andersins, ontvang deur of toegeval aan of ten gunste van 'n persoon, met uitsluiting van sodanige ontvangste of toevallings van 'n kapitale aard, as wat nie ontvangste of toevallings is in paragrafe (a) tot (h) hieronder bedoel nie, in 'n jaar of tydvak onder-hewig aan aanslag ingevolge hierdie Hoofstuk, uit 'n bron in die Unie of geag in die Unie te wees, en sluit dit die volgende in—

- (a) 'n bedrag aldus ontvang of toegeval by wyse van juargeld;
- (b) 'n bedrag aldus ontvang of toegeval ten opsigte van bewese dienste of dit ingevolge 'n diens- kontrak verskuldig en betaalbaar is al dan nie;
- (c) 'n bedrag aldus ontvang of toegeval by omsetting van bedrae wat ingevolge 'n kontrak van indiens- neming of diens verskuldig is;
- (d) 'n bedrag ontvang of toegeval van 'n ander per- soon, as premie of dergelike vergoeding betaal deur daardie ander persoon vir die reg van ge-

- (a) in the case of companies the sole or principal business of which in the Union is mining for gold, for each pound of taxable income, three shillings;
- (b) in the case of companies the sole or principal business of which in the Union is mining for diamonds, for each pound of taxable income, four shillings;
- (c) in the case of all other public companies, for each pound of taxable income, three shillings and six pence;
- (d) in the case of persons other than those referred to in paragraphs (a), (b) and (c), for each pound of taxable income eighteen pence increased by one one-thousandth of a penny for each pound of the taxable income in excess of one pound subject to a maximum rate of three shillings and three pence in every pound: Provided that for a married person the rate for each pound of taxable income shall be fifteen pence increased by one one-thousandth of a penny for each pound of the taxable income in excess of one pound, subject to a maximum rate of three shillings in every pound;
- (e) in the case of any company or person other than a company, who derives any portion of his income from mining in the Union for gold, in respect of each pound of the taxable amount so derived a percentage determined in accordance with the following formula:

$$y = 40 - \frac{500}{x}$$

in which y represents such percentage and x the ratio, expressed as a percentage, which the taxable income derived from mining for gold bears to the income derived therefrom.

- (2) (a) For the purposes of paragraph (e) of sub-section (1), income derived from mining in the Union for gold shall include any income derived from silver, osmiridium 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 purpose of determining the taxable amount referred to in the said paragraph there shall be deducted from the taxable income derived from mining for gold an abatement of an amount of twenty thousand pounds, or where the period assessed is less than twelve months, an abatement of an amount which bears to twenty thousand pounds the same proportion as the said period bears to twelve months, reduced in either case by one pound for every completed four pounds by which the taxable income so derived exceeds twenty thousand pounds, or the proportionate part of twenty thousand pounds, as the case may be, and the amount remaining after deduction of the abatement so calculated shall be the taxable amount for the purposes of the said paragraph.
- (c) The tax determined in accordance with the said paragraph shall be payable in addition to any tax determined in accordance with paragraphs (a), (b), (c) and (d) of sub-section (1).

Definitions for purposes of Chapter II.

7. For the purposes of this Chapter—

- “gross income” means the total amount whether in cash or otherwise received by or accrued to or in favour of any person, excluding such receipts or accruals of a capital nature as are not receipts or accruals referred to in paragraphs (a) to (h) hereunder, in any year or period assessable under this Chapter from any source within the Union or deemed to be within the Union, and includes the following—
- (a) any amount so received or accrued by way of annuity;
 - (b) any amount so received or accrued in respect of services rendered, whether due and payable under a contract of service or not;
 - (c) any amount so received or accrued in commutation of amounts due under any contract of employment or service;
 - (d) any amount received or accrued from another person, as premium or like consideration paid by such other person for the right of use or

- (a) in die geval van maatskappye wie se enigste of ver-naamste besigheid in die Unie die myn van goud is, drie sjielings op elke pond van die belasbare inkomste ;
- (b) in die geval van maatskappye wie se enigste of ver-naamste besigheid in die Unie die myn van diamante is, vier sjielings op elke pond van die belasbare inkomste ;
- (c) in die geval van alle ander publieke maatskappye, drie sjielings en ses pennies op elke pond van die belasbare inkomste ;
- (d) in die geval van ander persone as dié wat in paragrawe (a), (b) en (c) vermeld word, een sjieling en ses pennies op elke pond van die belasbare inkomste, verhoog met een-duisendste van 'n pennie op elke pond van die belasbare inkomste wat een pond te bowe gaan, maar met drie sjielings en drie pennies op elke pond as maksimum van die skaal : Met dien verstande dat die skaal vir 'n getroude persoon op elke pond van die belasbare inkomste vyftien pennies is, verhoog met een-duisendste van 'n pennie op elke pond van die belasbare inkomste wat een pond te bowe gaan, maar met drie sjielings op elke pond as maksimum van die skaal ;
- (e) in die geval van 'n maatskappy of 'n ander persoon as 'n maatskappy, wat enige gedeelte van sy inkomste uit die myn van goud in die Unie verkry, ten opsigte van elke pond van die aldus verkreë belasbare bedrag, 'n persentasie vasgestel ooreenkomsdig die volgende formule :

$$y = 40 - \frac{500}{x}$$

waarin y bedoelde persentasie voorstel en x die verhouding, in 'n persentasie uitgedruk, waarin die belasbare inkomste uit die myn van goud verkry, staan tot die inkomste daaruit verkry.

- (2) (a) Vir die doeleindes van paragraaf (e) van sub-artikel (1) sluit inkomste uit die myn van goud in die Unie verkry ook inkomste in wat verkry is van silwer, osmiridium of ander minerale wat in die loop van die myn van goud gewin mag word, en enige inkomste wat volgens die mening van die Kommissaris, regstreeks uit die myn van goud voortvloeи.
- (b) Ten einde die belasbare bedrag in vermelde paragraaf bedoel, vas te stel, word van die belasbare inkomste uit die myn van goud verkry, 'n korting afgetrek van 'n bedrag van twintigduisend pond, of wanneer die tydperk waarvoor aangeslaan word minder as twaalf maande is, 'n korting van 'n bedrag wat in dieselfde verhouding staan tot twintigduisend pond as dié waarin daardie tydperk staan tot twaalf maande, verminder in albei gevalle met een pond vir elke vol-tallige vier pond waarmee die aldus verkreë belasbare inkomste twintigduisend pond, of die eweredige gedeelte van twintigduisend pond, na gelang van die geval, te bowe gaan, en die bedrag wat oorbly nadat die aldus berekende korting afgetrek is, is die belasbare bedrag vir die oogmerke van bedoelde paragraaf.
- (c) Die belasting ooreenkomsdig bedoelde paragraaf vasgestel, is betaalbaar benewens enige belasting vasgestel ooreenkomsdig paragrawe (a), (b), (c) en (d) van sub-artikel (1).

7. Vir die oogmerke van hierdie Hoofstuk beteken— Woordbepaling vir „bruto-inkomste”, die totale bedrag, ditsy in kontant of andersins, ontvang deur of toegeval aan of ten gunste van 'n persoon, met uitsluiting van sodanige ontvangste of toevallings van 'n kapitale aard, as wat nie ontvangste of toevallings is in paragrawe (a) tot (h) hieronder bedoel nie, in 'n jaar of tydvak onderhewig aan aanslag ingevalle hierdie Hoofstuk, uit 'n bron in die Unie of geag in die Unie te wees, en sluit dit die volgende in—

- (a) 'n bedrag aldus ontvang of toegeval by wyse van jaargeld ;
- (b) 'n bedrag aldus ontvang of toegeval ten opsigte van bewese dienste of dit ingevalle 'n diens-kontrak verskuldig en betaalbaar is al dan nie ;
- (c) 'n bedrag aldus ontvang of toegeval by omsetting van bedrae wat ingevalle 'n kontrak van indiens-neming of diens verskuldig is ;
- (d) 'n bedrag ontvang of toegeval van 'n ander persoon, as premie of dergelike vergoeding betaal deur daardie ander persoon vir die reg van ge-

occupation of land or buildings or of the use of plant or machinery;

(c) the annual value of any quarters or board or residence or of any other benefit or advantage granted in respect of employment;

(f) in the case of persons carrying on mining operations, any amount by which recoupments from capital expenditure exceed the balance of capital expenditure ranking for redemption in terms of section *twenty*;

(g) any amount which in terms of section *thirty-seven* has been apportioned to any person from the taxable income or income subject to super tax of a private company owing to such person being or being deemed to be a shareholder in such company: Provided that any such income apportioned to a shareholder of a private company, not registered nor carrying on business within the Union, shall in respect of such income so apportioned be deemed to be received from a source within the Union;

(h) any amounts which in terms of other sections of this Act are specifically required to be included in the taxpayer's income, but the scope of this definition shall not be limited in any way by the mention therein of the particular matters referred to in paragraphs (a) to (h);

"income" means the amount remaining of the gross income of any person for any such year or period after deducting therefrom any amounts exempt from normal tax under this Chapter;

"taxable income", except in Part V, means the amount remaining after deducting from the income of any person all the amounts (other than abatements) allowed to be deducted or set off under this Chapter;

"taxable amount" means the amount remaining after deducting from any taxable income any abatement allowed under this Chapter;

"trade" includes every profession, trade, business, employment, calling, occupation or venture including the letting of any property.

Reinvestment and accumulation of income.

8. Income shall be deemed to have accrued to a person notwithstanding that such income has been invested, accumulated or otherwise capitalized by him or that such income has not been actually paid over to him but remains due and payable to him or has been credited in account or reinvested or accumulated or capitalized or otherwise dealt with in his name or on his behalf and a complete statement of all such income shall be included by any person in the returns rendered by him under this Act.

Circumstances in which amounts deemed to have accrued within the Union

9. (1) An amount shall be deemed to have accrued to any person from a source within the Union, whenever it has been received by or has accrued to or in favour of such person by virtue of—

(a) any contract made by such person within the Union for the sale of goods, whether such goods have been delivered or are to be delivered in or out of the Union;

(b) any service rendered or work or labour done by such person in the carrying on in the Union of any trade, whether the payment for such service or work or labour is made or is to be made by a person resident in or out of the Union and wheresoever payment for such services or work or labour is made or is to be made;

(c) any services rendered by such person to or work or labour done by such person for or on behalf of the Government of the Union (including the Railway Administration) or any provincial administration or local authority in the Union, notwithstanding that such services are rendered or that such work or labour is done outside the Union: Provided that such services are rendered or such work or labour is done in accordance with a contract of employment entered into with that Government, administration or authority: Provided further that nothing in this paragraph shall be construed as imposing liability for taxation under this Act upon any salary or emolumen-

- bruik of bewoning van grond of geboue of van die gebruik van uitrusting of masjinerie;
- (e) die jaarlike waarde van kwartiere of losies of inwoning of van enige ander voordeel of bate wat ten opsigte van 'n indiensneming verleen word;
- (f) in die geval van persone wat mynwerksaamhede voortsit, 'n bedrag waarmee terugontvangste uit kapitaaluitgawes die balans van kapitaaluitgawes waarvan die delging toegestaan word ingevolge artikel *twintig*, oorskry;
- (g) 'n bedrag wat ooreenkomsdig artikel *seuen-en-dertig* aan 'n persoon toegedeel is uit die belasbare inkomste of aan superbelasting onderhewige inkomste van 'n private maatskappy ten gevolge daarvan dat so 'n persoon 'n aandeelhouer in sodanige maatskappy is of geag word te wees: Met dien verstande dat sodanige inkomste wat toegedeel is aan 'n aandeelhouer van 'n private maatskappy wat nie in die Unie geregistreer is en nie daarin besigheid dryf nie, ten opsigte van sodanige aldus toegedeelde inkomste geag word uit 'n bron in die Unie verkry te wees;
- (h) alle bedrae wat volgens uitdruklike voorskrif van ander artikels van hierdie Wet by die inkomste van die belastingpligtige ingesluit moet word, maar die bestek van hierdie omskrywing word nie in enige opsig beperk deur die vermelding daarin van die bepaalde sake in paragraawe (a) tot (h) bedoel nie;
- „inkomste“ die oorblywende bedrag van die brutoinkomste van 'n persoon in 'n sodanige jaar of tydvak na aftrekking daarvan van alle bedrae wat ingevolge hierdie Hoofstuk van normale belasting vrygestel is;
- „belasbare inkomste“, behalwe in Deel V, die oorblywende bedrag na aftrekking, van die inkomste van 'n persoon, van al die bedrae (behalwe kortings) wat ingevolge hierdie Hoofstuk afgetrek of in vergelyking gebring kan word;
- „belasbare bedrag“, die oorblywende bedrag na aftrekking, van die belasbare inkomste, van een of meer kortings wat ingevolge hierdie Hoofstuk toegestaan word;
- „bedryf“ ook elke professie, handelsaak, besigheid, diens, beroep, vak of onderneming, met inbegrip van die verhuur van goed.

8. Dit word beskou dat inkomste aan 'n persoon toegeval Weerbelegging en het nienteenstaande dat sodanige inkomste deur hom belê, opgehoop of op 'n ander wyse gekapitaliseer is, of dat sodanige inkomste nie werklik aan hom uitbetaal is nie maar aan hom verskuldig en betaalbaar bly of aan sy rekening gekrediteer is of weer belê is of opgehoop of gekapitaliseer of op ander wyse in sy naam of ten behoeve van hom behandel is, en 'n volledige opgaaf van al sulke inkomste moet deur 'n persoon ingesluit word in die opgawes wat ingevolge hierdie Wet deur hom verstrek word.

9. (1) Dit word geag dat 'n bedrag aan 'n persoon uit 'n Omstandighedo bron in die Unie toegeval het wanneer dit ontvang is deur of waarin beskou word dat bedrae in dio Unie toegeval

(a) 'n kontrak deur so 'n persoon in die Unie aangegaan vir die verkoop van goed, ditsy sodanige goed in of buite die Unie gelewer is of moet word;

(b) dienste bewys of werk of arbeid verrig deur so 'n persoon by die uitvoering in die Unie van 'n bedryf, ditsy betaling vir sodanige dienste of werk of arbeid geskied of moet geskied deur 'n persoon wat in of buite die Unie woonagtig is, en waar ook al betaling vir sodanige dienste of werk of arbeid geskied of moet geskied;

(c) dienste deur so 'n persoon bewys aan of werk of arbeid deur so 'n persoon verrig vir of ten behoeve van die Regering van die Unie (met inbegrip van die Spoorwegadministrasie) of 'n provinsiale administrasie of plaaslike bestuur in die Unie, nienteenstaande dat sodanige dienste bewys word of dat sodanige werk of arbeid verrig word buite die Unie: Met dien verstande dat sodanige dienste bewys word of dat sodanige werk of arbeid verrig word ooreenkomsdig 'n dienskontrak aangegaan met daardie Regering, administrasie of bestuur: Met dien verstande voorts dat die bepalings van hierdie paragraaf nie die bedoeling het om aanspreeklikheid op te lê vir belasting kragtens hierdie Wet op 'n salaris of oj besoldiging betaal

ment paid to any person in the employment of the Railway Administration or of the South African Police in respect of any period for which such person is stationed in the mandated territory of South-West Africa;

(d) any pension or annuity granted to such person where-soever payment of that pension or annuity is made and wheresoever the funds from which payment is made are situate, by—

(i) the Government of the Union (including the Railway Administration) or a provincial administration or any local authority in the Union; or

(ii) any person whether residing in or carrying on business in the Union or not: Provided the services in respect of which that pension or annuity was granted were performed within the Union for at least two years during the ten years immediately preceding the date from which the pension or annuity first became due.

(2) Any income received by or accrued to or in favour of, or deemed to have been received by or accrued to or in favour of, a woman married with or without community of property and not separated from her husband under a judicial order or written agreement of separation shall be deemed for the purposes of this Act to be income accrued to her husband.

(3) Any income shall be deemed to have been received by the parent of any minor child, if by reason of any donation, settlement or other disposition made by that parent of that child—

(a) it has been received by or accrued to or in favour of, or has been deemed to have been received by or accrued to or in favour of that child or has been expended for the maintenance, education or benefit of that child; or

(b) it has been accumulated for the benefit of that child.

(4) Any income received by or accrued to or in favour of, or deemed to have been received by or accrued to or in favour of any minor child of any person, by reason of any donation, settlement or other disposition made by any other person shall be deemed to be the income of the parent of such minor child, if such parent or his spouse has made a donation, settlement or other disposition or given some other consideration in favour directly or indirectly of the said other person or his family.

(5) If any person has stipulated in any deed of donation, settlement or other disposition that no beneficiary thereof shall receive the income thereunder or some portion of that income until the happening of some event, whether fixed or contingent, that income, to the extent that the right to receive all or part thereof is so withheld, shall, until the happening of that event or the death of that person, whichever first takes place, be deemed to be the income of that person.

(6) If any deed of donation, settlement or other disposition contains any stipulation that the right to receive any income thereby conferred may, under powers retained by the person by whom that right is so donated, settled or otherwise disposed of, be revoked or conferred upon another, that income shall so long as he retains those powers be deemed to be the income of the person by whom that right is so donated, settled or otherwise disposed of.

(7) Any amount received by any person ordinarily resident or carrying on business in the Union by way of interest upon any stocks or securities issued by any Government, other than the Union Government (other than stocks or securities issued in the Union by the Government of Southern Rhodesia prior to the first day of January, 1926), shall if such amount is not chargeable with income tax in such country of origin, by reason of the recipient not being domiciled or resident therein, be deemed to be income derived from a source within the Union.

(8) So much of any amount, which has been paid by any person as an allowance or advance to a director, manager, employee or other person in respect of expenses of travelling, entertainment or other service, as the Commissioner is not satisfied was actually expended by the recipient on such travel-

aan iemand in diens van die Spoerwegadministrasie of van die Suid-Afrikaanse Polisie ten opsigte van 'n tydperk gedurende welke so iemand in die mandaatgebied Suidwes-Afrika gestasioneer is nie;

(d) 'n pensioen of jaargeld aan so 'n persoon toegeken, waar ook al betaling van daardie pensioen of jaargeld geskied en waar ook al die fondse waaruit die betaling geskied hul bevind, deur—

(i) die Regering van die Unie (met inbegrip van die Spoerwegadministrasie) of 'n provinsiale administrasie of 'n plaaslike bestuur in die Unie; of

(ii) enige persoon, ditsy hy in die Unie woonagtig is of besigheid daarin dryf al dan nie, mits die dienste ten opsigte waarvan daardie pensioen of jaargeld toegeken is in die Unie bewys is vir ten minste twee uit die tien jaar wat die datum waarop die pensioen of jaargeld vir die eerste maal ver- skuldig geword het, onmiddellik voorafgaan.

(2) Vir die oogmerke van hierdie Wet word dit beskou dat alle inkomste wat ontvang is deur of toegeval het aan of ten gunste van, of wat geag word ontvang te gewees het deur of toe te geval het aan of ten gunste van 'n vrou in of buite gemeenskap van goedere getroud en nie van tafel en bed van haar man geskei ingevolge 'n geregtelike bevel of skriftelike ooreenkoms van skeiding van tafel en bed nie, inkomste is wat aan haar man toegeval het.

(3) Dit word beskou dat inkomste deur die ouer van 'n minderjarige kind ontvang is indien dit ten gevolge van 'n skenking, oormaking of ander beskikking deur daardie ouer van daardie kind gemaak—

(a) ontvang is deur of toegeval het aan of ten gunste van of geag word ontvang te gewees het deur of toe te geval het aan of ten gunste van daardie kind of aan die onderhou of opvoeding of ten voordele van daardie kind uitgegee is; of

(b) ten voordele van daardie kind opgehoop is.

(4) Inkomste wat ontvang is deur of toegeval het aan of ten gunste van of geag word ontvang te gewees het deur of toe te geval het aan of ten gunste van 'n minderjarige kind van 'n persoon, ten gevolge van 'n skenking, oormaking of ander beskikking deur 'n ander persoon gemaak, word geag die inkomste van die ouer van sodanige minderjarige kind te wees, as bedoelde ouer of sy eggenote 'n skenking, oormaking of ander beskikking gemaak of 'n ander teenprestasie gegee het regstreeks of onregstreeks ten gunste van sodanige ander persoon of sy familie.

(5) Indien 'n persoon in 'n akte van skenking, oormaking of ander beskikking beding het dat geeneen van die daardeur bevoordeeldes die inkomste ingevolge daarvan of een of ander gedeelte van daardie inkomste mag ontvang voor die plaasvind van een of ander gebeurtenis nie, ditsy vasgestel of voorwaardelik, word daardie inkomste vir sover die reg om die geheel of 'n gedeelte daarvan te ontvang, aldus weerhou tot die plaasvind van daardie gebeurtenis of die dood van daardie persoon, na gelang van watter die eerste plaasvind, geag die inkomste van daardie persoon te wees.

(6) Indien 'n akte van skenking, oormaking of ander beskikking 'n beding bevat dat die reg om inkomste te ontvang wat daardeur verleen word, ingevolge bevoegdhede behou deur die persoon deur wie daardie reg aldus geskenk of oorgemaak word of daaroor aldus beskik word, ingetrek of aan iemand anders verleen kan word, word daardie inkomste solank hy daardie bevoegdhede behou geag die inkomste te wees van die persoon deur wie daardie reg aldus geskenk of oorgemaak word of waaroor aldus beskik word.

(7) 'n Bedrag ontvang deur 'n persoon wat gewoonlik in die Unie woon of daarin besigheid dryf, as rente op effekte of sekuriteite wat uitgerek is deur 'n ander Regering as die Unieregering (nie synde effekte of sekuriteite wat voor die eerste dag van Januarie, 1926 deur die Regering van Suid-Rhodesië in die Unie uitgerek is nie), word, indien op daardie bedrag in daardie land van oorsprong geen inkomstebelasting gehef word **op grond** daarvan dat die ontvanger nie daarin gedomiseer of woonagtig is nie, beskou as inkomste wat uit 'n brou in die Unie verkry is.

(8) Soveel van 'n bedrag wat deur 'n persoon betaal is as 'n toelae of voorskot aan 'n direkteur, bestuurder, werknemer of ander persoon ten opsigte van die koste van reis, onthaal of ander dienste, as wat die Kommissaris nie oortuig is werklik deur die ontvanger aan sodanige reis of onthaal of in die

ling, entertainment or in the performance of such service, shall be deemed to be part of the taxable income of the recipient.

Exemptions.

10. (1) There shall be exempt from the tax—

- (a) the revenues of the Government of the Union (including the Railway Administration) and of any provincial administration in the Union and the revenues of any other State;
- (b) the revenues of local authorities;
- (c) the receipts and accruals (including receipts or accruals from investments) of any building societies or of any institutions which are, in the opinion of the Commissioner, friendly societies or mutual savings bank or loan associations or trade unions or pension, superannuation or provident funds of a permanent nature;
- (d) such receipts and accruals of mutual insurance companies, as defined in paragraph 2 of the First Schedule to this Act, as are derived from the business of life insurance and the granting of annuities, including such receipts and accruals from investments as arise from the business of life insurance and the granting of annuities;
- (e) the receipts and accruals of—
 - (i) companies, societies or other associations of persons, whether or not registered under any law, which do not derive profit or gain, other than from investments, out of transactions with persons other than their members; and
 - (ii) associations which are in the opinion of the Commissioner amateur sporting associations, except as regards any receipts or accruals from investments by any such company, society or association;
- (f) the receipts and accruals of all ecclesiastical, charitable and educational institutions of a public character, whether or not supported wholly or partly by grants from the public revenue;
- (g) any amount received as a war pension, or as an award or a benefit under any law relating to miners' phthisis;
- (h) interest received by or accruing to any person not ordinarily resident nor carrying on business in the Union from stock or securities (including Treasury Bills) issued by the Government of the Union or any Colony included in the Union or any local authority within the Union or the Electricity Supply Commission;
- (i) interest received from any deposit in the Post Office Savings Bank of the Union, including interest on Post Office Savings Bank Certificates or on Tax Redemption Certificates, or annual interest accrued in respect of any Union Loan Certificates and any amount credited as interest in respect of any contributory share, but not in respect of any amount paid or credited on any paid-up share in any building society: Provided that the exemption in respect of interest on Tax Redemption Certificates held by any one person shall be limited to the sum of ten pounds;
- (j) the salaries and emoluments payable to—
 - (i) the Governor-General; and
 - (ii) any person who holds office in the Union as an official of any of His Majesty's Governments, other than the Government of the Union of South Africa, or of any other Government, provided such person is stationed in the Union for that purpose and is not ordinarily resident in the Union;
- (k) dividends received or accrued from any public company, including those from companies whose profits are exempted under the provisions of paragraph (l) of this sub-section, whether received by or on behalf of the taxpayer or apportioned to him under paragraph (b) of section *thirty-seven* out of the income subject to super tax of a private company;
- (l) the profits of mining made under a lease granted under section *forty-six* of the Precious and Base Metals Act, 1908 (Act No. 35 of 1908), of the Transvaal;
- (m) dividends received as such, paid by any private company:

verrigting van sodanige dienste uitgegee is nie, word geag deel uit te maak van die belasbare inkomste van die ontvanger.

10. (1) Van die belasting word vrygestel—

Vrystellings.

- (a) die inkomste van die Regering van die Unie (met inbegrip van die Spoerwegadministrasie), en van 'n provinsiale administrasie in die Unie, en die inkomste van die Regering van enige ander Staat ;
- (b) die inkomstes van plaaslike besture ;
- (c) die ontvangste en toevallings (met inbegrip van ontvangste of toevallings uit beleggings) van alle bouverenigings en van alle inrigtings wat volgens oordeel van die Kommissaris hulpverenigings of onderlinge spaarbank- of leningsverenigings of vakverenigings of pensioenfondse, ouderdomsvoorsorgsfondse of spaarfondse van 'n permanente aard is ;
- (d) sodanige ontvangste en toevallings van onderlinge versekeringsmaatskappye, soos omskryf in paragraaf 2 van die Eerste Bylae van hierdie Wet as wat verkry word uit die besigheid van lewensversekering en die toekenning van jaargelde, met inbegrip van sodanige ontvangste en toevallings uit beleggings wat voortvloeи uit die besigheid van lewensversekering of die toekenning van jaargelde ;
- (e) die ontvangste en toevallings van—
 - (i) maatskappye, verenigings of ander assosiasies van persone, ditsy ingevolge een of ander wet geregistreer al dan nie, wat geen wins of profyt, behalwe uit beleggings, trek uit transaksies met ander persone as hul lede nie ; en
 - (ii) assosiasies wat volgens die mening van die Kommissaris amateur sportverenigings is, behalwe wat ontvangste of toevallings uit beleggings deur 'n sodanige maatskappy, vereniging of assosiasie betref ;
- (f) die ontvangste en toevallings van alle godsdiestige, liefdadigheids- en opvoedkundige inrigtings van 'n openbare aard, ditsy al dan nie geheel of gedeeltelik deur toelaes uit die openbare inkomste ondersteun ;
- (g) 'n bedrag ontvang as 'n oorlogspensioen of as 'n toekenning of voordeel ingevolge 'n wet op myntering ;
- (h) rente ontvang deur of toegeval aan 'n persoon wat nie gewoonlik in die Unie woon en nie daarin besigheid dryf nie uit effekte of sekuriteite (met inbegrip van skatkisbiljette), uitgereik deur die Regering van die Unie of van 'n kolonie wat in die Unie opgeneem is of 'n plaaslike bestuur in die Unie of die Elektrisiteitsvoorsieningskommissie ;
- (i) rente ontvang uit 'n deposito in die Posspaarbank van die Unie, met inbegrip van rente op Posspaarbanksertifikate, of op Belastingdelgingsertifikate of jaarlikse rente toegeval ten opsigte van Unieleningssertifikate en enige bedrag gekrediteer as rente ten opsigte van 'n hydraersaandeel, maar nie ten opsigte van 'n bedrag betaal of gekrediteer op 'n oppbetaalde aandeel nie, in 'n bouvereniging : Met dien verstande dat die vrystelling ten opsigte van Belastingdelgingsertifikate deur een enkele persoon besit, tot die bedrag van tien pond beperk word ;
- (j) die salarisse en besoldiging betaalbaar aan—
 - (i) die Goewerneur-generaal ; en
 - (ii) alle persone wat in die Unie 'n amp beklee as 'n amptenaar van enigeen van Sy Majesteit se Regerings, behalwe die Regering van die Unie van Suid-Afrika, of van enige ander Regering, mits sulke persone in die Unie gestasioneer is vir daardie doel en nie gewoonlik in die Unie woonagtig is nie ;
- (k) diwidende ontvang of toegeval uit 'n publieke maatskappy, insluitende dié uit maatskappye wie se winste vrygestel is ingevolge die bepaling van paragraaf (l) van hierdie sub-artikel, ditsy deur of ten behoeve van die belastingpligtige ontvang, of aan hom toegedeel ingevolge paragraaf (b) van artikel *seuen-en-dertig* uit die aan superbelasting onderhewige inkomste van 'n private maatskappy ;
- (l) die winste van mynwerksaamhede gemaak ingevolge 'n verhuring aangegaan ooreenkomsdig artikel *ses-en-veertig* van die „Precious and Base Metals Act, 1908“ (Wet No. 35 van 1908), van Transvaal ;
- (m) diwidende as sulks ontvang, betaal deur 'n private maatskappy :

Provided, notwithstanding the exemptions in paragraphs (h), (k) and (m) of this sub-section, that

- (i) all amounts falling within the scope of the said paragraphs shall be set out by the taxpayer in the return rendered by him;
- (ii) the exemptions in the said paragraphs shall not apply in respect of interest or dividends received by or accrued to a private company, not registered nor carrying on business within the Union, unless such company satisfies the Commissioner as to the extent of the rights of all shareholders to participate in its income and supplies the name and address of each shareholder;
- (iii) the exemptions in the said paragraphs shall not apply in respect of any portion of an annuity;
- (iv) the exemptions in the said paragraphs shall not apply in respect of amounts received by or accrued to any person not ordinarily resident nor carrying on business within the Union from any trust created or administered within the Union or from the income of the estate of any deceased person administered within the Union.

(2) The exemptions provided by paragraphs (a), (b), (c), (d), (e), (f) and (l) of sub-section (1) shall not extend to salaries, wages, allowances or pensions paid out of the revenues, receipts, accruals or profits mentioned in the said paragraphs.

(3) There shall be exempt from the tax—

- (i) every public company whose taxable income does not exceed two hundred and sixty pounds in any year of assessment, or, if the period of assessment is less than a full year, an amount which bears to two hundred and sixty pounds the same ratio as the period assessed bears to one year; and
- (ii) every other person, excepting a private company, whose taxable income does not exceed three hundred pounds in any year of assessment, or, if the period of assessment is less than a full year, an amount which bears to three hundred pounds the same ratio as the period assessed bears to one year.

*Determination of
taxable income.*

11. (1) For the purpose of determining the taxable income derived by any person from carrying on any trade within the Union, there shall be deducted from or set off against the income of such person so derived as defined by section seven the amounts set out in this section.

(2) The deductions allowed shall be—

- (a) expenditure and losses actually incurred in the Union in the production of the income, provided such expenditure and losses are not of a capital nature;
- (b) so much as the Commissioner may allow of any expenditure and losses actually incurred outside the Union in the production of the income provided that such expenditure and losses are not of a capital nature;
- (c) expenditure actually incurred during the year of assessment on the repairs of property occupied for the purpose of trade or in respect of which income is receivable, and sums expended for the repair of machinery, implements, utensils and other articles employed by the taxpayer for the purposes of his trade;
- (d) such sum as the Commissioner may think just and reasonable as representing the amount by which the value of any machinery, implements, utensils and articles used by the taxpayer for the purposes of his trade has been diminished by reason of wear and tear during the year of assessment: Provided that where a deduction has been allowed under paragraph (c), the Commissioner shall take into consideration the sum allowed under that paragraph in determining the sum to be allowed under this paragraph: Provided further that in no case shall any allowance be made for the depreciation of buildings or other structures or works of a permanent nature;

Met dien verstande dat, nie teenstaande die vrystellings in paragrawe (h), (k) en (m) van hierdie sub-artikel vervat—

- (i) alle bedrae wat binne die bestek van bedoelde paragrawe val deur die belastingpligtige in die deur hom verstrekke opgaaf opgegee moet word;
- (ii) die vrystellings in bedoelde paragrawe vervat nie van toepassing is nie ten opsigte van rente of dividende ontvang deur of toegeval aan 'n private maatskappy wat nie in die Unie geregistreer is of besigheid dryf nie, tensy sodanige maatskappy die Kommissaris oortuig met betrekking tot die omvang van die regte van alle aandeelhouers om in sy inkomste te deel, en die naam en adres van elke aandeelhouer verstrek;
- (iii) die vrystellings in bedoelde paragrawe vervat nie van toepassing is nie ten opsigte van enige gedeelte van 'n jaargeld;
- (iv) die vrystellings in bedoelde paragrawe vervat nie van toepassing is nie ten opsigte van bedrae ontvang deur of toegeval aan 'n persoon wat nie gewoonlik in die Unie woon en nie daarin besigheid dryf nie uit een of ander trust wat in die Unie ingestel is of geadministreer word, of uit die inkomste van die goedel van 'n oorledene wat in die Unie beredder word.

(2) Die vrystellings by paragrawe (a), (b), (c), (d), (e), (f) en (l) van sub-artikel (1) verleen, het nie betrekking op salaris, lone, toelaes of pensioene wat uit die in bedoelde paragrawe vermelde inkomstes, ontvangste, toevallings of winste betaal word nie.

(3) Van die belasting word vrygestel—

- (i) elke publieke maatskappy wie se belasbare inkomste in 'n jaar van aanslag nie tweehonderd-en-sestig pond te bowe gaan nie, of, wanneer die tydvak van aanslag minder as 'n volle jaar is, 'n bedrag wat in dieselfde verhouding tot tweehonderd-en-sestig pond staan as dié waarin die tydvak waarvoor die aanslag geskied tot een jaar staan; en
- (ii) elke ander persoon, behalwe 'n private maatskappy, wie se belasbare inkomste in 'n jaar van aanslag nie driehonderd pond te bowe gaan nie, of, wanneer die tydvak van aanslag minder as 'n volle jaar is, 'n bedrag wat in dieselfde verhouding tot driehonderd pond staan as dié waarin die tydvak waarvoor die aanslag geskied tot een jaar staan.

II. (1) Ten einde die belasbare inkomste vas te stel wat deur 'n persoon verkry word uit die uitoefening van 'n bedryf in die Unie, word die in hierdie artikel vermelde bedrae afgetrek van of in vergelyking gebring met die aldus verkreeë inkomste van sodanige persoon soos in artikel *scire omiskryf*.

(2) Die volgende verminderings word toegestaan—

- (a) onkoste en verliese werklik in die Unie gemaak en gely in verband met die voortbrenging van die inkomste, mits sodanige onkoste en verlies nie van 'n kapitale aard is nie;
- (b) soveel as wat die Kommissaris toelaat van die onkoste en verliese werklik buite die Unie gemaak en gely in verband met die voortbrenging van die inkomste, mits sodanige onkoste en verlies nie van 'n kapitale aard is nie;
- (c) onkoste werklik gedurende die jaar van aanslag gemaak aan herstellings van eiendom wat vir bedryfsdoeleindes geokkupeer word of ten opsigte waarvan inkomste ontvang kan word, en bedrae uitgegee aan die herstel van masjinerie, gereedskap, werktuie en ander artikels wat deur die belastingpligtige vir die doeleindes van sy bedryf gebruik word;
- (d) so 'n bedrag as wat die Kommissaris billik en redelik ag, die bedrag voorstellende waarmee die waarde van masjinerie, gereedskap, werktuie en ander artikels wat deur die belastingpligtige vir die doeleindes van sy bedryf gebruik word verminder is ten gevolge van slytasié gedurende die jaar van aanslag: Met dien verstande dat wanneer 'n vermindering ingevolge paragraaf (c) toegestaan is, die Kommissaris die ingevolge daardie paragraaf toegestane bedrag in aanmerking moet neem by die vasstelling van die bedrag ingevolge hierdie paragraaf toegestaan te word: Met dien verstande voorts dat daar in geen geval 'n vermindering toegestaan word op grond van die waardevermindering van geboue of ander bouwerke of werke van 'n permanente aard nie;

- (e) an allowance in respect of any premium or consideration in the nature of a premium paid by any taxpayer for the use or right of occupation of land or buildings or for the use of plant or machinery used for the production of income or from which income is derived : such allowance shall not exceed for any one year such portion of the amount so paid as is equal to the amount of the premium or consideration divided by the number of years for which the right of occupation or use is granted ;
- (f) in respect of income from mining operations an amount to be ascertained under the provisions of section twenty, in lieu of the allowances in paragraphs (d), (e) and (j) of this sub-section ;
- (g) the amount of any debts due to the taxpayer to the extent to which they are proved to the satisfaction of the Commissioner to be bad, provided such amount is included in the current year of assessment or was included in previous years of assessment in the taxpayer's income ;
- (h) such an allowance as may be made each year by the Commissioner in respect of such debts due to the taxpayer as he considers to be doubtful, provided that such allowance shall be included in the income of the taxpayer in the following year of assessment : notwithstanding anything contained in paragraph (g) of sub-section (2) of section eleven of the Income Tax Act, 1925, any deduction made by the Commissioner in respect of doubtful debts under that section shall be deemed to be an allowance in terms of this paragraph and the amount of such deduction shall be included in the income of the taxpayer ;
- (i) any sum contributed during the year of assessment by way of current contribution to any duly established superannuation, pension, widows' or orphans' fund by any person holding any office or employment, where the making of such a contribution is a condition of the holding of such office or employment ;
- (j) an allowance in respect of any machinery, implements utensils and articles used by the taxpayer for the purposes of his trade which have been scrapped by such taxpayer during the year of assessment, such allowance to be the excess of the original cost to such taxpayer of such machinery, implements, utensils or articles over the total amount arrived at by adding all the allowances made in respect thereof under paragraph (d) to any amount or the value of any advantage accruing to the taxpayer in respect of the sale or other disposal of such machinery, implements, utensils and articles ;
- (k) any amount assessed in respect of any period coinciding with or forming part of the year of assessment, as excess profits duty levied under the Income Tax Act, 1940 : Provided that
 - (i) any deduction under this paragraph shall be subject to revision in accordance with any adjustment or refund in respect of the amount so assessed as excess profits duty ; and
 - (ii) no duty levied in pursuance of a disallowance made in respect of managerial remuneration in terms of sub-section (1) of section thirteen of the said Act shall be allowed as a deduction under this paragraph from the income of any employer referred to in the said sub-section, but if any such duty on an amount so disallowed has been recovered by such employer from the employee concerned the duty so recovered shall, on production of the receipt of the employer therefor, be allowed as a deduction from the income of such employee.

- (e) 'n vermindering ten opsigte van 'n premie of teen-prestasie van die aard van 'n premie deur 'n belasting-pligtige betaal vir die gebruik of bewoonreg van grond of geboue of vir die gebruik van toerusting of masjinerie wat vir die voortbrenging van inkomste gebruik word of waaruit inkomste verkry word; sodanige vermindering mag nie in een enkele jaar so 'n gedeelte van die aldus betaalde bedrag te bowe gaan nie as wat gelykstaan aan die bedrag van die premie of teen-prestasie gedeel deur die aantal jare waarvoor die bewoon- of gebruiksreg toegestaan word;
- (f) ten opsigte van inkomste uit mynwerksaamhede, 'n bedrag vasgestel te word ingevolge die bepalings van artikel *twintig*, in plaas van die verminderings in paragrawe (d), (e) en (j) van hierdie sub-artikel vermeld;
- (g) die bedrag van skulde aan die belastingpligtige verskuldig vir sover dit tot genoeë van die Kommissaris bewys word dat hulle oninbaar is, mits sodanige bedrag in die lopende jaar van aanslag ingesluit word of in vorige jare van aanslag ingesluit was by die inkomste van die belastingpligtige;
- (h) sodanige vermindering as wat elke jaar deur die Kommissaris toegestaan word ten opsigte van sodanige skulde aan die belastingpligtige verskuldig wat hy as twyfelagtig beskou: Met dien verstande dat sodanige vermindering in die volgende jaar van aanslag hy die inkomste van die belastingpligtige ingesluit word: ondanks die bepalings van paragraaf (g) van sub-artikel (2) van artikel *elf* van die Inkomstebelasting-wet, 1925, word 'n vermindering wat deur die Kommissaris ten opsigte van twyfelagtige skulde ingevolge daardie artikel toegestaan is, geag 'n vermindering ingevolge hierdie paragraaf te wees en word, ten bedrae van sodanige vermindering, by die inkomste van die belastingpligtige ingesluit;
- (i) 'n som gedurende die jaar van aanslag bygedra by wyse van lopende bydraes tot 'n behoorlik ingestelde ouderdomsvoorsorgs-, pensioen-, weduwee- of wese-fonds deur iemand wat 'n amp of betrekking beklee, wanneer die storting van so 'n bydrae 'n voorwaarde van die bekleding van sodanige amp of betrekking is;
- (j) 'n vermindering ten opsigte van masjinerie, gereedskap, werktuie en artikels deur die belastingpligtige gebruik vir die doeleindes van sy bedryf, wat gedurende die jaar van aanslag deur die belastingpligtige as uitgedien ontrek is, en bedoelde vermindering moet die verskil uitmaak tussen die oorspronklike koste aan die belastingpligtige van bedoelde masjinerie, gereedskap, werktuie of artikels en die totale bedrag verkry nadat al die verminderings ten opsigte daarvan toegestaan ingevolge paragraaf (d) bygetel is by 'n bedrag of die waarde van enige voordeel wat die belastingpligtige toeval ten opsigte van die verkoop van of ander beskikking oor sodanige masjinerie, gereedskap, werktuie en artikels;
- (k) 'n bedrag aangeslaan ten opsigte van 'n tydvak wat saamval met of deel uitmaak van die jaar van aanslag, as oorwinstbelasting ingevolge die Inkomstebelasting-wet, 1940, gehef: Met dien verstande dat—
 - (i) 'n vermindering ingevolge hierdie paragraaf onderhewig is aan hersiening ooreenkomsdig een of ander wysiging of terugbetaling ten opsigte van die bedrag aldus as oorwinstbelasting aangeslaan; en
 - (ii) geen belasting gehef ingevolge 'n weiering ten opsigte van bestuurdersbesoldiging gedoen ooreenkomsdig sub-artikel (1) van artikel *dertien* van bedoelde Wet, as 'n afstrekking ingevolge hierdie paragraaf van die inkomste van 'n in bedoelde sub-artikel vermelde werkgewer toegestaan word nie, maar indien 'n sodanige belasting op 'n aldus geweierte bedrag deur s 'n werkgewer op die betrokke werknemer verhaal is, die aldus verhaalde belasting, by oorlegging van die kwitansie van die werkgewer daarvoor, as 'n afstrekking van die inkomste van sodanige werk-nemer toegestaan word.

(3) There shall be set off—

- (a) any balance of assessed loss incurred by the taxpayer in any previous year which has been carried forward from the preceding year of assessment, provided that—
 - (i) no person, whose estate has been voluntarily or compulsorily sequestrated, shall, unless the order of sequestration has been set aside, be entitled to carry forward any assessed loss incurred prior to the date of sequestration;
 - (ii) the balance of assessed loss shall be reduced by the amount or value of any benefit received by or accruing to a person resulting from a concession granted by, or a compromise made with his creditors whereby his liabilities to them have been reduced or extinguished, provided such liabilities arose in the ordinary course of trade;
 - (iii) a private company shall not be entitled to set off such portion of the balance of its assessed loss against income arising from the apportionment to it of the taxable income of any other private company, as was incurred before it became a shareholder in that other company;
- (b) any assessed loss incurred by the taxpayer during the same year of assessment in carrying on in the Union any other trade either alone or in partnership with others, otherwise than as a member of a company the capital whereof is divided into shares.

For the purposes of this sub-section "assessed loss" means any amount, as established to the satisfaction of the Commissioner, by which the deductions admissible under this section exceeded the income in respect of which they are so admissible, or, if the context so requires, means an assessed loss as determined under the provisions of section *seventeen*: Provided that no loss incurred prior to the year of assessment taxed under the Income Tax Act, 1916, shall be admitted for set-off under this sub-section.

(4) There shall be included in the taxpayer's income all amounts allowed to be deducted or set off under sub-sections (2) and (3) in a previous year of assessment which have been recovered or recouped during the current year of assessment.

Cases in which no deduction shall be made.—
12. No deduction shall in any case be made in respect of the following matters:—

- (a) the cost incurred in the maintenance of any taxpayer, his family or establishment;
- (b) domestic or private expenses including the rent of or cost of repairs of or expenses in connection with any premises not occupied for the purposes of trade, or of any dwelling house or domestic premises except in respect of such part as may be occupied for the purposes of trade;
- (c) any loss or expense, the deduction of which would otherwise be allowable, to the extent to which it is recoverable under any contract of insurance, guarantee, security or indemnity;
- (d) the taxation levied on incomes, save as is provided in paragraph (k) of sub-section (2) of section *eleven*;
- (e) income carried to any reserve fund or capitalised in any way;
- (f) any expenses incurred in respect of any amounts received or accrued which are not included in the term "income" as defined in this Chapter;
- (g) any moneys, claimed as a deduction from income derived from trade, which are not wholly or exclusively laid out or expended for the purposes of trade;
- (h) interest which might have been made on any capital employed in trade;
- (i) any amount claimed by the taxpayer on account of his being a shareholder in a private company, in respect of the taxable income of such company the determination of which results in an assessed loss.

Normal tax rebates.

13. (1) From the amount of tax payable in terms of sections *five* and *six* there shall be deducted, save as is otherwise provided in this Act, in the case of—

(3) Daar word in vergelyking gebring—

- (a) die balans (as daar is) van 'n vasgestelde verlies deur die belastingpligtige in 'n vorige jaar gely wat van die vorige jaar van aanslag oorgebring is : Met dien verstande dat—
- (i) 'n persoon wie se boedel gesekwestreer is, ditsy vrywillig of onder dwang, nie geregtig is, tensy die sekwestrasiebevel vernietig is, om enige vasgestelde verlies wat voor die datum van sekwestrasie gely is oor te bring nie ;
 - (ii) die balans van die vasgestelde verlies verminder word met die bedrag of waarde van enige voordeel wat ontvang is deur of toeval aan 'n persoon ten gevolge van 'n konsessie verleen deur of 'n vergelyk getref met sy skuldeisers waarvolgens sy skulde aan hulle verminder of gedelg is, mits sodanige skulde in die gewone loop van bedryf ontstaan het ;
 - (iii) 'n private maatskappy nie geregtig is nie om met inkomste wat voortvloeи uit die toedeling aan hom van die belasbare inkomste van 'n ander private maatskappy, sodanige gedeelte van die balans van sy vasgestelde verlies in vergelyking te bring, as wat gely is voordat hy 'n aandeelhouer in daardie ander maatskappy geword het ;
- (b) enige vasgestelde verlies deur die belastingpligtige gedurende dieselfde jaar van aanslag gely by die uitvoering in die Unie van enige ander bedryf, ditsy alleen of in vennootskap met andere, behalwe as lid van 'n maatskappy waarvan die kapitaal in aandele verdeel is.

Vir die oogmerke van hierdie sub-artikel beteken „vasgestelde verlies“ 'n bedrag, soos vasgestel tot genoeë van die Kommissaris, waarmee die ingevolge hierdie artikel toegelaat verminderings die inkomste ten opsigte waarvan hulle aldus toelaatbaar is oortref het, of, as die samehang aldus vereis, 'n vasgestelde verlies soos vasgestel ingevolge die bepalings van artikel *sewentien* : Met dien verstande dat geen verlies wat gely is voor die jaar van aanslag belas ingevolge die Inkomstebelastingwet, 1916, toegelaat word om ingevolge hierdie sub-artikel in vergelyking gebring te word nie.

(4) By die inkomste van die belastingpligtige word alle bedrae ingesluit wat in 'n vorige jaar van aanslag ingevolge sub-artikels (2) en (3) toegelaat is om afgetrek of in vergelyking gebring te word, en wat gedurende die lopende jaar van aanslag ingevorder of vergoed is.

12. In geen geval vind 'n vermindering ten opsigte van die volgende sake plaas nie—

- (a) die koste gemaak in die onderhoud van 'n belastingpligtige, sy familie of huishouding ;
- (b) huishoudelike of private onkoste, met inbegrip van die huur van of koste van herstellings aan of onkoste in verband met 'n perseel wat nie vir bedryfsdoeleindes geokkupeer word nie, of van 'n woonhuis of woonperseel behalwe ten aansien van so 'n gedeelte wat vir bedryfsdoeleindes geokkupeer word ;
- (c) enige verlies of onkoste waarvan die aftrekking andersins toelaatbaar sou wees, vir sover dit verhaalbaar is ingevolge 'n kontrak van versekerings, garansie, sekerheidstelling of vrywaring ;
- (d) die belasting op inkomste gehef, behalwe soos in paragraaf (k) van sub-artikel (2) van artikel *elf* bepaal ;
- (e) inkomste wat oorgedra is na 'n reserwfonds of op een of ander wyse gekapitaliseer is ;
- (f) onkoste gemaak ten opsigte van bedrae ontvang of toegeval wat nie inbegrepe is by die uitdrukking „inkomste“ soos in hierdie hoofstuk omskryf nie ;
- (g) geld geëis as 'n vermindering van inkomste uit 'n bedryf verkry, wat nie geheel of uitsluitend vir bedryfsdoeleindes belê of uitgegee is nie ;
- (h) rente wat gemaak kon gewees het op kapitaal in bedryf gebesig ;
- (i) 'n bedrag deur 'n belastingpligtige geëis op grond daarvan dat hy 'n aandeelhouer in 'n private maatskappy is, ten opsigte van die belasbare inkomste van sodanige maatskappy die vasstelling waarvan op 'n vasgestelde verlies uitloop.

Gevallo waarin
geen verminderingsplaasvind nie.

13. (1) Van die bedrag van die belasting betaalbaar ooreenkommstig artikels *vyf* en *ses*, word daar afgetrek, behalwe vir ^{normale} _{belasting}.

sover hierdie Wet anders bepaal, in die geval van—

- (a) companies whose rate of tax is prescribed in paragraphs (a), (b) and (c) of sub-section (1) of section six the sum of forty-five pounds;
- (b) persons whose rate of tax is prescribed in terms of paragraph (d) of sub-section (1) of section six the sum of twenty pounds: Provided that in the case of a married person the sum to be deducted shall be twenty-two pounds.

(2) From the amount of tax payable by a person other than a company there shall further be deducted the following additional amounts, in respect of—

- (a) each unmarried child or stepchild of the taxpayer who was alive during any portion of the year of assessment, for which the assessment is made, and was not, or would not have been had he lived, over the age of eighteen years on the last day of the said year of assessment the sum of five pounds: Provided that a parent who has been divorced or separated under a judicial order or written agreement shall not be allowed the deduction in respect of any child born of the marriage in connection with which the divorce or separation has taken place, unless—
 - (i) he has maintained during such period such child; and
 - (ii) there has not been deducted the cost of such maintenance in terms of sub-section (3) of section fifty-eight from his taxable income;
- (b) premiums paid by such person during the year of assessment upon policies under which he, his wife, children or step-children referred to in paragraph (a), is or are insured against death, accident or sickness and fees or subscriptions paid by such person during the year of assessment to any friendly or benefit society the sum of one shilling for each pound or part thereof paid in respect of premiums, fees and subscriptions, subject to a maximum deduction of two pounds and ten shillings: Provided that no allowance shall be made in respect of insurance under a policy of motor insurance;
- (c) each dependant the sum of one pound and ten shillings.

(3) In any case in which the period assessed is less than twelve months, the deductions under sub-section (1) and under paragraphs (a) and (c) of sub-section (2) shall be such amounts as bear to the full amount of the respective deductions provided for under sub-section (1) and under the said paragraphs, the same ratio as the period assessed bears to twelve months.

**Taxation of incom
derived from
farming.**

14. (1) Notwithstanding anything contained in this Act, the provisions of this section shall apply to the determination of the taxable income derived by any person from pastoral, agricultural or other farming operations (hereinafter referred to as a farmer).

(2) Every farmer shall be entitled to the exercise of an option whether the values of livestock and produce held by him and not disposed of at the beginning and end of each year of assessment shall or shall not be taken into account in the determination of the taxable income derived by him from such operations.

(3) Subject to such adjustment as to the Commissioner may seem to be fair and reasonable in respect of the value of any livestock or produce held by any farmer on the thirtieth day of June, 1913, or the date upon which he commenced farming operations, whichever date is the later, every farmer who elects not to take into account the values of such livestock and produce shall be chargeable in each such year of assessment in respect of all amounts whatsoever for which livestock or produce have been disposed of by him or on his behalf during that year of assessment.

(4) Every farmer making his election as in sub-section (3) provided shall furnish to the Commissioner at any time when the Commissioner so requires a statement setting out to the best of his knowledge and belief the value of the livestock and produce held by him on the date specified in that sub-section which is applicable to his case.

(5) The decision as to the basis upon which a farmer elects to be assessed shall be notified by him in writing to the Commissioner when rendering his first return, and the decision so

- (a) maatskappye wie se belastingskaal in paragrawe (a), (b) en (c) van sub-artikel (1) van artikel ses voorgeskryf word, die som van vyf-en-veertig pond;
 - (b) persone wie se belastingskaal voorgeskryf word ooreenkommstig paragraaf (d) van sub-artikel (1) van artikel ses, die som van twintig pond: Met dien verstande dat in die geval van 'n getroude persoon die som wat afgetrek moet word twee-en-twintig pond is.
- (2) Van die bedrag van die belasting betaalbaar deur 'n ander persoon as 'n maatskappy word daar verder die volgende addisionele bedrae afgetrek ten opsigte van—
- (a) elke ongetrouwe kind of stiekind van die belastingpligtige wat in die lewe was gedurende enige gedeelte van die jaar van aanslag waarvoor die aanslag geskied, en nie bo die leeftyd van agtien jaar op die laaste dag van bedoelde jaar van aanslag was nie of nie sou gewees het as hy die lewe behou het nie, die som van vyf pond: Met dien verstande dat aan 'n ouer wat uit die eg geskei is of van tafel en bed geskei is ingevolge 'n geregtelike bevel of skriftelike ooreenkoms, nie die af trekking toegestaan word ten aansien van 'n kind wat gebore is uit die huwelik in verband waarmee die egskeiding of skeiding van tafel en bed plaasgevind het nie tensy—
 - (i) hy so 'n kind gedurende bedoelde tydperk onderhou het; en
 - (ii) die koste van sodanige onderhoud nie ooreenkommstig sub-artikel (3) van artikel ag-en-vyftig van sy belasbare inkomste afgetrek is nie;
 - (b) premies deur so 'n persoon betaal gedurende die jaar van aanslag op polisse ingevolge waarvan hy, sy eggenote, kinders of stiekinders in paragraaf (a) bedoel, verseker is teen dood, ongeluk of siekte, en geldie of subskripsies deur so 'n persoon gedurende die jaar van aanslag betaal aan een of ander hulp- of onderstandsvereniging, die som van een sjieling op elke pond of deel daarvan wat aan premies en subskripsies betaal is maar met twee pond en tien sjielings as hoogste af trekking: Met dien verstande dat geen af trekking ten opsigte van versekering ingevolge 'n motorversekeringspolis toegestaan word nie;
 - (c) elke afhanglike die som van een pond tien sjielings.

(3) In 'n geval waar die tydvak waarvoor die aanslag geskied minder as twaalf maande is, is die af trekkings ingevolge sub-artikel (1) en ingevolge paragrawe (a) en (c) van sub-artikel (2) sulke bedrae wat dieselfde verhouding dra tot die volle bedrag van die verskeie af trekkings waarvoor in sub-artikel (1) en in bedoelde paragrawe voorsiening gemaak word as wat die tydvak waarvoor die aanslag geskied tot twaalf maande dra.

14. (1) Nieteenstaande die bepalings van hierdie Wet, is die bepalings van hierdie artikel van toepassing op die vasstellung van die belasbare inkomste deur 'n persoon verkry uit vee-, landbou- of ander soorte boerdery (hierna „'n boer“ genoem).

(2) Elke boer is geregtig op die uitoefening van 'n keuse of die waardes van lewende hawe en produkte deur hom besit en nie aan die begin en die end van elke jaar van aanslag van die hand gesit nie, in rekening gebring moet word al dan nie by die vasstellung van die belasbare inkomste deur hom uit sodanige boerdery verkry.

(3) Onderworpe aan sodanige wysiging as wat volgens oordeel van die Kommissaris billik en redelik is ten opsigte van die waarde van lewende hawe of produkte deur 'n boer besit op die dertigste dag van Junie 1913, of die datum waarop hy met sy boerderywerksaamhede 'n aanvang gemaak het, na gelang van watter datum die laatste is, is elke boer wat verkies om nie die waardes van sodanige lewende hawe en produkte in rekening te bring nie belasbaar in elke sodanige jaar van aanslag ten opsigte van alle bedrae hoegenaamd waarvoor lewende hawe en produkte deur of ten behoeve van hom gedurende daardie jaar van aanslag van die hand gesit is.

(4) Elke boer wat die keuse doen soos in sub-artikel (3) bepaal, moet te eniger tyd wanneer die Kommissaris dit verlang aan die Kommissaris 'n opgaaf verstrek waarin hy na sy beste wete en geloof die waarde aangee van die lewende hawe en produkte deur hom besit op die in daardie sub-artikel bepaalde datum wat op sy geval toepaslik is.

(5) Die beslissing aangaande die grondslag waarop 'n boer verkies om aangeslaan te word moet skriftelik deur hom aan die Kommissaris meegedeel word wanneer hy sy eerste opgaaf

Belasting van
inkomste uit
boerdery verkry.

notified shall be binding upon him in respect of all subsequent returns : Provided that the Commissioner may for good and sufficient reasons and upon such terms as he may consider necessary for the protection of revenue permit any farmer, who has so notified his election, to adopt the alternative method in respect of any subsequent years of assessment.

(6) Every farmer who elects to continue to take into account the values of his livestock and produce shall include in the return rendered by him for income tax purposes the values of all livestock and produce held by him and not disposed of at the beginning and end of each year of assessment : Provided that the value of such livestock held by the farmer at the beginning and the end of the year shall be reduced by such an amount as may seem to the Commissioner to be fair and reasonable having regard to the risks of mortality of such livestock.

(7) The value to be placed upon such livestock (other than livestock acquired by purchase for stud purposes) shall be—

(a) in the case of livestock acquired by the farmer by purchase, either the purchase price paid or such standard value as is applicable to such livestock ;

(b) in the case of livestock acquired by the farmer otherwise than by purchase, the standard value applicable to such livestock.

(8) The standard value applicable to any class of livestock shall be—

(a) the standard value as fixed by regulation made under any previous Act for that class of livestock : or

(b) such standard value as may be fixed by regulation under this Act ; or

(c) in the case of any farmer who may have adopted any standard value under the provisions of sub-section (4) of section nine of the Income Tax (Consolidation) Act, 1917, as amended, or under the provisions of paragraph (d) of sub-section (8) of section fifteen of the Income Tax Act, 1925, the standard value so adopted in respect of such class of livestock ; or

(d) in the case of any farmer rendering his first return in respect of farming operations after the commencement of this Act or including in a return under this Act such a class of livestock for the first time either the standard value as fixed by regulation having effect in respect of the period for which his return is rendered or such standard value as he may adopt for that class of livestock at the option of such farmer.

(9) The exercise of the option under paragraph (d) of sub-section (8) shall be binding upon the farmer in respect of all subsequent returns for income tax purposes and no standard value fixed by any farmer whether under this Act or any previous Act may be varied by him in respect of any subsequent year of assessment, save with the consent and approval of the Commissioner, and upon such terms as the Commissioner may require.

(10) The value to be placed upon livestock acquired by purchase for stud purposes shall be the purchase price paid for that livestock.

(11) The value to be placed upon produce included in any return shall be such fair and reasonable value as the Commissioner may fix.

(12) There shall be allowable as deductions in the determination of the taxable income derived by any farmer any expenditure incurred by him during the year of assessment in respect of—

(a) dipping tanks ;

(b) dams, water-sfurrows, boreholes and pumping plants ;

(c) fences ;

(d) the eradication of noxious plants ;

(e) the prevention of soil erosion ;

(f) the erection of buildings used in connection with farming operations other than those used for domestic purposes ;

verstrek, en die aldus meegedeelde beslissing is bindend op hom ten opsigte van alle daaropvolgende opgawes : Met dien verstande dat die Kommissaris om goeie en voldoende redes en op sulke voorwaardes as wat hy vir die beskerming van inkomste nodig ag, 'n boer wat aldus sy keuse meegedeel het kantoe laat om die ander grondslag ten opsigte van enige daaropvolgende jare van aanslag aan te neem.

(6) Elke boer wat verkieks om aan te hou om die waardes van sy lewende hawe en produkte in rekening te bring, moet in die opgaaf wat deur hom vir inkomstebelastingdoeleindes verstrek word die waardes insluit van alle lewende hawe en produkte deur hom besit en nie aan die begin of die end van elke jaar van aanslag van die hand gesit nie : Met dien verstande dat die waarde van sodanige lewende hawe deur die boer aan die begin en die end van die jaar besit, met so 'n bedrag verminder word as wat volgens oordeel van die Kommissaris billik en redelik is met inagneming van die gevare van sterfste van sodanige lewende hawe.

(7) Die waarde op sodanige lewende hawe gestel te word (behalwe lewende hawe wat vir aanteeldoeleindes aangekoop is) is—

- (a) in die geval van lewende hawe wat deur die boer aangekoop is, of die koopprys deur hom betaal of so 'n standaardwaarde as wat op sodanige lewende hawe toepaslik is ;
- (b) in die geval van lewende hawe wat op 'n ander wyse as deur aankoop deur die boer verkry is, die standaardwaarde wat op sodanige lewende hawe toepaslik is.

(8) Die standaardwaarde toepaslik op een of ander soort lewende hawe is—

- (a) die standaardwaarde soos vasgestel by regulasie wat ingevolge 'n vorige Wet vir daardie soort lewende hawe uitgevaardig is ; of
- (b) sodanige standaardwaarde as wat by regulasie kragtens hierdie Wet vasgestel word ; of
- (c) in die geval van 'n boer wat 'n standaardwaarde aangegaan het ingevolge die bepalings van sub-artikel (4) van artikel *nege* van die „Inkomstebelasting (Konsolidatie) Wet, 1917”, soos gewysig, of ingevolge die bepalings van paragraaf (d) van sub-artikel (8) van artikel *vijftien* van die Inkomstebelastingwet, 1925, die standaardwaarde aldus aangeneem ten opsigte van sodanige soort lewende hawe ; of
- (d) in die geval van 'n boer wat sy eerste opgaaf ten aansien van boerderywerksaamhede na die inwerkting van hierdie Wet verstrek of wat in 'n opgaaf ingevolge hierdie Wet so 'n soort lewende hawe vir die eerste maal insluit, of die standaardwaarde soos vasgestel by regulasie wat van krag is ten opsigte van die tydvak waarvoor sy opgaaf verstrek word of sodanige standaardwaarde as wat hy mag aanneem vir daardie soort lewende hawe volgens keuse van so 'n boer.

(9) Die uitoefening van die keuse ingevolge paragraaf (d) van sub-artikel (8) is bindend op die boer ten opsigte van alle daaropvolgende opgawes vir inkomstebelastingdoeleindes, en geen standaardwaarde deur 'n boer vasgestel, ditsy ingevolge hierdie Wet of 'n vorige Wet, kan deur hom gewysig word ten opsigte van enige volgende jaar van aanslag, behalwe met die toestemming en goedkeuring van die Kommissaris en op sulke voorwaardes as wat die Kommissaris bepaal.

(10) Die waarde gestel te word op lewende hawe wat vir aanteeldoeleindes aangekoop is, is die koopprys wat vir daardie lewende hawe betaal is.

(11) Die waarde gestel te word op produkte wat in 'n opgaaf ingesluit is, is so 'n billike en redelike waarde as wat die Kommissaris vasstel.

(12) As verminderings by die vasstelling van die belasbare inkomste deur 'n boer verkry, word alle koste toegelat wat gedurende die jaar van aanslag deur hom gemaak is ten opsigte van—

- (a) dipbakke ;
- (b) damme, watervore, boorgate en pompmasjiene ;
- (c) omheinings ;
- (d) die uitroei van onkruid ;
- (e) die voorkoming van grondverspoeling ;
- (f) die oprigting van geboue wat in verband met boerderywerksaamhede gebruik word behalwe die wat vir huishoudingsdoeleindes gebruik word ;

(g) the establishment of orchards and vineyards:

Provided that no deduction under paragraphs (d) and (j) of sub-section (2) of section eleven shall be allowed in respect of any machinery, articles or plant for which a deduction under this sub-section has been allowed.

Assessment of shipowners, etc., whose principal office is outside the Union.

15. (1) When any person outside the Union or whose chief office is outside the Union carries on business in the Union as an owner or charterer of any ship, such person shall be deemed to have derived therefrom (apart from any taxable income derived by him from other sources) a taxable income equal to ten pounds for every one hundred pounds payable to him or to any agent on his behalf, whether the amount be payable in or outside the Union, in respect of passengers, livestock, mails and goods shipped in the Union: Provided that the provisions of this section shall not apply to any person so carrying on business who renders accounts which in the opinion of the Commissioner satisfactorily disclose the taxable income derived by him from such business in the Union.

(2) Where the person so carrying on business has no recognised agent in the Union other than the master of the ship in connection with which any such amounts are payable, or where the agent fails to make returns of any such amounts payable in respect of any ship, the Commissioner may make the assessment from such information as may be available to him, and the tax thereon shall be payable to the Commissioner prior to the clearance of the ship, and the principal officer of customs at the port where the ship is being cleared shall have power to detain the clearance until such payment is made.

(3) The master or agent upon such payment shall be entitled to a certificate from such officer of customs that the amount so paid has been paid under the provisions of this Act, and such certificate shall be sufficient warrant to the master or agent of the amount so paid.

Assessment in the case of submarine cable or wireless business.

16. (1) Any person who carries on in the Union the business of transmitting messages to places outside the Union by submarine cables or by any form of wireless apparatus shall be deemed to have derived therefrom (apart from any taxable income derived from other sources) a taxable income equal to five pounds for every hundred pounds payable to such person, in respect of messages transmitted from any office of such person in the Union, whether the amount be payable in or outside the Union.

(2) For the purposes of this section any message which is delivered at any office in the Union of the person who carries on the business referred to in sub-section (1) for transmission in any manner whatsoever shall be deemed to be transmitted from that office.

(3) The provisions of this section shall not apply to any person so carrying on business who renders accounts which in the opinion of the Commissioner satisfactorily disclose the taxable income derived by such person from the business carried on by him in the Union.

Persons carrying on business which extends beyond the Union.

17. When the business of any person, other than a person carrying on the business of insurance or any other person in respect of whose business outside the Union special provision is made under this Act, extends to any country outside the Union, the taxable income or assessed loss of such person shall be a sum which shall bear the same proportion to his total net profits or total loss from all sources, as the case may be, calculated in the manner provided in this Act for the determination of taxable income or assessed loss, as his assets in the Union bear to his total assets: Provided that if accounts satisfactory to the Commissioner can be furnished, the Commissioner or the taxpayer may claim that the actual taxable income derived from sources within the Union or loss incurred within the Union shall be assessed in the manner otherwise provided in this Act.

Insurance businesses.

18. (1) The taxable income of any person carrying on the business of insurance shall, in so far as it is derived from such business, be determined in accordance with the provisions of the First Schedule to this Act: Provided that nothing in this section shall be construed as relieving any such person so carrying on business from liability for taxation on any taxable income derived otherwise than from the business of insurance

(g) die aanplant van boorde en wingerde :

Met dien verstande dat geen vermindering ingevolge para-grawe (d) en (j) van sub-artikel (2) van artikel elf toegelaat word ten opsigte van masjinerie, artikels of toerusting waarvoor 'n vermindering ingevolge hierdie sub-artikel toegelaat is nie.

15. (1) Wanneer 'n persoon buite die Unie of wie se hoof-kantoor buite die Unie is in die Unie besigheid dryf as eienaar of bevrugter van 'n skip, word so 'n persoon geag daaruit (afgesien van belasbare inkomste deur hom uit ander bronne verkry), 'n belasbare inkomste te verkry het gelykstaande aan tien pond op elke honderd pond wat aan hom of aan 'n agent ten behoeve van hom betaalbaar is, ditsy sodanige bedrag in of buite die Unie betaalbaar is, ten opsigte van passasiers, lewende hawe, posstukke en goedere in die Unie verskeep : Met dien verstande dat die bepalings van hierdie artikel nie van toepassing is nie op 'n persoon wat aldus besigheid dryf en wat rekenings verstrek wat volgens die mening van die Kommissaris die belasbare inkomste deur hom uit sodanige besigheid in die Unie verkry, op bevredigende wyse aantoon.

(2) Wanneer die persoon wat sodanige besigheid dryf geen erkende agent in die Unie het nie behalwe die skeepskaptein van die skip in verband waarmee sodanige bedrae betaalbaar is, of wanneer die agent versuim om opgawes te verstrek van sulke bedrae wat ten opsigte van een of ander skip betaalbaar is, kan die Kommissaris die aanslag opmaak volgens die aan hom beskikbare inligting, en die belasting daarop is aan die Kommissaris betaalbaar voor die uitklaring van die skip, en die hoofdoeanebeampte van die hawe waar die skip uitgeklaar word het die bevoegdheid om die uitklaring terug te hou totdat sodanige betaling geskied het.

(3) Die skeepskaptein of agent is, na sodanige betaling, daarop geregtig om van bedoelde doeanebeampte 'n sertifikaat te ontvang dat die aldus betaalde bedrag ingevolge die bepalings van hierdie Wet betaal is, en sodanige sertifikaat is 'n voldoende bewys vir die skeepskaptein of agent dat die bedrag aldus betaal is.

16. (1) 'n Persoon wat in die Unie die besigheid dryf van oorseining van boodskappe na plekke buite die Unie deur middel van ondersese kabels of van enige vorm van draadloostoestel, word geag daaruit (afgesien van belasbare inkomste uit ander bronne verkry) 'n belasbare inkomste te verkry het gelykstaande aan vyf pond op elke honderd pond betaalbaar aan sodanige persoon ten opsigte van boodskappe wat van 'n kantoor van so 'n persoon in die Unie oorgesein is, ditsy die bedrag in of buite die Unie betaalbaar is.

(2) Vir die doeleindes van hierdie artikel word alle boodskappe wat by enige kantoor in die Unie van die persoon wat die in sub-artikel (1) bedoelde besigheid dryf, ingehandig word om op enige wyse hoegenaamd oorgesein te word, geag vanuit daardie kantoor oorgesein te word.

(3) Die bepalings van hierdie artikel is nie van toepassing nie op 'n persoon wat aldus besigheid dryf en rekenings verstrek wat volgens die oordeel van die Kommissaris die belasbare inkomste deur so 'n persoon verkry uit die besigheid deur hom in die Unie gedryf, op bevredigende wyse aantoon.

17. Wanneer die besigheid van 'n persoon, behalwe 'n persoon wat versekeringsbesigheid dryf of enige ander persoon ten opsigte van wie se besigheid buite die Unie besondere voor-siening deur hierdie Wet gemaak word, hom na 'n land buite die Unie uitstrek, is die belasbare inkomste of vasgestelde verlies van so 'n persoon 'n bedrag wat dieselfde verhouding dra tot die totaal van sy netto winste of die totaal van sy verlies uit alle bronne, na gelang van die geval, bereken op die wyse by hierdie Wet bepaal vir die vasstelling van belasbare inkomste of vasgestelde verlies, as sy bate in die Unie dra tot die totaal van sy bate : Met dien verstande dat as rekenings wat die Kommissaris bevredigend vind verstrek kan word, die Kommissaris of die belastingpligtige kan eis dat die werklike belasbare inkomste uit bronne in die Unie verkry of die verliese in die Unie gely vasgestel moet word op die wyse andersins bepaal in hierdie Wet.

18. (1) Die belasbare inkomste van 'n persoon wat die besigheid van versekering dryf, word, vir sover dit uit sodanige besigheid verkry word, vasgestel ooreenkomsdig die bepalings van die Eerste Bylae van hierdie Wet : Met dien verstande dat die bepalings van hierdie artikel nie die bedoeling het nie om so 'n persoon wat aldus besigheid dryf te bevry van belastingpligtigheid op belasbare inkomste wat op 'n ander wyse as uit die besigheid van versekering verkry is, of om

Aanslag van reders ens. wie se hoofkantoor buite die Unie is.

Persone wat besigheid dryf wat hom tot buite die Unie uitstrek.

Versekerings-besigheid.

or as depriving any such person of the right to set off against the taxable income derived from insurance any loss incurred in respect of any other business or any balance of loss so incurred which the taxpayer would be entitled to set off under the provisions of sub-section (3) of section eleven.

(2) Every company, association or other person carrying on the business of life assurance or of granting annuities within the Union shall, if the Commissioner so requires, furnish a return showing the nature and value of all investments relating to policies of assurance existing upon lives of persons resident within the Union, whether such investments have been made within or outside the Union.

Taxable income of public servants.

19. The taxable income received by or accrued to or in favour of any person from employment in the public service or railway and harbour service of the Union in respect of such employment shall include any payment made by way of allowance except payments made to meet expenditure incurred by such person in connection with his official duties.

Calculation of redemption allowance and unredeemed balance of capital expenditure in connection with mining operations.

20. (1) Subject to the provisions of sub-sections (2), (3) and (4), the amount to be deducted each year under sub-section (2) (f) of section eleven in respect of income from mining operations shall be ascertained as follows :—

The balance of capital expenditure unredeemed at the commencement of the year of assessment after subtracting therefrom any recoupments received during the year from capital expenditure (irrespective of the date when such capital expenditure was originally incurred), shall be added to the amount of capital expenditure ranking for redemption incurred during that year.

The aggregate amount of the sums so added shall then be divided by the estimated number of years during which mining operations may be expected to continue. That number of years is hereinafter referred to as the life of the mine.

The quotient resulting from the division shall be the amount to be deducted as aforesaid.

(2) In the case of incomes derived from the working of any diamond mines existing on the thirtieth day of December, 1910, there shall in lieu of the said quotient be deducted the actual expenditure incurred during the year on maintenance and renewal of equipment and in additions thereto and extensions thereof.

(3) In the case of any person carrying on gold mining operations who commenced or commences the production of gold after the thirty-first day of December, 1935, the amount to be deducted with reference to each year of assessment, in respect of the capital expenditure ranking for redemption, incurred by that person prior to the date of commencement of such production, shall, until the aggregate of the amounts deducted is equal to the amount of such capital expenditure, be such sum as will, when multiplied by ten, or, where the life of the mine as estimated or revised under the provisions of sub-sections (7) and (8) is less than ten years, by such lesser number, equal the amount of such capital expenditure.

(4) The provisions of sub-section (3) shall not apply in respect of any capital expenditure incurred by such person on or after the date of commencement of such production.

(5) Notwithstanding the provisions of sub-sections (1), (3) and (4), any person who—

- (a) in the opinion of the Government Mining Engineer, is carrying on gold mining operations outside the Witwatersrand gold mining area and extensions thereof or exclusively on reefs which are not included in the main reef series ; and either
- (b) has commenced the production of gold after the thirtieth day of June, 1939, and has prior to the date of commencement of such production incurred capital expenditure ranking for redemption ; or
- (c) has a balance of capital expenditure ranking for redemption which remains unredeemed at the commencement of the year of assessment ending on the thirtieth day of June, 1940,

may elect, in respect of income from the said operations, to be allowed with reference to each year of assessment, as a deduction (in lieu of any amount ascertained in terms of sub-sections (1), (3) and (4)) towards the redemption of the capital expenditure referred to in paragraph (b) or the balance of capital expenditure referred to in paragraph (c), as the case may be,

so 'n persoon die reg te ontnem om met die belasbare inkomste uit versekering verkry, verliese gely ten opsigte van enige ander besigheid of 'n balans van verlies aldus gely in vergelyking te bring wat die belastingpligtige geregtig sou wees om in vergelyking te bring ingevolge die bepalings van sub-artikel (3) van artikel *elf*.

(2) Elke maatskappy, vereniging of ander persoon wat die besigheid van lewensversekering of van toekenning van jaargeld in die Unie dryf, moet, as die Kommissaris dit verlang, 'n opgaaf verstrek wat die aard en waarde aangee van alle beleggings met betrekking tot versekingspolisse bestaande op die lewens van in die Unie woonagtige persone, ditsy sodanige beleggings in of buite die Unie gedoen is.

19. Die belasbare inkomste ontvang deur of toegeval aan **Belasbare inkomste** of ten gunste van iemand uit sy diens in die staatsdiens of **van staats-** spoorweg- en hawediens van die Unie ten opsigte van sodanige **amptenare.** diens, sluit betalings in wat by wyse van toelaes gedoen is behalwe betalings gedoen ter bestryding van onkoste wat deur so 'n persoon in verband met sy ampspligte gemaak is.

20. (1) Met inagneming van die bepalings van sub-artikels (2), (3) en (4), word die bedrag wat elke jaar afgetrek moet word ingevolge sub-artikel (2) (*f*) van artikel *elf* ten opsigte van inkomste uit mynwerksaamhede, as volg vasgestel—

Die ongedelgte balans van kapitaaluitgawe by die aanvang van die jaar van aanslag na die aftrekking daarvan van terugontvangste gedurende die jaar uit kapitaaluitgawe ontvang (afgesien van die datum waarop sodanige kapitaaluitgawe werklik opgeloop is), word gevoeg by die bedrag van kapitaaluitgawe wat gedurende daardie jaar gedoen is en vir delging in aanmerking kom.

Die totale bedrag van die aldus bygevoegde somme word dan verdeel deur die geskatte aantal jare gedurende welke dit verwag kan word dat mynwerksaamhede voortgesit sal word. Dié aantal jare word hierna die lewe van die myn genoem.

Die kwosiënt wat die resultaat van die deling is, is die bedrag wat soos voormeld afgetrek moet word.

(2) In die geval van inkomste verkry uit die eksplorering van diamantmyne wat op die dertigste dag van Desember 1910 bestaan het, word daar, in plaas van die genoemde kwosiënt, die werklike uitgawe afgetrek wat gedurende die jaar aan instandhouding en hernuwing van toerusting, en aan toevoegings daarvan en uitbreidings daarvan gedoen is.

(3) In die geval van 'n persoon wat goudmynwerksaamhede voortsit en wat na die een-en-dertigste dag van Desember 1935, met die produksie van goud 'n aanvang gemaak het of maak, is die bedrag wat met betrekking tot elke jaar van aanslag afgetrek moet word ten opsigte van die kapitaaluitgawe wat vir delging in aanmerking kom, deur daardie persoon opgeloop voor die aanvangsdag van bedoelde produksie, totdat die totaal van die afgetrekte bedrae gelyk is aan die bedrag van sodanige kapitaaluitgawe, 'n som wat, wanneer dit met tien vermenigvuldig word of, as die lewe van die myn volgens skatting of hersiening ingevolge die bepalings van sub-artikels (7) en (8), minder as tien jaar is, met so 'n kleiner getal, gelykstaan aan die bedrag van die kapitaaluitgawe.

(4) Die bepalings van sub-artikel (3) is nie van toepassing ten opsigte van kapitaaluitgawe deur so 'n persoon op of na die aanvangsdatum van sodanige produksie opgeloop nie.

(5) Ondanks die bepalings van sub-artikels (1), (3) en (4), het 'n persoon wat—

- (a) volgens mening van die Staatsmyningenieur goudmynwerksaamhede voortsit buite die goudmyn-gebied van die Witwatersrand en uitbreidings daarvan of uitsluitend op riwwe wat nie by die hoofrif-reeks ingesluit is nie; en of
- (b) na die dertigste dag van Junie 1939, met die produksie van goud 'n aanvang gemaak het, en voor die aanvangsdag van bedoelde produksie kapitaaluitgawe opgeloop het wat vir delging in aanmerking kom; of
- (c) 'n balans van kapitaaluitgawe het wat vir delging in aanmerking kom en wat ongedelg bly by die aanvang van die jaar van aanslag wat op die dertigste dag van Junie 1940, eindig.

die keuse, ten opsigte van inkomste uit bedoelde werksaamhede, om met betrekking tot elke jaar van aanslag as 'n vermindering (in plaas van 'n bedrag ooreenkomsdig sub-artikels (1), (3) en (4) vasgestel) tot delging van die in paragraaf (b) bedoelde kapitaaluitgawe of die in paragraaf (c) bedoelde balans

Berekening van toegelate bedrag vir delging van kapitaaluitgawe en ongedelgd balans van kapitaaluitgawe in verband met mynwerk-saamhede.

until the aggregate of the amounts deducted is equal to the said capital expenditure or balance of capital expenditure, as the case may be, an amount which will, when multiplied by five or, if the life of the mine as estimated or revised under sub-sections (7) and (8) is less than five years, by such lesser number, be equal to the said capital expenditure or balance of capital expenditure, as the case may be.

(6) Any election under sub-section (5) shall be notified to the Commissioner in writing by the person making the election, when rendering his return of income for the year ending the thirtieth day of June, 1940, or, in the case of any person commencing the production of gold after the thirtieth day of June, 1939, when rendering his first return of income after such commencement of production, and the election so notified shall be binding upon him in respect of such and all subsequent returns.

(7) The life of the mine shall be determined by the Government Mining Engineer, but such determination shall be subject to objection and appeal to the special court constituted under Chapter III as if it were a decision of the Commissioner. When the life of the mine, estimated and determined as aforesaid, exceeds thirty years then so long as the estimate exceeds that period, the allowance shall be calculated on a period of thirty years.

(8) The life of the mine shall be subject to revision at the instance of the person liable to the tax or of the Commissioner, whenever any material alteration takes place in any circumstances relating to the mine or its working which affects the life of the mine and shall otherwise be subject to revision in every third year after the last preceding determination. In any such revision the same provisions shall apply as in the original determination of the life of the mine.

No such revision shall affect any assessment determined or any allowance made or presumed to have been made under this Act or any previous law for the taxation of the profits of mining.

(9) When separate and distinct mining operations are carried on in mines that are not contiguous, the allowance for redemption of capital expenditure shall be computed separately according to the estimated life of each such mine.

(10) For the purposes of this section—

“capital expenditure” means expenditure—

(a) on shaft sinking and equipment, including any single renewal or replacement of equipment which, together with the accessories thereto, exceeds in cost two thousand pounds; and

(b) on development, general administration and management prior to the commencement of production or during any period of non-production;

“expenditure on shaft sinking” includes the expenditure on sumps, pump-chambers, stations and ore bins accessory to a shaft;

“expenditure” means net expenditure after taking into account any rebates, recoupments, or returns from expenditure.

(11) The balance of capital expenditure unredeemed at the commencement of the first year of assessment chargeable under this Act shall be the balance shown to be unredeemed in the last assessment for normal income tax made by the Commissioner prior to the commencement of this Act.

Calculation of capital expenditure on change of ownership of a mining property.

21. (1) Whenever there takes place a change of ownership of a mining property the Commissioner shall allow to rank as capital expenditure for redemption by the new owner the effective value to him, at the time the change of ownership takes place, of the shafts, development and equipment included in the assets passing by such change of ownership: Provided that if, in a case in which consideration is given, the effective value of the assets so passing exceeds the consideration, the amount allowed to rank for redemption by the new owner shall be such proportion of the consideration as such effective value of the shafts, development and equipment bears to the effective value of all the assets passing.

(2) The amount allowed to rank as capital expenditure for redemption by the new owner under the provisions of sub-

van kapitaaluitgawe, na gelang van die geval, totdat die totaal van die afgerekte bedrae gelykstaan aan bedoelde kapitaaluitgawe of balans van kapitaaluitgawe, na gelang van die geval, 'n bedrag toegestaan te word wat, wanneer dit met vyf vermenigvuldig word, of, as die lewe van die myn volgens skatting of hersiening ingevolge sub-artikels (7) en (8) minder as vyf jaar is, met so 'n kleiner getal, gelyk is aan bedoelde kapitaaluitgawe of balans van kapitaaluitgawe, na gelang van die geval.

(6) Die persoon wat 'n keuse ingevolge sub-artikel (5) doen moet die Kommissaris skriftelik van sy keuse in kennis stel wanneer hy sy opgaaf van inkomste vir die jaar eindigende op die dertigste dag van Junie 1940, verstrek, of, in die geval van 'n persoon wat na die dertigste dag van Junie 1939 met die produksie van goud 'n aanvang maak, wanneer hy sy eerste opgaaf van inkomste na bedoelde aanvang van produksie verstrek, en die keuse waarvan aldus kennis gegee is, bind hom ten opsigte van dié en alle daaropvolgende opgawes.

(7) Die lewe van die myn word deur die Staatsmyingenieur vasgestel, maar sodanige vasstelling is onderhewig aan beswaar en appèl na die spesiale hof ingestel ingevolge Hoofstuk III asof dit 'n beslissing van die Kommissaris was. Wanneer die lewe van die myn, geskat en vasgestel soos voormeld, dertig jaar te bove gaan, dan word die vermindering solank as die skatting daardie tydvak oorskry, op 'n tydvak van dertig jaar bereken.

(8) Die lewe van die myn is onderhewig aan hersiening op versoen van die belastingpligtige persoon of van die Kommissaris wanneer 'n belangrike verandering plaasvind in enige omstandighede wat betrekking het op die myn of die eksplotasie daarvan en die lewe van die myn raak, en is andersins onderhewig aan hersiening elke derde jaar na die laasvoorafsaande vasstelling. By 'n sodanige hersiening is dieselfde bepalings van toepassing as by die oorspronklike vasstelling van die lewe van die myn. Geen sodanige hersiening het uitwerking op 'n aanslag vasgestel of 'n vermindering toegestaan of geag toegestaan te gewees het ingevolge hierdie Wet of 'n vorige wet vir die belasting van die winste van mynwerksaamhede.

(9) Wanneer afsonderlike en onderskeie mynwerksaamhede voortgesit word in myne wat nie aan mekaar grens nie, word die vermindering vir delging van kapitaaluitgawe afsonderlik bereken ooreenkomsdig die geskatte lewe van elke sodanige myn.

(10) Vir die oogmerke van hierdie artikel beteken—
„kapitaaluitgawe”, uitgawe aan—

- (a) die boor van skagte en toerusting daarvoor, met inbegrip van een enkele vernuwing of vervanging van toerusting wat, tesame met hybehore, meer as tweeduiseend pond kos; en
- (b) ontgunning, algemene bestuur en beheer voor die aanvang van produksie of gedurende 'n tydperk waarin daar nie geproduseer word nie;
„uitgawe aan die boor van skagte”, ook die uitgawe aan mynputte, pompkamers, stasies en kwartsbakke in verband met 'n skag;
- „uitgawe”, netto uitgawe nadat alle kortings, terugontvangste uit of terugverkrygings van uitgawe in rekening gebring is.

(11) Die balans van kapitaaluitgawe ongedelg by die aanvang van die eerste jaar van aanslag onderhewig aan belasting ingevolge hierdie Wet is die balans wat aangetoon word ongedelg te wees in die laaste aanslag vir normale inkomstebelasting wat deur die Kommissaris voor die inwerkting van hierdie Wet gedoen is.

21. (1) Wanneer daar 'n verandering van eienaar van 'n myneindom plaasvind, moet die Kommissaris toelaat om as kapitaaluitgawe vir delging deur die nuwe eienaar in aanmerking te kom die effektiewe waarde vir die nuwe eienaar, ten tyde van die verandering van eienaar, van die skagte, ontgunning en toerusting ingesluit by die bate wat ten gevolge van die verandering van eienaar oorgaan: Met dien verstande dat indien, in 'n geval waarin 'n teenprestasie gegee word, die effektiewe waarde van die bate wat aldus oorgaan die teenprestasie oorskry, die bedrag wat toegelaat word om vir delging deur die nuwe eienaar in aanmerking te kom, so 'n gedeelte van die teenprestasie is as wat bedoelde effektiewe waarde van die skagte, ontgunning en toerusting dra tot die effektiewe waarde van al die oorgaande bate.

(2) Die bedrag wat toegelaat word om as kapitaaluitgawe vir delging deur die nuwe eienaar in aanmerking te kom

Berekening van
kapitaaluitgawe
by verandering van
eienaar van 'n
myneindom.

section (1) shall for the purposes of paragraph (f) of the definition of the expression "gross income" contained in section *seven* be deemed to be a recoupment from capital expenditure by the person from whom ownership was acquired.

(3) If the value of the consideration given or of the property passing where no consideration is given is in dispute, it may be fixed by the Commissioner if the new owner consents thereto; otherwise the value shall be determined in the same manner as if transfer duty were payable.

(4) The effective value, at the time the change of ownership takes place, of the assets passing, shall be determined by the Government Mining Engineer who for the purposes of such determination, notwithstanding the repeal of the Second Schedule to the Transvaal Mining Leases and Mineral Law Amendment Act, 1918 (Act No. 30 of 1918), shall have all the powers which were conferred upon him by the provisions of that Schedule.

Hire-purchase or other agreements providing for postponement of passing of ownership of property concerned.

22. If any taxpayer has entered into any agreement with any other person in respect of any property the effect of which is that, in the case of movable property, the ownership shall pass, or, in the case of immovable property, transfer shall be passed, from the taxpayer to that other person, upon or after the receipt by the taxpayer of the whole or a certain portion of the amount payable to the taxpayer under the agreement, the whole of that amount shall, for the purposes of this Act, be deemed to have accrued to the taxpayer on the day on which the agreement was entered into: Provided that the Commissioner, taking into consideration any allowance he has made under paragraph (h) of sub-section (2) of section *eleven*, may make such further allowance, as under the special circumstances of the trade of the taxpayer seems to him reasonable, in respect of all amounts which are deemed to have accrued under such agreements but which have not been received at the close of the taxpayer's accounting period: Provided, further, that any allowance so made shall be included as income in his returns for the following year of assessment and shall form part of the income of the said taxpayer.

PART II.

Super Tax.

Levy of super tax and rates thereof.

23. (1) In addition to the normal tax chargeable under this Act there shall be paid annually for the benefit of the Consolidated Revenue Fund an additional tax (in this Act referred to as the super tax) in respect of such incomes as are hereinafter declared to be subject to super tax.

(2) All the provisions as to the fixing of rates and the continuance in force of the rates fixed in respect of any year of assessment, as provided in respect of the levy of normal tax in section *six*, shall be applicable to the charge of super tax under this section.

(3) The super tax shall be calculated in the manner specified hereunder subject to the conditions and deductions in this Part provided.

Super tax rate.

24. The rate of super tax in respect of the year of assessment ended on the thirtieth day of June, 1941, shall be for each pound of the income subject to super tax two shillings increased by one four-hundredth of a penny for each pound of such income in excess of one pound, subject to a maximum rate of seven shillings and six pence in every pound.

Meaning of "income subject to super tax".

25. In this Act the expression "income subject to super tax" means an amount as determined in terms of section *twenty-seven* that has been received by or has accrued to or in favour of, or that has been deemed to have been received by or to have accrued to or in favour of any person during any year of assessment.

Assessment for normal tax to be final for super tax purposes.

26. Whenever the taxable income of any person has been finally determined for normal tax purposes, the amount so determined shall be final for the purpose of determining the income subject to super tax of that person.

ingevolge die bepalings van sub-artikel (1), word vir die doelindes van paragraaf (f) van die omskrywing van die uitdrukking „bruto inkomste”, vervat in artikel *seue*, geag 'n terugontvangs uit kapitaaluitgawe te wees deur die persoon van wie die eiendomsbesit verkry is.

(3) As daar 'n geskil is omtrent die waarde van die gegewe teenprestasie of van die oorgedrae eiendom, waar geen teenprestasie gegee word nie, kan die waarde deur die Kommissaris vasgestel word mits die nuwe eienaar sy toestemming daartoe gee; anders* word die waarde vasgestel op dieselfde wyse asof hereregte betaalbaar was.

(4) Die effektiewe waarde van die oorgaande bate ten tyde van die verandering van eienaar, word vasgestel deur die Staatsmyningenieur, en vir die doeleindes van sodanige vasstelling het laasgenoemde, ondanks die herroeping van die Tweede Bylae van die „Transvaal Mijnverhuring en Minerale Wet Wijzigings Wet, 1918” (Wet No. 30 van 1918), al die bevoegdhede wat deur die bepalings van daardie Bylae aan hom verleen is.

22. Indien 'n belastingpligtige met enige ander persoon 'n ooreenkoms aangegaan het ten opsigte van goed, waarvan die uitwerking is dat, in die geval van roerende goed, die eiendomsbesit oorgaan of, in die geval van onroerende goed, transport daarvan gepasseer word, van die eienaar op of aan daardie ander persoon, by of na die ontvangs deur die belastingpligtige van die hele bedrag, of 'n gedeelte daarvan, wat aan die belastingpligtige betaalbaar is ingevolge die ooreenkoms, word die hele sodanige bedrag vir die doeleindes van hierdie Wet geag aan die belastingpligtige toe te geval het op die dag waarop die ooreenkoms aangegaan is: Met dien verstande dat die Kommissaris, met inagneming van enige vermindering deur hom toegestaan ingevolge paragraaf (h) van sub-artikel (2) van artikel *elf*, so 'n verdere vermindering kan toestaan as wat hy in die besondere omstandighede van die bedryf van die belastingpligtige billik ag, ten opsigte van alle bedrae wat geag word ingevolge sulke ooreenkomste toe te geval het maar wat nie ontvang is nie aan die einde van die boekhouydperk van die belastingpligtige: Met dien verstande voorts dat 'n aldus toegestane vermindering as inkomste ingesluit moet word in sy opgawes vir die volgende jaar van aanslag en deel uitmaak van die inkomste van bedoelde belastingpligtige.

Huurkoop- of ander
ooreenkomste
waarvolgens
oorgang van
eiendomsbesit van
betrokko goed
uitgestel word.

DEEL II.

Superbelasting.

23. (1) Benewens die normale belasting hefbaar ingevolge Hessing van super-hierdie Wet word daar ten bate van die Gekonsolideerde belasting en skalo Inkomstefonds jaarliks 'n addisionele belasting (in hierdie Wet die superbelasting genoem), betaal ten opsigte van sulke inkomstes as wat hierna verklaar word aan superbelasting onderhewig te wees.

(2) Al die bepalings met betrekking tot die vasstelling van skale en die van krag bly van die vasgestelde skale ten opsigte van een of ander jaar van aanslag, soos by artikel *yif* bepaal ten opsigte van die helling van normale belasting, is toepaslik op die hessing van superbelasting ingevolge hierdie artikel.

(3) Die superbelasting word op die hierna bepaalde wyse bereken, met inagneming van die voorwaardes en verminderinge in hierdie Deel bepaal.

24. Die skaal van superbelasting ten opsigte van die jaar Skaal van super-van aanslag eindigende op die dertigste dag van Junie 1941, belasting. bedra op elke pond van die aan superbelasting onderhewige inkomste twee sjielings, verhoog met een-vierhonderdste van 'n pennie op elke pond van sodanige inkomste wat een pond te bowe gaan maar met sewe sjielings en ses pennies op elke pond as maksimum van die skaal.

25. In hierdie Wet beteken die uitdrukking „aan superbelasting onderhewige inkomste” 'n bedrag soos ingevolge artikel *seven-en-twintig* vasgestel wat ontvang is deur of toegeval het aan of ten gunste van, of wat geag word ontvang te gewees het deur of toe te geval het aan of ten gunste van 'n persoon gedurende een of ander jaar van aanslag.

26. Wanneer die belasbare inkomste van 'n persoon finaal Aanslag vir vasgestel is vir die doeleindes van normale belasting, is die normale belasting is finaal vir aldus vasgestelde bedrag afdoende vir die doel van vasstelling doeleindes van van die aan superbelasting onderhewige inkomste van daardie superbelasting. persoon.

Method of determining amount of income subject to super tax. 27. To determine the amount of any income subject to super tax there shall be taken the aggregate of—

- (a) the taxable income of the taxpayer as determined for normal tax purposes, except when that determination results in an assessed loss;
- (b) any amounts excluded in the calculation of that taxable income under the provisions of paragraph (k) of subsection (1) of section ten;
- (c) any deduction made for super tax purposes in respect of the last preceding year of assessment under the provisions of paragraph (b) of section twenty-eight.

Set-off.

28. There shall be set off against the aggregate determined under the provisions of the last preceding section—

- (a) any expenditure or losses, other than expenditure or losses of a capital nature, incurred by the taxpayer in the production of any amounts included in his income subject to super tax under the provisions of paragraph (b) of section twenty-seven;
- (b) any balance of loss as at the close of the year of assessment under charge which the taxpayer would be entitled under the provisions of sub-section (3) of section eleven to carry forward and set off for normal tax purposes against his taxable income for the next succeeding year of assessment: Provided that in the event of the balance of loss so ranking for deduction exceeding an amount sufficient to relieve the taxpayer from liability to super tax in respect of the year of assessment under charge, the amount deducted shall be limited to a sum sufficient to give such relief.

Super tax rebate.

29. From the amount of super tax payable in terms of sections twenty-three and twenty-four there shall be deducted the sum of two hundred and forty pounds: Provided that if the period assessed is less than twelve months the deduction shall be an amount which bears to two hundred and forty pounds the same ratio as the period assessed bears to twelve months.

Exemptions from super tax.

30. (1) There shall be exempt from super tax—

- (a) dividends, distributed by a public company, received by or accrued to or in favour of or apportioned in terms of paragraph (b) of section thirty-seven to an individual not ordinarily resident nor carrying on business in the Union;
- (b) dividends, distributed by a private company, received by or accrued to or in favour of any person other than such a private company not registered nor carrying on business in the Union, which has not satisfied the Commissioner as to the extent of the rights of each of its shareholders to participate in its profits or income and has not supplied him with the name and address of each shareholder.

(2) There shall be exempt from super tax—

- (a) every public company;
- (b) every private company other than a private company falling under the provisions of paragraph (b) or (c) of sub-section (1) of section thirty-nine;
- (c) every person other than a company whose income subject to super tax does not exceed two thousand pounds in any year of assessment, or if the period of assessment is less than a full year, an amount which bears to two thousand pounds the same ratio as the period assessed bears to one year.

Return of payments in respect of bearer warrants.

31. Every bank carrying on business in the Union or company dealing in or negotiating bearer warrants shall keep a record of all payments in respect of interest or dividends made to any person by means of bearer warrants and shall in such manner and form and at such times as may be prescribed or as the Commissioner may require, furnish particulars of such payments.

Personal return.

32. It shall be the duty of every person liable for the super tax to give notice in writing to the Commissioner that he is so liable.

27. Ten einde die bedrag van aan superbelasting onderhewige inkomste vas te stel, word die totaal geneem van—

- (a) die belasbare inkomste van die belastingpligtige soos vasgestel vir die doeleindes van normale belasting, behalwe wanneer daardie vasstelling op 'n vasgestelde verlies uitloop;
- (b) bedrae uitgesluit by die berekening van daardie belasbare inkomste ingevolge die bepalings van paragraaf (k) van sub-artikel (1) van artikel *tien*;
- (c) 'n aftrekking toegestaan vir die doeleindes van superbelasting ten opsigte van die laaste voorafgaande jaar van aanslag ingevolge die bepalings van paragraaf (b) van artikel *ag-en-twintig*.

28. Met die totaal vasgestel ooreenkomstig die bepalings van die laasvoorafgaande artikel word in vergelyking gebring—

- (a) alle uitgawe of verliese, behalwe uitgawe of verliese in die aard van kapitaal, opgeloop of gely deur die belastingpligtige by die voortbrenging van bedrae ingesluit by sy aan superbelasting onderhewige inkomste ingevolge die bepalings van paragraaf (b) van artikel *sewen-en-twintig*;
- (b) 'n balans van verlies aan die einde van die jaar van aanslag waarvoor die heffing geskied wat die belastingpligtige ingevolge die bepalings van sub-artikel (3) van artikel *elf* geregtig sou wees om oor te bring en vir die doeleindes van normale belasting met sy belasbare inkomste vir die eersvolgende jaar van aanslag in vergelyking te bring: Met dien verstande dat ingeval die balans van verlies wat aldus vir aftrekking toegestaan word 'n bedrag te bove gaan wat voldoende is om die belastingpligtige te bevry van belastingpligtigheid aan superbelasting ten opsigte van die jaar van aanslag waarvoor die heffing geskied, die afgetrekte bedrag beperk word tot 'n som wat voldoende is om sodanige bevryding te gee.

29. Daar word van die bedrag van superbelasting betaalbaar Korting op ooreenkomstig artikels *drie-en-twintig* en *vier-en-twintig* die superbelasting. som van tweehonderd-en-veertig pond afgetrek: Met dien verstande dat indien die tydvak waarvoor die aanslag geskied minder as twaalf maande is, die aftrekking 'n bedrag is wat dieselfde verhouding tot tweehonderd-en-veertig pond dra as wat die tydperk waarvoor die aanslag geskied tot twaalf maande dra.

30. (1) Van superbelasting word vrygestel—

- (a) diwidende, uitgekeer deur 'n publieke maatskappy, ontvang deur of toegeval aan of ten gunste van of toegedeel ooreenkomstig paragraaf (b) van artikel *sewen-en-dertig* aan 'n individu wat nie gewoonlik in die Unie woonagtig is of en nie daarin besigheid dryf nie;
- (b) diwidende, uitgekeer deur 'n private maatskappy, ontvang deur of toegeval aan of ten gunste van 'n ander persoon as 'n sodanige private maatskappy wat nie in die Unie geregistreer is of daarin besigheid dryf nie en wat nie die Kommissaris oortuig het aangaande die omvang van die regte van elkeen van sy aandeelhouers om in sy winste of inkomste te deel nie, en nie die naam en adres van elke aandeelhouer aan hom verstrek het nie.

(2) Van superbelasting word vrygestel—

- (a) elke publieke maatskappy;
- (b) elke private maatskappy behalwe 'n private maatskappy wat deur die bepalings van paragraaf (b) of (c) van sub-artikel (1) van artikel *negen-en-dertig* gedek word;
- (c) elke persoon behalwe 'n maatskappy wie se aan superbelasting onderhewige inkomste nie in 'n jaar van aanslag tweeduiseend pond te bove gaan nie, of, indien die tydperk waarvoor die aanslag geskied minder as 'n volle jaar is, 'n bedrag wat dieselfde verhouding tot tweeduiseend pond dra as die wat die aangeslange tydperk tot een jaar dra.

31. Elke bank wat in die Unie besigheid dryf of maatskappy wat handel in of bewyse aan toonder verhandel, moet aan tekening hou van alle betalings ten opsigte van rente of diwidende wat aan 'n persoon gedoen is deur middel van bewyse aan toonder, en moet op so 'n wyse en in so 'n vorm en op sodanige tye as wat voorgeskryf word of as wat die Kommissaris verlang, besonderhede van sodanige betalings verstrek.

32. Dit is die plig van elke persoon wat aan superbelasting Persoonlike opgaaf. onderhewig is om die Kommissaris skriftelik in kennis te stel dat hy aldus belastingpligtig is.

PART III.

Special Provisions Relating to Companies.

Classification of companies.

33. (1) For the purposes of this Act a company in respect of each year of assessment shall be recognized as either a public or a private company and the Commissioner shall, upon the request of any company, inform that company whether it is recognized as a public company or as a private company.

(2) The following companies shall, subject to the provisions of section *thirty-four*, be recognized as public companies—

- (a) any company all classes of whose shares are publicly quoted on the specified date by a stock exchange in the list issued under its authority: Provided the Commissioner is satisfied that—
 - (i) the stock exchange is a recognized and *bona fide* stock exchange under adequate control; and
 - (ii) the rules and regulations of the stock exchange for granting and continuing a quotation for the purchase and sale of shares provide for full protection of the interests of the public in regard to dealing in the shares of the company; and
 - (iii) the memorandum and articles of association of the company contain no such restrictions on the right to acquire or transfer any of its shares as are likely to preclude members of the general public from becoming shareholders in any class of the company's shares; and
 - (iv) the general public is substantially interested in such company; or
- (b) any other company in which the Commissioner is satisfied the general public is substantially interested, and the memorandum and articles of association of which—
 - (i) contain no such restrictions on the right to acquire or transfer any of its shares as are likely to preclude members of the general public from becoming shareholders in any class of the company's shares; and
 - (ii) do not prohibit any invitation to the public to subscribe for any shares or debentures of the company; and
 - (iii) do not confer upon any shareholder or the members of any class of shareholders any extraordinary privileges or rights to participate at any time, directly or indirectly, in the profits or income of the company; or
- (c) any company which the Commissioner is satisfied was incorporated to serve a specified purpose, beneficial to the public or a section of the public, if under the constitution of the company no shareholder is entitled to participate in the profits or income of the company to an extent greater than seven per cent. on the nominal value of his shareholding; or
- (d) any society or company registered under the Co-operative Societies Act, 1939 (Act No. 29 of 1939); or
- (e) any insurance society or company subject to assessment in terms of the First Schedule to this Act; or
- (f) any public utility company, established by or under a special Act of Parliament; or
- (g) any company the sole or principal business of which in the Union is mining for gold or diamonds; or
- (h) any company, to which the provisions of section *fifteen* apply.

(3) A company which at the specified date is not recognised as a public company shall be recognised as a private company.

(4) In this Act—

“specified date” for any year of assessment means the thirtieth day of June or, if the returns of any company are accepted under the proviso to sub-section (13) of section *fifty-five* to a different date, such other date

DEEL III.

Besondere bepalings met betrekking tot Maatskappye.

33. (1) By die toepassing van hierdie Wet word maatskappye Indeling van ten opsigte van elke jaar van aanslag of as publieke of as private maatskappye erken en die Kommissaris moet, op versoek van enige maatskappy, aan daardie maatskappy meedeel of hy as 'n publieke maatskappy of as 'n private maatskappy erken word.

(2) Aan die volgende maatskappye word, behoudens die bepalings van artikel vier-en-dertig, erkenning as publieke maatskappye verleen—

- (a) elke maatskappy van wie alle kategorieë van aandele op die bepaalde datum in die openbaar deur 'n effektebeurs in die onder sy magtiging uitgereikte lys geneoteer word, mits die Kommissaris oortuig is dat—
 - (i) die effektebeurs 'n erkende en *bona fide* effektebeurs onder behoorlike beheer is ; en
 - (ii) die reëls en regulasies van die effektebeurs met betrekking tot die toestaan en voortduring van 'n notering vir die koop en verkoop van aandele volle beskerming verleen aan die belang van die publiek met betrekking tot transaksies in die aandele van die maatskappy ; en
 - (iii) die akte van oprigting en statute van die maatskappy geen sodanige beperkings bevat op die reg om enige van sy aandele te verkry of oor te dra as wat waarskynlik lede van die algemene publiek sal belet om aandeelhouers in enige kategorie van die aandele van die maatskappy te word ; en
 - (iv) die algemene publiek 'n aansienlike belang in daardie maatskappy het ; of
 - (b) elke ander maatskappy waarin die algemene publiek, volgens oortuiging van die Kommissaris, 'n aansienlike belang het, en waarvan die akte van oprigting en statute—
 - (i) geen beperkings bevat nie op die reg om enige van sy aandele te verkry of daaroor te beskik wat waarskynlik lede van die algemene publiek sal verhinder om aandeelhouers in enige kategorie van die aandele van die maatskappy te word ; en
 - (ii) nie 'n uitnodiging aan die publiek om vir aandele of obligasies van die maatskappy in te skryf verbied nie ; en
 - (iii) nie enige buitengewone voorregte of regte om te eniger tyd, regstreeks of onregstreeks, in die winste of inkomste van die maatskappy te deel, aan enige aandeelhouer of die lede van een of ander kategorie van aandeelhouers verleen nie ; of
 - (c) elke maatskappy wat volgens oortuiging van die Kommissaris ingelyf is om aan 'n bepaalde doel te beantwoord wat vir die publiek of 'n gedeelte van die publiek voordelig is, indien geen aandeelhouer ingevolge die konstitusie van die maatskappy geregtig is om in 'n groter mate in die winste of inkomste van die maatskappy te deel as sewe persent op die nominale waarde van sy aandelebesit nie ; of
 - (d) elke vereniging of maatskappy geregistreer ingevolge die Wet op Koöperatiewe Verenigings, 1939 (Wet No. 29 van 1939) ; of
 - (e) elke versekeringsvereniging of -maatskappy wat ondervig is aan aanslag ingevolge die Eerste Bylae van hierdie Wet ; of
 - (f) elke publieke diensmaatskappy wat deur of ingevolge 'n besondere Parlements-wet ingestel is ; of
 - (g) elke maatskappy wie se enigste of vernaamste besigheid in die Unie die myn van goud of diamante is ; of
 - (h) elke maatskappy waarop die bepalings van artikel vyftien van toepassing is.
- (3) 'n Maatskappy wat nie op die bepaalde datum as 'n publieke maatskappy erken word nie, word as 'n private maatskappy erken.
- (4) In hierdie Wet beteken—
 „bepaalde datum“, vir een of ander jaar van aanslag, die dertigste dag van Junie of, as die opgawes van 'n maatskappy ingevolge die voorbehoudsbepaling van sub-artikel (13) van artikel vyf-en-vyftig tot op 'n ander datum aangeneem word, dan daardie ander datum, of,

or, in the case of any company which has been required to furnish interim accounts in terms of sub-section (4) of that section, the date up to which such returns have been rendered;

"shareholder" in relation to any company means the registered shareholder in respect of any share, except that where some person other than the registered shareholder is entitled, whether by virtue of any provision in the memorandum or articles of association of the company or under the terms of any agreement or contract, or otherwise, to all or part of the benefit of the rights of participation in the profits or income attaching to the shares so registered, such other person, to the extent that he is entitled to such benefits, shall also be deemed to be a shareholder.

Determination of company's status.

34. If, owing to changes in the constitution or shareholding of any company which has been recognised as a public company under paragraph (a), (b) or (c) of sub-section (2) of section *thirty-three*, or for any other reason, the Commissioner is no longer satisfied of the matters of which in terms of the paragraph under which that company has been so recognised he is required to be satisfied, or the company ceases to comply with the requirements of that paragraph, the Commissioner may notify the public officer that the company will as from the next succeeding specified date be recognised as a private company.

Determination of income of private company.

35. The taxable income and the income subject to super tax of a private company shall be determined in accordance with the provisions of this Act.

Determination by Commissioner of shareholders' rights to participate in profits or income of private company.

36. The Commissioner shall for each year of assessment determine the extent of the rights of each person who was a shareholder of a private company on the specified date to participate, directly or indirectly, immediately or at a future date, in the profits or income of such company. In making such determination the Commissioner shall have regard to—

- (a) the provisions of the company's memorandum and articles of association and amendments thereto ;
- (b) the purposes of the company's incorporation ;
- (c) any special circumstances affecting its operations ;
- (d) the terms of any agreement or contract between a registered shareholder and the company or any other person ; and
- (e) any facts affecting such determination which he may have ascertained.

Apportionment of income of private company to shareholders.

37. (a) The amount of the taxable income of a private company for each year of assessment shall be apportioned (save as is hereinafter provided) by the Commissioner among those persons who were shareholders of such company on the specified date, according to the rights of each such shareholder to participate in the profits or income of the company as determined in accordance with the provisions of section *thirty-six*, and the amount so apportioned to any such shareholder shall be deemed to have been received by such shareholder and shall be included in his taxable income ; and

- (b) any amount by which the income subject to super tax of a private company for any year of assessment exceeds its taxable income for that year of assessment, shall be apportioned in like manner among the shareholders referred to in paragraph (a) and the amount so apportioned to any such shareholder shall be deemed to have been received by such shareholder and shall be included in his income subject to super tax :

Provided that should the determination of the taxable income or income subject to super tax of the company result in an assessed loss such loss shall not be apportioned among shareholders but shall be carried forward to be set off against the income of the company in the succeeding year in accordance with the provisions of sub-section (3) of section *eleven* and paragraph (b) of section *twenty-eight*.

Private company not chargeable with normal and super tax on apportioned income.

38. When the taxable income and income subject to super tax of any private company have been apportioned in terms of section *thirty-seven* such company shall not be chargeable thereon with normal or super tax.

in die geval van 'n maatskappy van wie ingevolge sub-artikel (4) van daardie artikel vereis is om tussen-tydse rekenings te verstrek, die datum tot op welke sodanige rekenings verstrek is ; „aandeelhouer”, met betrekking tot 'n maatskappy, die geregistreerde aandeelhouer ten opsigte van 'n aandeel, behalwe dat wanneer 'n ander persoon as die geregistreerde aandeelhouer geregtig is, ditsy ingevolge 'n bepaling van die akte van oprigting of statute van die maatskappy of ingevolge die voorwaardes van 'n ooreenkoms of kontrak, of andersins, op al of 'n gedeelte van die voordeel van die regte om in die winste of inkomste wat aan die aldus geregistreerde aandele verbonden is te deel, daardie ander persoon ook geag word 'n aandeelhouer te wees na mate hy op bedoelde voordele geregtig is.

34. Indien die Kommissaris weens veranderings in die Vasstelling van konstitusie of aandelebesit van 'n maatskappy wat as 'n status van publieke maatskappy ingevolge paragraaf (a), (b) of (c) van sub-artikel (2) van artikel *drie-en-dertig* erken is, of om enige ander rede, nie meer oortuig is van die sake waarvan hy ooreenkomstig die paragraaf ingevolge waarvan daardie maatskappy aldus erken is, oortuig moet wees nie, of indien die maatskappy ophou om aan die vereistes van daardie paragraaf te voldoen, kan die Kommissaris die openbare amptenaar in kennis stel dat die maatskappy vanaf die eersvolgende bepaalde datum as 'n private maatskappy erken sal word.

35. Die belasbare inkomste en die aan superbelasting onder- Vasstelling van hewige inkomste van 'n private maatskappy word ooreen- inkomste van komstig die bepalings van hierdie Wet vasgestel. privato maatskappy.

36. Die Kommissaris moet vir elke jaar van aanslag die Vasstelling deur omvang vasstel van die regte van elke persoon wat op die bepaalde datum 'n aandeelhouer van 'n private maatskappy was om regstreeks of onregstreeks, onmiddellik of op 'n toe- Vasstelling deur Kommissaris van regte van aandeel- hours om in wins of inkomsto van private maatskappy to deel. komstige datum, in die winste of inkomste van so'n maatskappy deel. Die Kommissaris moet, wanneer hy so'n vasstelling doen, die volgende in ag neem—

- (a) die bepalings van die maatskappy se akte van oprigting en statute en wysigings daarvan ;
- (b) die doeleindes waarvoor die maatskappy ingelyf is ;
- (c) besondere omstandighede rakende sy werksaamhede ;
- (d) die voorwaardes van 'n ooreenkoms of kontrak tussen 'n geregistreerde aandeelhouer en die maatskappy of enige ander persoon ;
- (e) alle feite aangaande bedoelde vasstelling wat tot sy kennis gekom het.

37. (a) Die bedrag van die belasbare inkomste van 'n private maatskappy vir elke jaar van aanslag word, (behalwe inkomste van soos hierna bepaal) deur die Kommissaris toegedeel onder die persone wat op die bepaalde datum aandeel-

houers van daardie maatskappy was, ooreenkomstig die regte van elke sodanige aandeelhouer om te deel in die winste of inkomste van die maatskappy soos vasgestel ooreenkomstig die bepalings van artikel *ses-en-dertig*, en die bedrag wat aldus aan 'n sodanige aandeelhouer toegedeel word, word geag deur sodanige aandeelhouer ontvang te gewees het en word by sy belasbare inkomste ingesluit ; en

(b) 'n bedrag waarmee die aan superbelasting onderhewige inkomste van 'n private maatskappy vir 'n jaar van aanslag sy belasbare inkomste vir daardie jaar van aanslag oorskry, word op dergelike wyse onder die in paragraaf (a) bedoelde aandeelhouers toegedeel, en die bedrag wat aldus aan 'n sodanige aandeelhouer toegedeel word, word geag deur sodanige aandeelhouer ontvang te gewees het en word by sy aan superbelasting onderhewige inkomste ingesluit :

Met dien verstande dat ingeval die vasstelling van die belasbare inkomste of aan superbelasting onderhewige inkomste van die maatskappy op 'n vasgestelde verlies uitloop, sodanige verlies nie onder aandeelhouers toegedeel word nie maar oorgebring word om in vergelyking gebring te word met die inkomste van die maatskappy in die volgende jaar van aanslag ooreenkomstig die bepalings van sub-artikel (3) van artikel *elf* en paragraaf (b) van artikel *ag-en-twintig*.

38. Wanneer die belasbare inkomste en aan superbelasting onderhewige inkomste van 'n private maatskappy ooreenkomstig artikel *sewen-en-dertig* toegedeel is, is sodanige maatskappy nie daarop belasbaar met normale of superbelasting nie. Private maatskappy is nie belasbaar met normale en superbelasting op toegedekte inkomsto nie.

Exemptions from apportionment.

39. (1) The Commissioner notwithstanding the provisions of section *thirty-seven* shall not be compelled to make an apportionment of the taxable income or income subject to super tax of a private company for any year of assessment in the following cases :

- (a) If such private company in any year of assessment, having more than ten shareholders—
 - (i) has a taxable income not exceeding five hundred pounds ; and
 - (ii) has an income subject to super tax not exceeding one thousand pounds ;
- (b) if in the opinion of the Commissioner the rights of the shareholders to participate in the profits or income of any private company are not determinable owing to the fact that its memorandum and articles of association are so framed that it is impracticable for him to determine the extent of the rights to such participation of the shareholders in the profits or income of such company ;
- (c) if the Commissioner is not supplied with information to his satisfaction regarding the names and addresses of the shareholders of any private company, not registered and not carrying on business within the Union, nor with any further information required by him to enable him to make the determination under section *thirty-six*.

(2) If the Commissioner decides in terms of sub-section (1) to make no apportionment of the taxable income or income subject to super tax of any private company, the company shall be assessed on such incomes and pay the tax on the amounts assessed, which tax shall be calculated in the following manner :

- (a) In the case of companies falling under paragraph (a) or (b) of the said sub-section, normal tax at the rate specified in paragraph (d) of sub-section (1) of section *six* for a person other than a married person but there shall not be deducted any amount specified in paragraph (b) of sub-section (1) of section *thirteen*, and, in the case of companies falling under paragraph (b) of sub-section (1) of this section super tax at the rate specified in section *twenty-four* but there shall not be deducted the amount specified in section *twenty-nine* ;
- (b) in the case of companies falling under paragraph (c) of sub-section (1), normal tax at the rate specified in paragraph (c) of sub-section (1) of section *six* but there shall not be deducted the amount specified in paragraph (a) of sub-section (1) of section *thirteen*, and super tax at the rate specified in section *twenty-four* but there shall not be deducted the amount specified in section *twenty-nine*.

Objection and appeal.

40. The decision of the Commissioner in the exercise of his discretion under paragraph (a), (b) or (c) of sub-section (2) of section *thirty-three* or under section *thirty-six* or *thirty-nine* shall be subject to objection and appeal.

PART IV.

Non-resident Shareholders' Tax.

Levy of non-resident shareholders' tax.

41. There shall be paid annually, for the benefit of the Consolidated Revenue Fund, a tax (referred to in this Act as the non-resident shareholders' tax) in respect of the amounts specified in section *forty-two*.

Income subject to tax.

42. The non-resident shareholders' tax shall be paid in respect of—

- (a) the amount of—
 - (i) any dividend (excluding such portion thereof as consists of an interim dividend) which has been declared by any public company after the twelfth day of March, 1941 ; and
 - (ii) any interim dividend the payment of which has been approved after that date by the directors of any public company or some other person or persons under authority conferred by the memorandum and articles of association of that company,
- if the shareholder to whom the dividend or interim dividend has been paid or is payable is—
- (I) a person, other than a company, not ordinarily resident nor carrying on business in the Union ; or

39. (1) Ondanks die bepalings van artikel *sewen-en-dertig* is Vrystellings van die Kommissaris nie verplig om in ondervermelde gevalle 'n toedeling teedeling van die belasbare inkomste of aan superbelasting onderhewige inkomste van 'n private maatskappy vir een of ander jaar van aanslag te doen nie :

- (a) As so 'n private maatskappy wat meer as tien aandeelhouers het, in enige jaar van aanslag—
 - (i) 'n belasbare inkomste van nie meer as vyfhonderd pond het nie ; en
 - (ii) 'n aan superbelasting onderhewige inkomste van hoogstens duisend pond het ;
- (b) as die regte van die aandeelhouers om in die winste of inkomste van 'n private maatskappy te deel volgens die mening van die Kommissaris nie vas te stel is nie omrede dat sy akte van oprigting en statute so opgestel is dat dit vir die Kommissaris ondoenlik is om die omvang van die regte van die aandeelhouers om aldus in die winste of inkomste van daardie maatskappy te deel vas te stel ;
- (c) as die Kommissaris nie tot sy genoë voorsien word nie van inligting betreffende die name en adresse van die aandeelhouers van 'n private maatskappy wat nie in die Unie geregistreer is en nie daarin besigheid dryf nie, of van verdere inligting wat hy verlang om hom in staat te stel om die vasstelling ingevolge artikel *ses-en-dertig* te doen.

(2) As die Kommissaris ooreenkomsdig sub-artikel (1) besluit om geen toedeling van die belasbare inkomste of aan superbelasting onderhewige inkomste van 'n private maatskappy te doen nie, word die maatskappy op sodanige inkomstes aangeslaan en moet hy die belasting op die aangeslane bedrag betaal, watter belasting op die volgende wyse bereken word:

- (a) In die geval van maatskappye wat deur paragraaf (a) of (b) van bedoelde sub-artikel gedeck word, normale belasting teen die skaal in paragraaf (d) van sub-artikel (1) van artikel *ses* bepaal vir 'n ander persoon as 'n getrouwe persoon, maar daar word nie 'n bedrag in paragraaf (b) van sub-artikel (1) van artikel *dertien* vermeld afgetrek nie, en, in die geval van maatskappye wat deur paragraaf (b) van sub-artikel (1) van hierdie artikel gedeck word, superbelasting teen die in artikel *vier-en-twintig* bepaalde skaal maar die in artikel *negen-en-twintig* bepaalde bedrag word nie afgetrek nie ;
- (b) in die geval van maatskappye wat deur paragraaf (c) van sub-artikel (1) gedeck word, normale belasting teen die skaal in paragraaf (c) van sub-artikel (1) van artikel *ses* bepaal, maar die bedrag in paragraaf (a) van sub-artikel (1) van artikel *dertien* bepaal word nie afgetrek nie, en superbelasting teen die in artikel *vier-en-twintig* bepaalde skaal, maar die in artikel *negen-en-twintig* bepaalde bedrag word nie afgetrek nie.

40. Die beslissings van die Kommissaris by die uitoesening Beswaar en appèl van sy diskresie ingevolge paragraaf (a), (b) of (c) van sub-artikel (2) van artikel *drie-en-dertig* of ingevolge artikel *ses-en-dertig* of *negen-en-dertig* is aan beswaar en appèl onderhewig.

DEEL IV.

Belasting op Buitelandse Aandeelhouers.

41. Daar word jaarliks ten bate van die Gekonsolideerde Heding van Inkomstefonds 'n belasting (in hierdie Wet die belasting op buitelandse aandeelhouers genoem) betaal ten opsigte van die bedrae in artikel *twee-en-veertig* bepaal.

42. Die belasting op buitelandse aandeelhouers word betaal ten opsigte van—

- (a) die bedrag van—
 - (i) 'n diwidend (uitsluitende sodanige gedeelte daarvan wat uit 'n tussentydse diwidend bestaan) wat deur 'n publieke maatskappy na die twaalfde dag van Maart 1941 verklaar is ; en
 - (ii) 'n tussentydse diwidend waarvan die betaling na daardie datum goedgekeur is deur die direkteure van 'n publieke maatskappy of deur 'n ander persoon of persone ingevolge magtiging verleen deur die akte van oprigting en statute van daardie maatskappy,
- as die aandeelhouer aan wie die diwidend of tussen-tydse diwidend betaal is of betaalbaar is—
- (1) 'n persoon, behalwe 'n maatskappy, is wat nie gewoonlik in die Unie woonagtig is en nie daarin besigheid dryf nie ; of

- (2) a company, not registered nor carrying on business in the Union ; or
- (3) the holder of bearer scrip, irrespective of whether he is resident within or outside the Union ; and
- (b) the income subject to super tax of any private company which, by virtue of the provisions of paragraph (c) of sub-section (1) of section *thirty-nine*, the Commissioner has not apportioned ; and
- (c) so much of the income subject to super tax of any private company, the income of which in any year of assessment, commencing with that ending on the thirtieth day of June, 1941, as is apportioned in terms of section *thirty-seven* to any shareholder, if the shareholder is a public company not registered nor carrying on business in the Union :

Provided that the shareholder for the purposes of paragraph (a) shall be the shareholder as at the date of declaration of the dividend, or if some date other than the date of declaration of the dividend is specified as the date at which a shareholder is required to be registered to be entitled to the dividend, such other date, and for the purposes of paragraphs (b) and (c) shall be the shareholder as at the specified date as defined in sub-section (4) of section *thirty-three*.

Person liable for the tax.

43. The person liable for the tax shall be the person to whom or in whose favour the amounts described in section *forty-two* accrue or are deemed to accrue.

Recovery of the tax.

44. Notwithstanding the provisions of section *forty-three* the tax shall be payable by and recoverable from the persons set out hereunder—

- (a) in the case of dividends referred to in paragraph (a) of section *forty-two* distributable by any company to any person whose address appearing in the share register of the company is outside the Union or to any holder of bearer scrip, the company by which the dividend is declared ;
- (b) in the case of dividends referred to in paragraph (a) of section *forty-two* received by any agent in the Union on behalf of any shareholder referred to in the said paragraph, the agent so receiving the dividend. For the purposes of this paragraph a person shall be deemed to be the agent of a shareholder referred to in paragraph (a) of section *forty-two* and shall be deemed to have received a dividend on behalf of that shareholder if that person's address appears in the share register of the company as the registered address of the shareholder and the dividend warrant or cheque in payment of the dividend distributable to the shareholder is delivered at that address: Provided that any person so deemed to be the agent of any shareholder shall as regards such shareholder and in respect of any income received by or accruing to him or in his favour have and exercise all the powers, duties and responsibilities of an agent for a taxpayer absent from the Union. Nothing contained in this paragraph shall be construed as relieving any company by which a dividend is declared from the duties and responsibilities imposed upon it by section *seventy-three* as the agent of any shareholder or member absent from the Union ;
- (c) in the case of amounts which in terms of paragraph (c) of section *forty-two* are deemed to accrue to any person, the private company from which the amounts are deemed to accrue :

Provided that any tax payable in terms of this section by any company or by any agent for any shareholder may be recovered by such company or such agent, as the case may be, from the shareholder concerned.

Rate of tax.

45. The rate of tax shall be five per cent. of the amounts specified in section *forty-two*.

Determination of tax if company operates outside Union.

46. If any amount specified in section *forty-two* has been received or is deemed to have been received from a company to which the provisions of section *seventeen* apply, the tax payable in respect of that amount shall be calculated upon an amount which bears to that amount the same ratio as the sum of the net profits of the company derived from Union sources

- (2) 'n maatskappy is wat nie in die Unie geregistreer is of daarin besigheid dryf nie; of
- (3) die houer is van effekte aan toonder, onverskillig of hy in of buite die Unie woonagtig is; en
- (b) die aan superbelasting onderhewige inkomste van 'n private maatskappy wat die Kommissaris, kragtens die bepaling van paragraaf (c) van sub-artikel (1) van artikel *negen-en-dertig*, nie toegedeel het nie; en
- (c) soveel van die aan superbelasting onderhewige inkomste van 'n private maatskappy, waarvan die inkomste in enige jaar van aanslag, beginnende met dié wat op die dertigste dag van Junie 1941 eindig, as wat ooreenkomsdig artikel *seven-en-dertig* aan 'n aandeelhouer toegedeel word, as die aandeelhouer 'n publieke maatskappy is wat nie in die Unie geregistreer is of daarin besigheid dryf nie:

Met dien verstande dat die aandeelhouer vir die doeleindeste van paragraaf (a) die aandeelhouer is op die datum waarop die diwidend verklaar word, of indien 'n ander datum as die datum waarop die diwidend verklaar word bepaal word as die datum waarop 'n aandeelhouer geregistreer moet wees ten einde op die diwidend geregty te wees, sodanige ander datum, en vir die doeleindeste van paragrawe (b) en (c) die aandeelhouer is op die bepaalde datum soos in sub-artikel (4) van artikel *drie-en-dertig* omskryf.

43. Die persoon wat aan die belasting onderhewig is, is Persoon aan die persoon aan of ten gunste van wie die in artikel *twee-en-veertig* vermeld bedrae toeval of geag word toe te val.

44. Ondanks die bepaling van artikel *drie-en-veertig*, is die Invordering van belasting betaalbaar deur en kan dit ingevorder word van, die belasting persone hieronder vermeld—

- (a) in die geval van diwidende in paragraaf (a) van artikel *twee-en-veertig* bedoel, wat deur 'n maatskappy uitkeerbaar is aan 'n persoon wie se adres soos dit in die aandeleregister van die maatskappy voorkom, buite die Unie is, of aan die besitter van effekte aan toonder, die maatskappy deur wie die diwidend verklaar word;
- (b) in die geval van diwidende in paragraaf (a) van artikel *twee-en-veertig* bedoel wat ontvang is deur 'n agent in die Unie ten behoeve van 'n in genoemde paragraaf bedoelde aandeelhouer, die agent deur wie die diwidend aldus ontvang word. Vir die doeleindeste van hierdie paragraaf word dit beskou dat 'n persoon die agent van 'n in paragraaf (a) van artikel *twee-en-veertig* bedoelde aandeelhouer is en dat hy 'n diwidend ten behoeve van daardie aandeelhouer ontvang het as die adres van daardie persoon in die aandeleregister van die maatskappy aangegee word as die geregistreerde adres van die aandeelhouer, en die diwidendbewys of tjeck ter betaling van die aan die aandeelhouer uitkeerbare diwidend by daardie adres afgelê word: Met dien verstande dat 'n persoon wat aldus geag word die agent van 'n aandeelhouer te wees, ten aansien van daardie aandeelhouer en ten opsigte van alle inkomste deur hom ontvang of aan of ten gunste van hom toegeval, al die bevoegdhede, pligte en verantwoordelikhede van 'n agent vir 'n uit die Unie afwesige belastingpligtige het en uitoefen. Geen bepaling van hierdie paragraaf het die bedoeling om 'n maatskappy deur wie 'n diwidend verklaar is te bevry van die pligte en verantwoordelikhede wat hom by artikel *drie-en-sewentig* opgelê word as agent van 'n uit die Unie afwesige aandeelhouer of lid nie;
- (c) in die geval van bedrae wat ooreenkomsdig paragraaf (c) van artikel *twee-en-veertig* geag word aan 'n persoon toe te val, die private maatskappy van wie die bedrae geag word toe te val:

Met dien verstande dat belasting wat ooreenkomsdig hierdie artikel deur 'n maatskappy of deur 'n agent vir 'n aandeelhouer betaalbaar is, deur sodanige maatskappy of sodanige agent, na gelang van die geval, op die betrokke aandeelhouer verhaal kan word.

45. Die belastingskaal is vyf persent van die bedrae in artikel *Skaal van belasting*.

twee-en-veertig vermeld.

46. As 'n in artikel *twee-en-veertig* bepaalde bedrag ontvang is of geag word ontvang te gewees het van 'n maatskappy waarop die bepaling van artikel *sewentien* van toepassing is, dan word die op daardie bedrag betaalbare belasting bereken op 'n bedrag wat tot daardie bedrag dieselfde verhouding dra as wat die totaal van die netto winste van die maatskappy uit Unie-bronne verkry dra tot die totaal van sy netto winste uit

bears to the total sum of its net profits derived from all sources as last determined by the Commissioner, or in cases in which there has been no previous determination by the Commissioner, as estimated by the Commissioner, according to such information as is available to him.

Date of payment.

47. (1) The public company, which in terms of paragraph (a) of section *forty-four* is required to pay the tax on any dividend shall pay to the Commissioner the tax due on such dividend within thirty days, or such further period as may be approved by the Commissioner—

- (a) of the commencement of this Act in the case of a dividend payable after the twelfth day of March, 1941, and before the said commencement; and
- (b) of the date on which the dividend is payable in the case of a dividend payable after the commencement of this Act,

and shall furnish him with a return showing the names and addresses of the persons with the amount in each case to whom the dividend accrues and in the case of dividends payable in respect of bearer scrip the total dividends distributable to holders of such scrip.

(2) The agent in the Union by whom the tax is payable in terms of paragraph (b) of section *forty-four* shall, within thirty days of the date of delivery of the dividend warrant or cheque in payment of the dividend at his address, pay the tax to the Commissioner and furnish him with a return showing the amount of the dividend and the name and address of the person to whom it has accrued.

(3) A statement of the tax payable on any amounts specified in paragraphs (b) and (c) of section *forty-two* shall be attached by the Commissioner to the assessment issued by the Commissioner to the public officer in terms of sub-section (8) of section *sixty-six*, and the tax so included in such statement shall be paid by the public officer within thirty days of the date of such assessment.

(4) The provisions of sub-sections (1), (2) and (3) shall not prevent the Commissioner from recovering from the person liable any tax which has not been paid and which the Commissioner may ascertain to be due, after the dates specified in the sub-sections referred to.

Exemption.

48. This tax shall not be charged in respect of dividends received or deemed to have been received from companies referred to in paragraphs (d), (e), (f) and (h) of sub-section (2) of section *thirty-three*.

PART V.

Undistributed Profits Tax.

Imposition of tax.

49. There shall be paid annually, commencing with the year of assessment ending the thirtieth day of June, 1941, by every public company registered or carrying on business in the Union for the benefit of the Consolidated Revenue Fund a tax (hereinafter called the undistributed profits tax) on so much of the distributable income (as defined in section *sixty*) of that company as is not distributed by way of dividends within the period specified (as defined in the said section).

Definition for purposes of Part V of Chapter II.

50. For the purposes of the assessment of this tax—“distributable income” shall be the amount by which eighty per cent. of the sum of the taxable income of and any dividends received by or accrued to or deemed to have been received by or accrued to any public company from a source within the Union during any year of assessment exceeds the sum of—

- (a) any taxes (excluding this tax, but, if the company is a financial company as defined by section *two* of the Companies Tax Ordinance, 1933, of the Transvaal, including the tax imposed by that Ordinance) on the income of such company derived from sources within the Union during such year of assessment; and
- (b) the amount paid during the year of assessment in the redemption of any debenture stock issued by it to the extent that the amount raised by means of such debenture stock has been used in the production of income from a source within the Union;

“taxable income” shall be the amount remaining after deducting from the income of any public company all the amounts (other than the amount referred to in

alle bronre verkry soos laaste deur die Kommissaris vasgestel, of in gevalle waarin daar geen vorige vasstelling deur die Kommissaris geskied het nie, soos deur die Kommissaris geskat volgens sodanige inligting as wat aan hom beskikbaar is.

47. (1) Die publieke maatskappy van wie ooreenkomsdig Datum van paragraaf (a) van artikel vier-en-veertig vereis word om die betaling belasting op 'n diwidend te betaal, moet die belasting op sodanige diwidend, verskuldig aan die Kommissaris, betaal binne dertig dae of so 'n verdere tydperk as wat die Kommissaris goedkeur—

- (a) vanaf die inwerkingtreding van hierdie Wet in die geval van 'n diwidend betaalbaar na die twaalfde dag van Maart 1941 en voor bedoelde inwerkingtreding; en
- (b) vanaf die datum waarop die diwidend betaalbaar is in die geval van 'n diwidend wat na die inwerkingtreding van hierdie Wet betaalbaar is,

en moet 'n opgaaf aan hom verstrek waarin die name en adres van die persone, met die bedrae in elke geval, aan wie die diwidend toeval, en in die geval van diwidende betaalbaar ten opsigte van effekte aan toonder, die totale diwidende uitkeerbaar aan besitters van sodanige effekte aangegee word.

(2) Die agent in die Unie deur wie die belasting ooreenkomsdig paragraaf (b) van artikel vier-en-veertig betaalbaar is, moet die belasting binne dertig dae na die datum waarop die diwidendbewys of tjeuk ter betaling van die diwidend by sy adres afgelewer word, aan die Kommissaris betaal, en 'n opgaaf aan hom verstrek waarin die bedrag van die diwidend en die naam en adres van die persoon aan wie dit toegeval het aangegee word.

(3) 'n Staat van die belasting betaalbaar op bedrae in paragrawe (b) en (c) van artikel twee-en-veertig bepaal, word deur die Kommissaris aangeheg by die aanslag wat ooreenkomsdig sub-artikel (8) van artikel seven-en-sestig deur die Kommissaris aan die openbare amptenaar uitgereik word, en die belasting aldus in so 'n staat ingesluit, word deur die openbare amptenaar binne dertig dae na die datum van sodanige aanslag betaal.

(4) Die bepalings van sub-artikels (1), (2) en (3) verhinder nie die Kommissaris om enige belasting wat nie betaal is nie en wat die Kommissaris vasstel verskuldig te wees na die datums in bedoelde sub-artikels bepaal, van die aanspreeklike persoon in te vorder nie.

48. Hierdie belasting word nie gehef ten opsigte van diwidende wat ontvang is of geag word ontvang te gewees het van maatskappye in paragrawe (d), (e), (f) en (h) van sub-artikel (2) van artikel drie-en-dertig bedoel nie.

DEEL V.

Belasting op Onuitgekeerde Winste.

49. Beginnende met die jaar van aanslag wat op die derde dag van Junie 1941 eindig, word daar jaarliks deur elke belasting. Oplegging van publieke maatskappy wat in die Unie geregistreer is of daarin besheid dryf, ten bate van die Gekonsolideerde Inkomstefonds 'n belasting (hierna die belasting op onuitgekeerde winste genoem), betaal op soveel van die uitkeerbare inkomste (soos in artikel vyftig omskryf), van daardie maatskappy as wat nie by wyse van diwidende in die bepaalde tydperk (soos in bedoelde artikel omskryf), uitgekeer word nie.

50. Vir die doeleindes van die aanslag van hierdie belasting— Woordbepaling vir is „uitkeerbare inkomste“ die bedrag waarmee tigtyg doeleindes van persent van die som van die belasbare inkomste van Deel V van Hoof- en alle diwidende ontvang deur of toegeval aan of stuk II. geag ontvang te gewees het deur of toe te gevall het aan 'n publieke maatskappy uit 'n bron in die Unie gedurende een of ander jaar van aanslag, die som van—

(a) alle belastings (met uitsluiting van hierdie belasting maar indien die maatskappy 'n finansiële maatskappy is soos omskryf in artikel twee van die Maatskappye-Belasting-Ordonnansie, 1933, van die Transvaal, dan met inbegrip van die belasting deur daardie Ordonnansie opgelê) op die inkomste van sodanige maatskappy gedurende sodanige jaar van aanslag uit bronre in die Unie verkry; en

(b) die bedrag gedurende die jaar van aanslag betaal tot aflossing van obligasies deur hom uitgegee, vir sover die bedrag deur middel van sodanige obligasies verkry, gebruik is by die voortbrenging van inkomste uit 'n bron in die Unie,

te bowe gaan;
is „belasbare inkomste“ die bedrag wat oorbly nadat al die bedrae (behalwe die bedrag in paragraaf (k) van

bears to the total sum of its net profits derived from all sources as last determined by the Commissioner, or in cases in which there has been no previous determination by the Commissioner, as estimated by the Commissioner, according to such information as is available to him.

Date of payment. 47. (1) The public company, which in terms of paragraph (a) of section *forty-four* is required to pay the tax on any dividend shall pay to the Commissioner the tax due on such dividend within thirty days, or such further period as may be approved by the Commissioner—

(a) of the commencement of this Act in the case of a dividend payable after the twelfth day of March, 1941, and before the said commencement; and

(b) of the date on which the dividend is payable in the case of a dividend payable after the commencement of this Act,

and shall furnish him with a return showing the names and addresses of the persons with the amount in each case to whom the dividend accrues and in the case of dividends payable in respect of bearer scrip the total dividends distributable to holders of such scrip.

(2) The agent in the Union by whom the tax is payable in terms of paragraph (b) of section *forty-four* shall, within thirty days of the date of delivery of the dividend warrant or cheque in payment of the dividend at his address, pay the tax to the Commissioner and furnish him with a return showing the amount of the dividend and the name and address of the person to whom it has accrued.

(3) A statement of the tax payable on any amounts specified in paragraphs (b) and (c) of section *forty-two* shall be attached by the Commissioner to the assessment issued by the Commissioner to the public officer in terms of sub-section (8) of section *sixty-seven*, and the tax so included in such statement shall be paid by the public officer within thirty days of the date of such assessment.

(4) The provisions of sub-sections (1), (2) and (3) shall not prevent the Commissioner from recovering from the person liable any tax which has not been paid and which the Commissioner may ascertain to be due, after the dates specified in the sub-sections referred to.

Exemption. 48. This tax shall not be charged in respect of dividends received or deemed to have been received from companies referred to in paragraphs (d), (e), (f) and (h) of sub-section (2) of section *thirty-three*.

PART V.

Undistributed Profits Tax.

Imposition of tax. 49. There shall be paid annually, commencing with the year of assessment ending the thirtieth day of June, 1941, by every public company registered or carrying on business in the Union for the benefit of the Consolidated Revenue Fund a tax (hereinafter called the undistributed profits tax) on so much of the distributable income (as defined in section *fifty*) of that company as is not distributed by way of dividends within the period specified (as defined in the said section).

Definition for purposes of Part V of Chapter II.

50. For the purposes of the assessment of this tax—“*distributable income*” shall be the amount by which eighty per cent. of the sum of the taxable income of and any dividends received by or accrued to or deemed to have been received by or accrued to any public company from a source within the Union during any year of assessment exceeds the sum of—

(a) any taxes (excluding this tax, but, if the company is a financial company as defined by section *two* of the Companies Tax Ordinance, 1933, of the Transvaal, including the tax imposed by that Ordinance) on the income of such company derived from sources within the Union during such year of assessment; and

(b) the amount paid during the year of assessment in the redemption of any debenture stock issued by it to the extent that the amount raised by means of such debenture stock has been used in the production of income from a source within the Union;

“*taxable income*” shall be the amount remaining after deducting from the income of any public company all the amounts (other than the amount referred to in

alle bronre verkry soos laaste deur die Kommissaris vasgestel, of in gevalle waarin daar geen vorige vasstelling deur die Kommissaris geskied het nie, soos deur die Kommissaris geskaf volgens sodanige inligting as wat aan hom beskikbaar is.

47. (1) Die publieke maatskappy van wie ooreenkomsdig paragraaf (a) van artikel vier-en-veertig vereis word om die belasting op 'n diwidend te betaal, moet die belasting op sodanige diwidend, verskuldig aan die Kommissaris, betaal binne dertig dae of so 'n verdere tydperk as wat die Kommissaris goedkeur—

- (a) vanaf die inwerkingtreding van hierdie Wet in die geval van 'n diwidend betaalbaar na die twaalfde dag van Maart 1941 en voor bedoelde inwerkingtreding; en
- (b) vanaf die datum waarop die diwidend betaalbaar is in die geval van 'n diwidend wat na die inwerkingtreding van hierdie Wet betaalbaar is,

en moet 'n opgaaf aan hom verstrek waarin die name en adresse van die persone, met die bedrae in elke geval, aan wie die diwidend toeval, en in die geval van diwidende betaalbaar ten opsigte van effekte aan toonder, die totale diwidende uitkeerbaar aan besitters van sodanige effekte aangegee word.

(2) Die agent in die Unie deur wie die belasting ooreenkomsdig paragraaf (b) van artikel vier-en-veertig betaalbaar is, moet die belasting binne dertig dae na die datum waarop die diwidendbewys of tjeuk ter betaling van die diwidend by sy adres afgelewer word, aan die Kommissaris betaal, en 'n opgaaf aan hom verstrek waarin die bedrag van die diwidend en die naam en adres van die persoon aan wie dit toegeval het aangegee word.

(3) 'n Staat van die belasting betaalbaar op bedrae in paragrawe (b) en (c) van artikel twee-en-veertig bepaal, word deur die Kommissaris aangeheg by die aanslag wat ooreenkomsdig sub-artikel (8) van artikel sewen-en-sestig deur die Kommissaris aan die openbare amptenaar uitgereik word, en die belasting aldus in so 'n staat ingesluit, word deur die openbare amptenaar binne dertig dae na die datum van sodanige aanslag betaal.

(4) Die bepalings van sub-artikels (1), (2) en (3) verhinder nie die Kommissaris om enige belasting wat nie betaal is nie en wat die Kommissaris vasstel verskuldig te wees na die datums in bedoelde sub-artikels bepaal, van die aanspreklike persoon in te vorder nie.

48. Hierdie belasting word nie gehef ten opsigte van diwidende wat ontvang is of geag word ontvang te gewees het van maatskappye in paragrawe (d), (e), (f) en (h) van sub-artikel (2) van artikel drie-en-dertig bedoel nie.

DEEL V.

Belasting op Onuitgekeerde Winste.

49. Beginnende met die jaar van aanslag wat op die derde dag van Junie 1941 eindig, word daar jaarliks deur elke publieke maatskappy wat in die Unie geregistreer is of daarin besigheid dryf, ten bate van die Gekonsolideerde Inkomstefonds 'n belasting (hierna die belasting op onuitgekeerde winste genoem), betaal op soveel van die uitkeerbare inkomste (soos in artikel vyftig omskryf), van daardie maatskappy as wat nie by wyse van diwidende in die bepaalde tydperk (soos in bedoelde artikel omskryf), uitgekeer word nie.

50. Vir die doeleindes van die aanslag van hierdie belasting— is „uitkeerbare inkomste“ die bedrag waarmee negentig persent van die som van die belasbare inkomste van en alle diwidende ontvang deur of toegeval aan of geag ontvang te gewees het deur of toe te geval het aan 'n publieke maatskappy uit 'n bron in die Unie gedurende een of ander jaar van aanslag, die som van—

(a) alle belastings (met uitsluiting van hierdie belasting maar indien die maatskappy 'n finansiële maatskappy is soos omskryf in artikel twee van die Maatskappye-Belasting-Ordonnansie, 1933, van die Transvaal, dan met inbegrip van die belasting deur daardie Ordonnansie opgelê) op die inkomste van sodanige maatskappy gedurende sodanige jaar van aanslag uit bronre in die Unie verkry; en

(b) die bedrag gedurende die jaar van aanslag betaal tot aflossing van obligasies deur hom uitgegee, vir sover die bedrag deur middel van sodanige obligasies verkry, gebruik is by die voortbrenging van inkomste uit 'n bron in die Unie,

te boewe gaan;
is „belasbare inkomste“ die bedrag wat oorbly nadat al die bedrae (behalwe die bedrag in paragraaf (k) van

Oplegging van
belasting.

Woordbepaling vir
doeleindes van
Deel V van Hoof-
stuk II.

paragraph (k) of sub-section (2) of section eleven) allowed to be deducted or set-off under this Chapter; "the period specified" within which dividends are distributed referred to in section forty-nine shall be the period of twelve months covered by the two periods of six months, the one ending on the thirtieth day of June or the date up to which returns accepted under the proviso to sub-section (13) of section fifty-five have been accepted in respect of any year of assessment if such date is not the thirtieth day of June, and the other the period of six months thereafter.

Rate of tax.

51. The rate of tax shall be four shillings on each pound of the distributable income which has not been distributed, in the period specified, by way of dividends: Provided that the rate shall be reduced by sixpence in respect of each completed eighth of such distributable income as is distributed by way of dividend during the period specified.

Companies carrying on business within and without the Union.

52. In the case of any public company to which the provisions of section seventeen apply the dividend deemed to have been distributed in any period specified, as defined in section fifty, shall be an amount which bears the same proportion to the total amounts actually distributed by such company by way of dividend during such period as the assets situated in the Union bear to the total assets of the company wherever situated: Provided that where the sum arrived at by deducting from eighty per cent. of the total profits of the company, including dividends derived from all sources, the sum of all taxes paid thereon, all amounts paid in redemption of debenture stock and the total dividends declared by such company during the period specified, is less than the amount arrived at by deducting from the distributable income of the company for the year of assessment the dividend deemed in accordance with this section to have been distributed, such lesser sum shall be deemed to be the amount of the distributable income of the company which has not been distributed for purposes of the determination of the liability of the company for this tax.

Assessment of tax.

53. The Commissioner shall after the close of the period specified, as defined in section fifty, issue an assessment to the public officer of the company for any year of assessment of the amount of the distributable income that has not been distributed within such specified period and shall state therein the amount of tax payable and the date on which such tax shall be paid.

Exemption.

54. There shall be exempt from the tax—

- (a) all companies specified in paragraphs (c), (d) and (f) of sub-section (2) of section thirty-three;
- (b) all companies in respect of which the provisions of sections fifteen, sixteen, eighteen and twenty are applicable to the determination of the taxable income derived from their principal business;
- (c) any company which has not, prior to the year of assessment under charge, derived an aggregate taxable income in excess of twenty per cent. of its total paid-up capital as at the last day of the year of assessment: Provided that in determining the aggregate taxable income for purposes of this paragraph there shall not be taken into account any loss incurred in any year prior to the year of assessment under charge which has been set off in arriving at the taxable income of any other year prior to the year of assessment under charge;
- (d) any company whose distributable income in the year of assessment is not more than one per cent. of its total paid-up capital as at the last day of the year of assessment.

CHAPTER III.**GENERAL PROVISIONS.****PART I.***Returns and Assessments.*

Notice by Commissioner requiring returns for assessment of taxes under this Act and manner of furnishing returns and interim returns.

55. (1) The Commissioner shall annually give public notice that all persons liable to taxation under the provisions of this Act, whether personally, or in any representative capacity, are required to furnish within thirty days after the date of such notice, or within such further time as the Commissioner may for good cause allow, returns for the assessment of the tax.

sub-artikel (2) van artikel *elf* bedoel) wat ingevolge hierdie Hoofstuk toegelaat word om afgetrek of in vergelyking gebring te word, van die inkomste van 'n publieke maatskappy afgetrek is;
is „die bepaalde tydperk” waarin diwidende uitgekeer word in artikel *negen-en-veertig* bedoel, die tydperk van twaalf maande wat gedeck word deur die twee tydperke van ses maande waarvan die een eindig op die dertigste dag van Junie of die datum tot op welke opgawes aangeneem ingevolge die voorbehoudsbepaling van sub-artikel (13) van artikel *vyf-en-vyftig* aangeneem is ten opsigte van een of ander jaar van aanslag as sodanige datum nie die dertigste dag van Junie is nie, en die ander die tydperk van ses maande daarna.

51. Die belastingskaal is vier sjielings op elke pond van die uitkeerbare inkomste wat nie in die bepaalde tydperk by wyse van diwidende uitgekeer is nie: Met dien verstande dat die skaal verminder word met ses pennies ten opsigte van elke volle agste van sodanige verdeelbare inkomste wat by wyse van diwidende gedurende die bepaalde tydperk uitgekeer word.

Skalaal van belasting.

52. In die geval van 'n publieke maatskappy waarop die bepalings van artikel *sewentien* van toepassing is, is die diwidende wat geag word uitgekeer te gewees het in 'n bepaalde tydperk, soos in artikel *vyftig omskryf*, 'n bedrag wat dieselfde verhouding dra tot die totale bedrae wat werklik deur sodanige maatskappy by wyse van diwidende gedurende sodanige tydperk uitgekeer is as wat die in die Unie geleë bate dra tot die totale bate van die maatskappy, waar ook al geleë: Met dien verstande dat wanneer die som wat verkry word deur van tachtig persent van die totale winste van die maatskappy, met inbegrip van diwidende uit alle bronne verkry, die som van alle belastings daarop betaal, alle bedrae tot aflossing van obligasies betaal, en die totale diwidende deur sodanige maatskappy verklaar gedurende die bepaalde tydperk af te trek, minder is as die bedrag wat verkry word deur van die uitkeerbare inkomste van die maatskappy vir die jaar van aanslag die diwidend wat ooreenkomsdig hierdie artikel geag word uitgekeer te gewees het, af te trek, sodanige kleiner bedrag geag word die bedrag van die uitkeerbare inkomste van die maatskappy te wees wat nie uitgekeer is nie vir die doeleindes van vasselling van die belastingpligtigheid van die maatskappy aan hierdie belasting.

Maatskappye wat in en buite die Unie besigheid dryf.

53. Na aloop van die bepaalde tydperk, soos in artikel *vyftig omskryf*, reik die Kommissaris aan die openbare amptenaar van die maatskappy 'n aanslag uit vir 'n jaar van aanslag van die bedrag van die uitkeerbare inkomste wat nie in sodanige bepaalde tydperk uitgekeer is nie, en vermeld daarin die bedrag van die betaalbare belasting en die datum waarop sodanige belasting betaal moet word.

Aanslag van belasting.

54. Van die belasting word vrygestel—

Vrystellings.

- (a) alle maatskappye in paragrawe (c), (d) en (f) van sub-artikel (2) van artikel *drie-en-dertig* vermeld;
- (b) alle maatskappye ten opsigte waarvan die bepalings van artikels *vijftien*, *zesien*, *agtien* en *twintig* van toepassing is op die vasselling van die belasbare inkomste uit hulle vernaamste besigheid verkry;
- (c) 'n maatskappy wat nie voor die jaar van aanslag waarvoor die heffing geskied, 'n totale belasbare inkomste van meer as twintig persent van sy totale opbetaalde kapitaal op datum van die laaste dag van die jaar van aanslag verkry het nie: Met dien verstande dat daar by die vasselling van die totale belasbare inkomste vir die doeleindes van hierdie paragraaf nie enige verlies in ag geneem word wat gely is in 'n jaar voor die jaar van aanslag waarvoor die heffing geskied en wat in vergelyking gebring is by die vasselling van die belasbare inkomste van enige ander jaar voor die jaar van aanslag waarvoor die heffing geskied;
- (d) 'n maatskappy waarvan die uitkeerbare inkomste in die jaar van aanslag nie meer bedra nie as een persent van sy totale opbetaalde kapitaal op datum van die laaste dag van die jaar van aanslag.

HOOFTUK III.

ALGEMENE BEPALINGS.

DEEL I.

Opgawes en Aanslæe.

Kennisgewing deur Kommissaris waarin opgawes vereis word vir aanslag van belastinga, ingevolge hierdie Wet en wyse van verstrekking van opgawes en tussen-tydse opgawes.

55. (1) Die Kommissaris gee jaarliks openbare kennis dat alle persone wat belastingpligtig is ingevolge die bepalings van hierdie Wet, ditsy persoonlik of in 'n verteenwoordigende hoedanigheid, verplig is om binne dertig dae na die datum van sodanige kennisgewing, of binne so 'n verdere tydperk as wat die Kommissaris om goeie redes mag toestaan, opgawes vir die aanslag van die belasting te verstrek.

(2) Such notice shall state the places at which the prescribed forms may be obtained, and it shall be the duty of all such persons, and of all persons required by this Act to furnish such returns, to apply for the prescribed forms of returns.

(3) Any such person failing to furnish such returns shall not be relieved from any penalty by reason only of his having received no notice to furnish the same, or of the prescribed form not having been delivered to him; but the Commissioner may, if he deem it so advisable, cause forms to be delivered or sent by post to any person.

(4) The Commissioner may, prior to the issue of any such annual notice, require any person by notice in writing to render interim accounts for any period he may designate in such notice, and may proceed to make an assessment in respect of that period.

(5) Every person shall, on publication of the annual notice or on receipt of any such written notice, prepare and deliver in the prescribed manner, within the period mentioned in such notice, to the person appointed to receive the same, a return in the form prescribed, giving the particulars required and all other details in relation thereto which may be prescribed. Such return shall be signed by the taxpayer, or by his agent duly authorized in that behalf.

(6) Any person signing any such return shall be deemed for all purposes in connection with this Act to be cognisant of all statements made in that return.

(7) Any return made or purporting to be made or signed by or on behalf of any person for the purposes of this Act, shall be deemed to be duly made and signed by the person affected unless such person proves that such return was not made or signed by or on his behalf.

(8) If any person fails to make such a return, the Commissioner may appoint a person to make a return on behalf of such person, and the return made by the person so appointed shall be, for all the purposes of this Act, the return of the person liable to make the same.

(9) The returns furnished by or on behalf of every person required to furnish returns under this Act shall contain such particulars, be in such form, and be furnished to the person appointed to receive the same at such time as may be prescribed by the Commissioner.

(10) The Commissioner may, when and as often as he thinks necessary, require any person to make further or more detailed returns respecting any matter of which a return is required or prescribed by this Act.

(11) All returns required to be furnished under this Act shall be delivered at, or sent by post to, the prescribed address.

(12) Any such return shall, if marked with the words "Income Tax" and "On His Majesty's Service" be carried and delivered free of postal or other charges by the postal department.

(13) The return of income to be made by any person in respect of any year of assessment chargeable under this Act shall be a full and true return for the whole period of twelve months ending upon the last day of the year of assessment under charge: Provided that where it is established to the satisfaction of the Commissioner that the income of a person cannot be conveniently returned for that period, the Commissioner may accept returns made up to a date agreed to by him, which returns shall be deemed for all purposes of this Act to be returns for the periods covered by the years of assessment under charge, and the taxpayer shall not, without the consent of the Commissioner, be entitled to make a return in respect of any subsequent year of assessment to a date other than the date so agreed to.

(14) If any person when called upon to furnish a return under this Act is unable to furnish such return, the Commissioner may accept a return of estimated income for assessment, and such assessment shall be adjusted by the Commissioner if and when an actual return of income is furnished.

(2) Bedoelde kennisgewing vermeld die plekke waar die voorgeskrewe vorms verkry kan word, en dit is die plig van alle sodanige persone, en van alle persone wat deur hierdie Wet verplig word om sodanige opgawes te verstrek, om aansoek om die voorgeskrewe vorms van opgawes te doen.

(3) Elke sodanige persoon wat in gebreke bly om bedoelde opgaaf te verstrek word nie van 'n straf onthef om die enkele rede dat hy geen kennisgewing ontvang het om die opgaaf te verstrek nie, of dat die voorgeskrewe vorm nie aan hom aangelever is nie; maar die Kommissaris kan, as hy dit raadsaam ag, vorms aan 'n persoon laat aflewer of deur die pos aan hom laat stuur.

(4) Die Kommissaris kan, voor die uitreiking van so 'n jaarlikse kennisgewing, van 'n persoon by skriftelike kennisgewing verlang om tussentydse opgawes te verstrek vir 'n tydvak deur hom in daardie kennisgewing aangedui, en hy kan dan 'n aanslag ten opsigte van daardie tydvak doen.

(5) Elke persoon moet, na die publikasie van die jaarlikse kennisgewing of by ontvangs van 'n sodanige skriftelike kennisgewing, op die voorgeskrewe wyse, binne die tydvak in sodanige kennisgewing vermeld, 'n opgaaf in die voorgeskrewe vorm, waarin die verlangde besonderhede en alle ander besonderhede in verband daarmee wat voorgeskryf mag word, aangegee word, opmaak en oorhandig aan die persoon wat aangestel is om dit te ontvang. Sodanige opgaaf word onderteken deur die belastingpligtige of sy behoorlik daartoe gemagtigde agent.

(6) 'n Persoon wat sodanige opgaaf onderteken word vir alle doeleindes in verband met hierdie Wet geag bekend te wees met alle verklarings wat in daardie opgaaf gedoen word.

(7) 'n Opgaat wat deur of ten behoeve van enige persoon vir die doeleindes van hierdie Wet gedoen is of heet gedoen of onderteken te wees, word geag behoorlik gedoen en onderteken te wees deur die betrokke persoon, tensy daardie persoon bewys dat bedoelde opgaaf nie deur of ten behoeve van hom gedoen of onderteken is nie.

(8) Indien 'n persoon versuum om so 'n opgaaf te doen kan die Kommissaris 'n persoon aanstel om 'n opgaaf ten behoeve van sodanige persoon te doen, en die opgaaf deur die aldus aangestelde persoon gedoen, is, vir al die doeleindes van hierdie Wet, die opgaaf van die persoon wat verplig is om daardie opgaaf te doen.

(9) Die opgawes verstrek deur of ten behoeve van elke persoon wat verplig is om opgawes ingevolge hierdie Wet te verstrek, moet sodanige besonderhede bevat, in so 'n vorm wees, en aan die persoon aangestel om hulle te ontvang verstrek word op sulke tye as wat deur die Kommissaris voorgeskryf word.

(10) Die Kommissaris kan, wanneer en so dikwels as hy nodig ag, van 'n persoon verlang om meer volledige of verdere opgawes te doen met betrekking tot enige aangeleentheid waarvan 'n opgaaf deur hierdie Wet vereis of voorgeskryf word.

(11) Alle opgawes wat ingevolge hierdie Wet verstrek moet word, word aangelever by, of per pos gestuur na, die voorgeskrewe adres.

(12) 'n Sodanige opgaaf word, indien gemerk met die woorde „Inkomstebelasting” en „In Diens van Sy Majesteit” deur die departement van poswese sonder frankeer- of ander koste vervoer en aangelever.

(13) Die opgaaf van inkomste gedoen te word deur 'n persoon ten opsigte van enige jaar van aanslag belasbaar ingevolge hierdie Wet, moet 'n volledige en ware opgaaf wees vir die hele tydvak van twaalf maande eindigende op die laaste dag van die jaar van aanslag waarvoor die helling geskied: Met dien verstande dat, wanneer dit tot genoeg van die Kommissaris bewys word dat dit nie geleë is om 'n opgaaf van die inkomste van 'n persoon vir daardie tydvak te doen nie, die Kommissaris opgawes, gedoen tot op 'n datum deur hom goedgekeur, kan aanneem, watter opgawes vir alle doeleindes van hierdie Wet geag word opgawes te wees vir die tydvakke gedeck deur die jare van aanslag waarvoor die helling geskied, en die belastingpligtige is nie, sonder die toestemming van die Kommissaris, geregtig om 'n opgaaf ten opsigte van 'n daaropvolgende jaar van aanslag tot op 'n ander datum as die aldus goedgekeurde datum te doen nie.

(14) Indien 'n persoon van wie verlang word om 'n opgaaf ingevolge hierdie Wet te verstrek, nie in staat is om sodanige opgaaf te verstrek nie, kan die Kommissaris 'n opgaaf van geskatte inkomste vir die oogmerke van aanslag aanneem, en so 'n aanslag word deur die Kommissaris gewysig indien en wanneer 'n werklike opgaaf van inkomste verstrek word.

(15) Persons carrying on any business in partnership shall make a joint return as partners in respect of such business, together with such particulars as may from time to time be prescribed, and each such partner shall be separately and individually liable for the rendering of the joint return.

Half-yearly returns by persons engaged in gold mining.

56. (1) Notwithstanding anything contained in this Act, the Commissioner may require any person whose sole or principal business is mining for gold to furnish, in respect of each year of assessment, half-yearly returns for the assessment of the taxes leviable under this Act.

(2) Each such return shall be furnished within two months of the close of the half-year to which it refers, and the person furnishing it shall simultaneously pay to the Commissioner the amount of any tax appearing therefrom to be payable.

(3) The return furnished and the payment made in respect of the first half-year of any year of assessment shall be treated by the Commissioner as a provisional return and a provisional payment, and the Commissioner in making his assessment in respect of the year of assessment as a whole shall make such adjustments as he considers necessary to bring the assessment into accord with the liability of the taxpayer for such year of assessment.

(4) The Commissioner shall recover from or repay to any such person any amount whereby the assessment in respect of the year of assessment as a whole exceeds or falls short of any payment made by such person in respect of the tax for the year of assessment.

Commissioner may prescribe forms.

57. All forms of returns and other forms required for the administration of this Act shall be in such form as may be prescribed by the Commissioner from time to time.

Income of married women and minor children.

58. (1) The income received by or accrued to or in favour of, or deemed to have been received by or accrued to or in favour of, a woman married with or without community of property and not separated from her husband under a judicial order or written agreement shall be included by him in returns of income required to be rendered by him under this Act: Provided that if either the husband or the wife make written application therefor to the Commissioner or the Commissioner considers it desirable, returns of income may be required to be rendered by any such husband or wife separately.

(2) In the event of the death of the husband during any year in respect of which such income is chargeable, the income of the wife for the period elapsing between the date of such death and the last day of the year of assessment shall be returned as the separate income of such wife.

(3) Any amount payable by way of alimony or allowance or maintenance of his spouse or former spouse and any children under any judicial order or written agreement of separation or under any order of divorce shall be returned as the separate income of such spouse to whom or on whose behalf the amount is paid and shall form part of the taxable income of such spouse. The person by whom such amount is payable shall have his taxable income reduced thereby.

(4) (a) Every parent shall be required to include in his return any income received by or accrued to or in favour of, or deemed to have been received by or accrued to or in favour of any of his minor children either directly or indirectly from himself or his wife together with such particulars as may be required by the Commissioner.

(b) Every parent shall be required to include in his return any income deemed to be his in terms of sub-sections (3) and (4) of section nine.

Duty to furnish returns as to employees, their earnings and other matters.

59. (1) Every person shall, if required by the Commissioner, furnish to him, in such form and at such time as may be prescribed or as the Commissioner may require, returns of all or any particular class of persons employed by him, and the earnings, salary, wages, allowances or pensions, whether in money or otherwise, paid or allowed to each person so employed.

(2) Every person carrying on business in the Union shall, in such manner and form and at such times as may be prescribed by the Commissioner furnish to the Commissioner returns showing—

(a) all payments made to any person in respect of any share or interest in such business;

(15) Persone wat 'n besigheid in vennootskap dryf moet 'n gesamentlike opgaaf as vennote ten opsigte van sodanige besigheid doen, vergesel van sulke besonderhede as wat van tyd tot tyd voorgeskryf word, en elke sodanige vennoot is afsonderlik en persoonlik aanspreeklik vir die verstrekking van die gesamentlike opgaaf.

56. (1) Ondanks die bepalings van hierdie Wet kan die Kommissaris van 'n persoon wie se enigste of vernaamste besigheid die myn van goud is, verlang om ten opsigte van elke jaar van aanslag, halfjaarlikse opgawes te verstrek vir die aanslag van die belastings hefbaar ingevolge hierdie Wét.

(2) Elke sodanige opgaaf moet binne twee maande na aloop van die halfjaar waarop dit betrekking het, verstrek word, en die persoon deur wie dit verstrek word moet terselfdertyd die bedrag van die belasting wat daaruit blyk betaalbaar te wees, aan die Kommissaris betaal.

(3) Die opgaaf verstrek en die betaling gedoen ten opsigte van die eerste halfjaar van enige jaar van aanslag word deur die Kommissaris as 'n voorlopige opgaaf en 'n voorlopige betaling behandel, en wanneer die Kommissaris 'n aanslag ten opsigte van die jaar van aanslag as 'n geheel doen, moet hy sulke wysigings aanbring as wat hy nodig ag om die aanslag in ooreenstemming te bring met die aanspreeklikheid van die belastingpligtige vir daardie jaar van aanslag.

(4) Die Kommissaris verhaal op so 'n persoon, of betaal aan hom terug, die bedrag waarmee die aanslag ten opsigte van die jaar van aanslag as 'n geheel die bedrag deur bedoelde persoon betaal ten opsigte van die belasting vir die jaar van aanslag te bove gaan of daaraan tekortskiet.

57. Alle vorms van opgawes en ander vorms wat vir die Kommissaris kan uitvoering van hierdie Wet nodig is, is in so 'n vorm as wat vorms voorskryf. van tyd tot tyd deur die Kommissaris voorgeskryf word.

58. (1) Die inkomste ontvang deur of toegeval aan of ten gunste van, of geag ontvang te gewees het deur of toe te geval het aan of ten gunste van 'n vrou wat in of buite gemeenskap van goedere getroud is en nie van tafel en bed van haar man geskei ingevolge 'n geregtelike bevel of skriftelike ooreenkoms nie, word deur hom ingesluit in die opgawes van inkomste wat ingevolge hierdie Wet deur hom verstrek moet word : Met dien verstande dat as of die man of die vrou skriftelik by die Kommissaris daarom aansoek doen, of as die Kommissaris dit wenslik ag, verlang kan word dat opgawes van inkomste deur so 'n man of vrou afsonderlik verstrek word.

(2) Ingeval die man te sterwe kom gedurende enige jaar ten opsigte waarvan sodanige inkomste belashaar is, word die inkomste van die vrou vir die tydvak wat verstryk tussen die datum waarop die man te sterwe gekom het, en die laaste dag van die jaar van aanslag opgegee as die afsonderlike inkomste van daardie vrou.

(3) 'n Bedrag betaalbaar by wyse van onderhoud of toelae aan sy eggenote of voormalige eggenote en kinders ingevolge 'n geregtelike bevel of skriftelike ooreenkoms van skeiding van tafel en bed of ingevolge 'n bevel van ekskeiding word opgegee as die aparte inkomste van die eggenote aan of ten behoeve van wie die bedrag betaal word en maak 'n deel uit van die belashbare inkomste van daardie eggenote. Die persoon deur wie sodanige bedrag betaalbaar is, is daartoe geregtig om sy belashbare inkomste met daardie bedrag te laat verminder.

(4) (a) Elke ouer is verplig om in sy opgaaf inkomste ontvang deur of toegeval aan of ten gunste van, of geag ontvang te gewees het deur of toe te geval het aan of ten gunste van enigeen van sy minderjarige kinders, ditsy regstreeks of onregstreeks van homself of sy vrou, tesame met sulke besonderhede as wat die Kommissaris verlang, in te sluit.

(b) Elke ouer is verplig om in sy opgaaf inkomste in te sluit wat ingevolge sub-artikels (3) en (4) van artikel nege geag word sy inkomste te wees.

59. (1) Elke persoon verstrek, indien dit deur die Kommissaris van hom vereis word, aan hom in so 'n vorm en op sulke tyd as wat voorgeskryf word of as wat die Kommissaris mag vereis, opgawes van alle of 'n besondere kategorie van persone hoor in diens, en die verdienstes, salaris, lone, aangeleenthede, toelaes of pensioene, ditsy in geld of andersins, wat aan elke persoon wat aldus in diens is, betaal of toegestaan word.

(2) Elke persoon wat in die Unie besigheid dryf moet op so 'n wyse en in so 'n vorm en op sulke tye as wat die Kommissaris voorskryf aan die Kommissaris opgawes verstrek waarin aangegee word—

(a) alle bedrae wat aan enige persoon ten opsigte van 'n aandeel of belang in daardie besigheid betaal is ;

- (b) all moneys received by him from any person on deposit for any fixed time or period with or without interest, and any amount of interest received or paid by him, and
- (c) all such other information in his possession with regard to the income received by, or accruing to or in favour of, himself or any other person as may be required by the Commissioner.

(3) In addition to the returns specified in this and in sub-sections (1) and (2), every person, whether a taxpayer or not, shall, as and when required by the Commissioner, supply such information and make such returns or such further or other returns as the Commissioner may require.

(4) Every person to whom a form of return is sent by the Commissioner shall complete the same in accordance with the requirements of the Commissioner and shall return it to the Commissioner at such time and place as the Commissioner may direct.

Duty of companies to furnish returns.

60. (1) Every company which pays interest upon or in respect of debentures or debenture stock or which pays interest on any loans or advances shall, within thirty days after the thirtieth day of June in each year, furnish to the Commissioner a return giving the full name and address of each person receiving such interest and the amount of interest so paid.

(2) Every public company which pays any dividends, awards any bonus shares, debentures or securities or pays any liquidation dividends to shareholders in such company, in respect of the shares held by them, shall within thirty days after the thirtieth day of June in each year furnish to the Commissioner a return giving the full name and address of each shareholder and the amount or value of such payment or award to each such shareholder.

(3) Every private company shall within thirty days after the thirtieth day of June in each year furnish a return giving the name and address of and the number of shares held by every person who was, on the specified date as defined in sub-section (4) of section *thirty-three*, a shareholder of the company.

(4) Every company shall file with the Commissioner a copy of the memorandum and articles of association constituting the company and copies of all amendments thereto.

Return as to shareholdings.

61. Every person who makes a return of his own income, or in a representative capacity, makes a return of the income of some other person, shall attach to such return a statement showing fully—

- (a) the number of shares in any company registered in the name of the taxpayer for whom the return is rendered;
- (b) the dividends from any company received by or accrued to the taxpayer for whom the return is rendered;
- (c) the name and address of the person, if the taxpayer for whom the return is rendered is not entitled to retain the dividends received or accrued from any company, or, in the case of a private company, to participate in the profit or income of any such company, who, under any agreement or arrangement, is entitled to receive and retain such dividends or to participate in such profit or income;
- (d) the number of shares in any company which are not registered in the name of the taxpayer for whom the return is rendered but in respect of which such taxpayer under an agreement or arrangement with the registered owner obtains all dividends payable by such company or in the case of a private company the rights of the registered owner to participate in the profit or income of such company;
- (e) the dividends so received by the taxpayer for whom the return is rendered from the person in whose name such shares are registered.

Production of documents and evidences on oath.

62. (1) For the purpose of obtaining full information in respect of any income of any taxpayer or of any part thereof, the Commissioner may require any person to produce for examination by the Commissioner or by any person appointed by him for that purpose, at such time and place as may be appointed by the Commissioner in that behalf, any deeds, plans,

- (b) alle geldte deur hom ontvang van enige persoon op deposito vir 'n bepaalde tyd of tydvak met of sonder rente, en die bedrag van rente deur hom ontvang of betaal; en
- (c) alle sodanige verdere inligting in sy besit met betrekking tot die inkomste wat ontvang is deur of toeval aan of ten gunste van homself of enige ander persoon as wat deur die Kommissaris vereis word.

(3) Benewens die opgawes in hierdie sub-artikel en in sub-artikels (1) en (2) vermeld, moet elke persoon of hy 'n belastingpligtige is al dan nie, indien en wanneer dit van hom deur die Kommissaris verlang word, sodanige inligting verstrek en sodanige opgawes of sodanige verdere of ander opgawes doen as wat die Kommissaris vereis.

(4) Elke persoon aan wie 'n opgaafvorm deur die Kommissaris gestuur word, moet sodanige vorm ooreenkomsdig die vereistes van die Kommissaris invul, en moet dit aan die Kommissaris terugbesorg op so 'n tyd en plek as wat die Kommissaris beveel.

60. (1) Elke maatskappy wat rente betaal op of ten opsigte Plig van van skuldbriewe of obligasies of wat rente betaal op lenings of maatskappye om voorskotte moet binne dertig dae na die dertigste dag van opgawes te Junie in elke jaar aan die Kommissaris 'n opgaaf verstrek waarin verstrek. die volle naam en adres van elke persoon wat sodanige rente ontvang en die bedrag van die aldus betaalde rente aangegee word.

(2) Elke publieke maatskappy wat diwidende betaal, bonus-aandele, skuldbriewe of effekte toeken, of likwidasie-diwidende betaal aan aandeelhouers in sodanige maatskappy, ten opsigte van die aandele deur hulle besit, moet binne dertig dae na die dertigste dag van Junie in elke jaar aan die Kommissaris 'n opgaaf verstrek waarin die volle naam en adres van elke aandeelhouer en die bedrag of waarde van sodanige betaling of toekennung aan elke sodanige aandeelhouer aangegee word.

(3) Elke private maatskappy moet binne dertig dae na die dertigste dag van Junie in elke jaar 'n opgaaf verstrek waarin die naam en adres van en die getal aandele besit deur elke persoon wat op die bepaalde datum soos in sub-artikel (4) van artikel *drie-en-dertig* omskryf, 'n aandeelhouer van die maatskappy was, aangegee word.

(4) Elke maatskappy moet 'n afskrif van die akte van oprigting en statute waarby die maatskappy ingestel is, en afskrifte van alle wysigings daarvan, by die Kommissaris indien.

61. Elke persoon wat 'n opgaaf van sy eie inkomste doen, of, Opgaaf van in 'n verteenwoordigende hoedanigheid, 'n opgaaf van die aandelebesit. inkomste van 'n ander persoon doen, moet aan so 'n opgaaf 'n verklaring heg waarin die volledig aangegee word—

- (a) die getal aandele in elke maatskappy wat op die naam van die belastingpligtige vir wie die opgaaf verstrek word, geregistreer is;
- (b) die diwidende van elke maatskappy ontvang deur of toegeval aan die belastingpligtige vir wie die opgaaf gedoen word;
- (c) indien die belastingpligtige vir wie die opgaaf verstrek word nie geregtig is om die diwidende wat van 'n maatskappy ontvang is of toegeval het te behou nie, of, in die geval van 'n private maatskappy, om in die inkomste of winste van sodanige maatskappy te deel nie, die naam en adres van die persoon wat ingevolge 'n ooreenkoms of reëling geregtig is om sodanige diwidende te ontvang en te behou of om in sodanige wins of inkomste te deel;
- (d) die getal aandele in elke maatskappy wat nie op die naam van die belastingpligtige vir wie die opgaaf verstrek word geregistreer is nie maar ten opsigte waarvan bedoelde belastingpligtige ingevolge 'n ooreenkoms of reëling met die geregistreerde eienaar alle diwidende betaalbaar deur so 'n maatskappy verkry, of in die geval van 'n private maatskappy die regte van die geregistreerde eienaar verkry om in die winste of inkomste van sodanige maatskappy te deel;
- (e) die diwidende aldus deur die belastingpligtige vir wie die opgaaf verstrek word, ontvang van die persoon op naam van wie sodanige aandele geregistreer is.

62. (1) Ten einde volledige inligting te verkry ten opsigte Oorlegging van van die inkomste van 'n belastingpligtige of enige gedeelte dokumente en daarvan, kan die Kommissaris van enige persoon verlang om getuenis onder ede. aktes, planne, instrumente, boeke, rekenings, handelslyste, inventarisse of dokumente wat die Kommissaris nodig ag vir die doeleindes van hierdie Wet, ter ondersoek deur die Kom-

instruments, books, accounts, trade lists, stock lists or documents which the Commissioner may deem necessary for the purposes of this Act.

(2) The Commissioner may, by notice in writing, require any person entitled to or in receipt of any income (whether on his own behalf, or as the representative of any person) or any person whom the Commissioner may deem able to furnish information, to attend at a time and place to be named by the Commissioner for the purpose of being examined on oath respecting the income of any such person or any transactions or matters affecting the same or any of them or any part thereof. Any person so attending may be allowed by the Commissioner any reasonable expenses necessarily incurred by such person in so attending.

Penalty on default. 63. (1) Any person who—

- (a) fails or neglects to furnish any return as and when required by or under this Act; or
- (b) without just cause shown by him, refuses or neglects to furnish any information or reply or to attend and give evidence as and when required by the Commissioner or any officer duly authorized by him or to answer truly and fully any questions put to him or to produce any books or papers required of him by the Commissioner or any such officer; or
- (c) fails to show in any return made by him any portion of the gross income received by or accrued to or in favour of himself or fails to disclose to the Commissioner, when making such return, any material facts which should have been disclosed; or
- (d) fails to show in any return prepared or rendered by him on behalf of any other person any portion of the gross income received by or accrued to or in favour of such other person or fails to disclose to the Commissioner, when preparing or making such return, any facts which, if so disclosed, might result in increased taxation; or
- (e) obstructs or hinders any officer in the discharge of his duties,

shall be guilty of an offence and liable to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding three months or to both such fine and imprisonment.

(2) Any person who has been convicted under the provisions of sub-section (1) of failing to furnish any return, information or reply shall, if he fails within any period deemed by the Commissioner to be reasonable and of which notice has been given to him by the Commissioner, to furnish the return, information or reply in respect of which the offence was committed, be guilty of an offence and shall be liable to a fine of five pounds for each day during which such default continues or to imprisonment without the option of a fine for a period not exceeding three months.

Estimated assessments.

64. (1) In every case in which any person makes default in furnishing any return or information or if the Commissioner is not satisfied with the return or information furnished by such person, the Commissioner may estimate either in whole or in part the taxable income or the income subject to super tax in relation to which the return or information is required.

(2) Any such estimate of the taxable income or income subject to super tax shall be subject to objection and appeal: Provided that if it appears to the Commissioner that any person is unable from any cause to furnish an accurate return of his income, the Commissioner may agree with such person what shall be the taxable income or income subject to super tax of such income and any taxable income or income subject to super tax so agreed shall not be subject to any objection or appeal.

Additional tax in the event of default or omission.

65. (1) Any taxpayer who makes default in rendering a return in respect of any year of assessment shall be chargeable in respect of his taxable income or income subject to super tax for such year of assessment with a treble rate of tax and any taxpayer who omits from his return any amount which ought to have been included therein shall be chargeable with an amount equal to twice the difference between the tax as calculated in respect of the taxable income or income subject to super tax returned by him and the tax properly chargeable in respect of

missaris of deur 'n deur hom vir daardie doel aangestelde persoon, op so 'n tyd en plek as wat die Kommissaris te dien einde bepaal, oor te lê.

(2) Die Kommissaris kan, by skriftelike kennisgewing, van 'n persoon wat geregtig is op of in ontvangs is van inkomste (ditsy ten behoeve van homself of as die verteenwoordiger van 'n persoon), of 'n persoon wat deur die Kommissaris geag word in staat te wees om inligting te verskaf, vereis om op 'n tyd en plek deur die Kommissaris bepaal te word, te verskyn ten einde onder ede ondervra te word aangaande die inkomste van 'n sodanige persoon of alle transaksies of aangeleenthede wat daarop betrekking het of enige of enige gedeelte daarvan. Aan 'n persoon wat aldus verskyn kan deur die Kommissaris redelike uitgawes, noodsaklike wyse deur so 'n persoon gedoen om aldus te verskyn, toegestaan word.

63. (1) Elke persoon wat—

- (a) versuim of nalaat om 'n opgaaf te verstrek soos en Strawwe by wanneer deur of ingevolge hierdie Wet vereis ; of versuim.
- (b) sonder om goeie redes aan te toon, weier of nalaat om inligting te verskaf of om te antwoord of om te verskyn en getuienis af te lê soos en wanneer deur die Kommissaris of 'n deur hom behoorlik gemagtigde amptenaar vereis, of om ware en volledige antwoorde te gee op vrae aan hom gestel of om boeke of dokumente wat deur die Kommissaris of 'n sodanige amptenaar van hom vereis word, oor te lê ; of
- (c) nalaat om in 'n opgaaf deur hom gedoen enige gedeelte van die bruto inkomste deur hom ontvang of aan of ten gunste van hom toegeval, aan te gee, of nalaat om, wanneer hy so 'n opgaaf doen, belangrike feite wat openbaar moes geword het, aan die Kommissaris te openbaar ; of
- (d) nalaat om in 'n opgaaf deur hom ten behoeve van 'n ander persoon voorberei of verstrek, enige gedeelte van die bruto inkomste ontvang deur of toegeval aan of ten gunste van daardie ander persoon aan te gee, of versuim om, wanneer hy 'n sodanige opgaaf voorberei of verstrek, aan die Kommissaris feite te openbaar wat, indien hulle aldus aan die lig gebring word, verhoogde belasting tot gevolg mag hê ; of
- (e) 'n amptenaar by die uitvoering van sy pligte hinder of in die weg staan,

is aan 'n misdryf skuldig en strafbaar met 'n boete van hoogstens vyftig pond of met gevangenisstraf vir 'n tydperk van hoogstens drie maande of met beide sodanige boete en gevangenisstraf.

(2) 'n Persoon wat ingevolge die bepalings van sub-artikel (1) daarvan skuldig bevind is dat hy versuin het om enige opgaaf, of inligting of antwoord te verstrek of te gee, maak hom aan 'n misdryf skuldig indien hy binne 'n tydperk wat die Kommissaris redelik ag en waarvan aan hom deur die Kommissaris kennis gegee is, versuim om die opgaaf, inligting of antwoord ten opsigte waarvan die oortreding begaan is te verstrek of te gee, en is strafbaar met 'n boete van vyf pond vir elke dag wat sodanige versuim voortduur, of met gevangenisstraf sonder die keuse van 'n boete vir 'n tydperk van hoogstens drie maande.

64. (1) In elke geval waarin 'n persoon in gebreke bly om 'n geskakte aansluiting te verstrek, of as die Kommissaris nie tevrede is met die opgaaf of inligting deur so 'n persoon verstrek nie, kan die Kommissaris 'n skatting doen geheel of ten dele van die belasbare inkomste of die aan superbelasting onderhewige inkomste ten opsigte waarvan die opgaaf of inligting verlang word.

(2) 'n Sodanige skatting van die belasbare inkomste of aan superbelasting onderhewige inkomste is onderhewig aan beswaar en appèl : Met dien verstande dat as dit aan die Kommissaris blyk dat 'n persoon om een of ander rede nie in staat is om 'n juiste opgaaf van sy inkomste te verstrek nie, die Kommissaris met so 'n persoon kan ooreenkomm omtrent die bedrag wat die belasbare inkomste of aan superbelasting onderhewige inkomste van daardie inkomste uitmaak, en die belasbare inkomste of aan superbelasting onderhewige inkomste waaromtrent aldus ooreengekom is, is nie aan beswaar of appèl onderhewig nie.

65. (1) 'n Belastingpligtige wat in gebreke bly om 'n opgaaf Addisionele belasting ingoval ten opsigte van een of ander jaar van aanslag te verstrek, is, van versuim of ten opsigte van sy belasbare inkomste of aan superbelasting weglatting. onderhewige inkomste vir daardie jaar van aanslag belasbaar teen 'n drievoudige belastingskaal, en 'n belastingpligtige wat 'n bedrag uit sy opgaaf weglaat wat daarin behoort ingesluit te gewees het, is belasbaar met 'n bedrag gelykstaande aan tweemaal die verskil tussen die belasting soos bereken ten opsigte

his taxable income or income subject to super tax as finally determined after including the amounts omitted and shall be required to pay this amount in addition to the tax properly chargeable in respect of his true taxable income or income subject to super tax : Provided that a private company whose taxable income and income subject to super tax have been apportioned in terms of section *thirty-seven*, and which is guilty of such a default or omission as is referred to in this section, shall, subject to the provisions of section *thirty-eight*, be liable to pay such additional amount as would have been payable by it in terms of this section, if its taxable income and income subject to super tax had not been so apportioned, and if it had been chargeable with normal tax at the rate specified in paragraph (d) of sub-section (1) of section *six* and with super tax at the rate specified in section *twenty-four*.

(2) If the Commissioner is satisfied that the default in rendering the return was not due to any intent either to defraud the revenue or to postpone the payment by the taxpayer of the tax chargeable or that any such omission was not due to any intent to evade taxation on the part of the taxpayer he may remit such part or all of the said treble rate or additional charge as he may think fit.

(3) The additional rates and amounts of tax for which provision is made under this section shall be chargeable in cases where the taxable income or income subject to super tax or any part thereof is estimated by the Commissioner in terms of section *sixty-four* or agreed with the taxpayer in terms of the proviso to sub-section (2) of the said section as well as in cases where such taxable income or income subject to super tax or any part thereof is determined from accounts rendered by the taxpayer.

(4) The powers conferred upon the Commissioner by this section shall be in addition to any right conferred upon him by this Act to take proceedings for the recovery of any penalties for evading or avoiding assessment or the payment of tax or attempting to do so.

(5) Any taxpayer who in determining his taxable income or income subject to super tax, as disclosed by his return, deducts or sets off any amount, the deduction or set-off whereof is not permissible under the provisions of this Act or any amendment thereof, or shows as an expenditure or loss any amount which he has not in fact expended or lost, shall be deemed for the purposes of this section to have omitted such amount from his return.

Additional assessments.

66. (1) If at any time the Commissioner is satisfied that any amounts which should have been subject to tax have not been assessed to tax either under this Act or any previous Income Tax Act of the Union, he shall raise assessments in respect of such amounts, notwithstanding that assessments may have been made upon the person concerned in respect of the year or years of assessment in respect of which the amounts in question are assessable.

(2) The provisions of sections *sixty-four* and *sixty-five* of this Act shall apply to any assessments or additional assessments made by the Commissioner under the powers conferred by this section.

Assessments and the recording thereof.

67. (1) All assessments required to be made under this Act shall, subject to the provisions of section *three* of this Act, be made by the Commissioner or under his direction.

(2) The particulars of every assessment and the amount of tax payable thereon shall be recorded or filed and kept in the office of the Commissioner.

(3) Upon recording or filing the particulars of any assessment the Commissioner shall give notice of the assessment and of the tax payable thereon to the taxpayer assessed.

(4) Such notice shall be sent to such person by post or delivered to such person in such other manner as the Commissioner may consider necessary or convenient.

(5) The Commissioner shall, in the notice of assessment, give notice to the taxpayer that any objection to the assessment made must be sent to him within twenty-one days after the date of such notice.

van die belasbare inkomste of aan superbelasting onderhewige inkomste soos deur hom opgegee, en die behoorlik hefbare belasting ten opsigte van sy belasbare inkomste of aan superbelasting onderhewige inkomste soos ten slotte vasgestel na insluiting van die weggelate bedrae, en van hom word vereis om hierdie bedrag te betaal benewens die behoorlik hefbare belasting ten opsigte van sy ware belasbare inkomste of aan superbelasting onderhewige inkomste: Met dien verstande dat 'n private maatskappy wie se belasbare inkomste en aan superbelasting onderhewige inkomste ooreenkomsdig artikel *sewen-en-dertig* toegedeel is, en wat hom aan 'n in hierdie artikel bedoelde versuim of weglatting skuldig maak, met inagneming van die bepalings van artikel *ag-en-dertig*, aanspreeklik is vir die betaling van sodanige addisionele bedrag as wat ooreenkomsdig hierdie artikel deur hom betaalbaar sou gewees het indien sy belasbare inkomste en aan superbelasting onderhewige inkomste nie aldus toegedeel was nie en indien hy met normale belasting belasbaar was teen die skaal in paragraaf (d) van sub-artikel (1) van artikel *ses* bepaal, en met superbelasting teen die skaal in artikel *vier-en-twintig* bepaal.

(2) As die Kommissaris oortuig is dat die versuim by die verstrekking van die opgaaf nie te wyte was aan 'n bedoeling of om die skatkis op 'n bedrieglike wyse te kort te doen of om die betaling deur die belastingpligtige van die hefbare belasting te vertraag nie, of dat sodanige weglatting nie te wyte was aan 'n bedoeling aan die kant van die belastingpligtige om belasting te ontduk nie, kan hy die voornoemde drievoudige skaal of addisionele belasting geheel of ten dele, volgens goed-dunke, kwytskeld.

(3) Die addisionele skale en bedrae van belasting waarvoor hierdie artikel voorsiening maak, is hefbaar in gevalle waar die belasbare inkomste of aan superbelasting onderhewige inkomste of enige gedeelte daarvan deur die Kommissaris geskat word ingevolge artikel *vier-en-sestig* of vasgestel word volgens ooreenkoms met die belastingpligtige ingevolge die voorbehoudsbepaling van sub-artikel (2) van bedoelde artikel sowel as in gevalle waar sodanige belasbare inkomste of aan superbelasting onderhewige inkomste of 'n gedeelte daarvan vasgestel word uit rekenings deur die belastingpligtige verstrek.

(4) Die bevoegdhede by hierdie artikel aan die Kommissaris verleen, is in toegvoeging aan enige reg aan hom deur hierdie Wet verleen om geregtelike stappe te doen vir die invordering van boetes weens ontwyking of ontdrukking van aanslag of die betaling van belasting of 'n poging daar toe.

(5) 'n Belastingpligtige wat by die vasstelling van sy belasbare inkomste of aan superbelasting onderhewige inkomste, soos in sy opgaaf aangegee, 'n bedrag aftrek of in vergelyking bring, waarvan die aftrekking of in vergelyking bring kragtens die bepalings van hierdie Wet of 'n wysiging daarvan nie veroorloof is nie, of 'n bedrag as 'n uitgawe of 'n verlies aangee wat hy nie werklik uitgegee of verloor het nie, word by die toepassing van hierdie artikel geag sodanige bedrag uit sy opgaaf weg te gelaat het.

66. (1) Indien die Kommissaris te eniger tyd oortuig is dat bedrae wat aan belasting onderhewig behoort te gewees het nie aangeslaan is vir belasting, ditsy ingevolge hierdie Wet of 'n vorige Inkomstebelastingwet van die Unie nie, moet hy aanslae ten opsigte van sulke bedrae doen nieteenstaande dat die betrokke persoon aangeslaan mag gewees het ten opsigte van die jaar of jare van aanslag ten opsigte waarvan die betrokke bedrae aangeslaan kan word.

(2) Die bepalings van artikels *vier-en-sestig* en *vyf-en-sestig* van hierdie Wet is van toepassing op aanslae of addisionele aanslae deur die Kommissaris ingevolge die by hierdie artikel verleende bevoegdhede gedoen.

67. (1) Alle aanslae wat ingevolge hierdie Wet gedoen moet word, word, behoudens die bepalings van artikel *drie*, deur of op bevel van die Kommissaris gedoen.

(2) Die besonderhede van elke aanslag en die bedrag van die daarop betaalbare belasting word aangeteken of opgeberg en in die kantoor van die Kommissaris gehou.

(3) Wanneer hy die besonderhede van 'n aanslag aanteken of opberg, gee die Kommissaris kennis van die aanslag en van die daarop betaalbare belasting aan die aangeslaan belastingpligtige.

(4) So 'n kennisgewing word aan sodanige persoon per pos gestuur of aan hom afgelewer op so 'n ander wyse as wat die Kommissaris nodig of wenslik ag.

(5) Die Kommissaris gee in die kennisgewing van aanslag kennis aan die belastingpligtige dat 'n beswaar teen die gedane aanslag aan hom gestuur moet word binne een-en-twintig dae na die datum van sodanige kennisgewing.

(6) Any separate returns which may be rendered by spouses in terms of the proviso to sub-section (1) of section *fifty-eight* shall be separately assessed and separate notices of assessment shall be sent to the respective spouses : Provided that the total tax payable in respect of the separate assessments so issued shall not be less than the total amount which would have been payable by the husband alone if the incomes of both husband and wife had been assessed as the income of the husband alone.

(7) Separate assessments shall be made upon partners, the provisions of sub-section (15) of section *fifty-five* notwithstanding.

(8) The Commissioner shall issue an assessment to the public officer of a private company, and in the case of a private company whose taxable income or income subject to super tax is apportioned in terms of section *thirty-seven* to its shareholders, such assessment shall notify the amount of the taxable income or income subject to super tax of such company as determined by him but shall not specify any amount of tax to be paid other than the amount of any additional tax that may be leviable on the company in terms of the proviso to sub-section (1) of section *sixty-five* : Provided that where in terms of section *thirty-nine* the taxable income or income subject to super tax is not apportioned to its shareholders the amount of tax payable by such company shall be specified.

Inspection of record of assessments.

68. The record of assessments shall not be open to public inspection, but every taxpayer shall be entitled to copies certified by or on behalf of the Commissioner of such recorded particulars as relate to him.

PART II.

Representative Taxpayers.

Meaning of representative taxpayer.

69. For the purposes of this Act, "representative taxpayer" means—

- (a) in respect of the income of a company, the public officer thereof;
- (b) in respect of the income under his management, disposition or control, the agent of any person, including an agent appointed as such under the provisions of section *seventy-four*. For the purposes of this paragraph the term "agent" includes further every person in the Union having the receipt, management or control of income on behalf of any person permanently or temporarily absent from the Union or remitting or paying income to or receiving moneys for such person;
- (c) in respect of income the subject of any trust or in respect of the income of any minor, or mentally disordered or defective person or any other person under legal disability, the trustee, guardian, curator or other person entitled to the receipt, management, disposal or control of such income or remitting or paying to, or receiving moneys on behalf of such person under disability;
- (d) in respect of income paid under the decree or order of any court or judge to any receiver or other person, such receiver or person, whoever may be entitled to the benefit of such income, and whether or not it accrues to any person on a contingency or an uncertain event;
- (e) in respect of the income of any person who dies during any year of assessment or who dies after the close of any year of assessment but before rendering a return of his income for such year of assessment, the executor or administrator of the estate of such person;
- (f) in respect of the income deemed to have been received by any person as the result of the apportionment of the income of any private company, the public officer of that company, irrespective of whether such income has been apportioned directly to that person from that company or through some other private company,

(6) Afsonderlike opgawes wat deur eggenotes ooreenkomstig die voorbehoudsbepaling van sub-artikel (1) van artikel *ag-en-vyftig* verstrek mag word, word afsonderlik aangeslaan, en afsonderlike kennisgewings van aanslag word aan die onderskeie eggenotes gestuur : Met dien verstande dat die totale bedrag van belasting betaalbaar ten opsigte van die afsonderlike aanslae aldus uitgereik nie minder is nie as die totale bedrag wat deur die man alleen betaalbaar sou gewees het as die inkomstes van beide man en vrou aangeslaan gewees het as die inkomste van die man alleen.

(7) Ondanks die bepalings van sub-artikel (15) van artikel *vyf-en-vyftig* word vennote afsonderlik aangeslaan.

(8) Die Kommissaris reik 'n aanslag aan die openbare amptenaar van 'n private maatskappy uit, en in die geval van 'n private maatskappy wie se belasbare inkomste of aan superbelasting onderhewige inkomste ooreenkomstig artikel *sewen-en-dertig* aan sy aandeelhouers toegedeel word, moet sodanige aanslag die bedrag van die belasbare inkomste of aan superbelasting onderhewige inkomste van bedoelde maatskappy soos deur hom vasgestel, vermeld, maar bepaal nie enige bedrag van belasting daarop wat te betaal is nie behalwe die bedrag van 'n addisionele belasting wat ooreenkomstig die voorbehoudsbepaling van sub-artikel (1) van artikel *vyf-en-sestig* op die maatskappy hefbaar mag wees : Met dien verstande dat wanneer die belasbare inkomste of aan superbelasting onderhewige inkomste ooreenkomstig artikel *negen-en-derlig* nie aan sy aandeelhouers toegedeel word nie die bedrag van die belasting betaalbaar deur sodanige maatskappy bepaal moet word.

68. Die register van aanslae is nie vir die publiek ter insae Insae van register beskikbaar nie maar elke belastingpligtige is geregtig op af- van aanslae. skrifte deur of namens die Kommissaris gesertifiseer, van sulke aangetekende besonderhede as wat op hom betrekking het.

DEEL II.

Verteenwoordigende Belastingpligtiges.

69. By die toepassing van hierdie Wet beteken „verteenwoerdigende belastingpligtige“— Betekenis van

- (a) ten opsigte van die inkomste van 'n maatskappy, die openbare amptenaar daarvan ;
- (b) ten opsigte van die inkomste onder sy bestuur, tot sy besikking of onder sy beheer, die agent van 'n persoon, met inbegrip van 'n agent as sodanig aangestel ingevolge die bepalings van artikel *vier-en-swendig*. Vir die doeleindes van hierdie paragraaf omvat die uitdrukking „agent“ verder elke persoon in die Unie wat inkomste ontvang, bestuur of onder sy beheer het ten behoeve van 'n persoon permanent of tydelik uit die Unie afwesig, of wat inkomste aan so 'n persoon remitteer of betaal of geld vir so 'n persoon ontvang ;
- (c) ten opsigte van inkomste wat die onderwerp van 'n trust is of ten opsigte van die inkomste van 'n minderjarige of van 'n geestelik gekrenkte of swaksinnige persoon of enige ander regsonbevoegde persoon, die trustee, voog, kurator of ander persoon wat geregtig is op die ontvangs of bestuur van of die besikking of beheer oor sodanige inkomste, of wat geld remitteer of uitbetaal aan of ontvang ten behoeve van sodanige regsonbevoegde persoon ;
- (d) ten opsigte van inkomste betaal ingevolge die vonnis of bevel van 'n hof of regter aan 'n ontvanger of ander persoon, daardie ontvanger of persoon, wie ook al op die voordeel van sodanige inkomste geregtig mag wees, en of dit aan 'n persoon toeval op sekere voorwaardes of by die plaasvind van 'n onsekere gebeurtenis al dan nie ;
- (e) ten opsigte van die inkomste van 'n persoon wat in die loop van 'n jaar van aanslag te sterwe kom of wat te sterwe kom na aloop van 'n jaar van aanslag maar voor die verstrekking van 'n opgaaf van sy inkomste vir daardie jaar van aanslag, die eksekuteur of administrateur van die hoedel van sodanige persoon ;
- (f) ten opsigte van die inkomste wat geag word deur 'n persoon ontvang te gewees het ten gevolge van die toedeling van die inkomste van 'n private maatskappy, die openbare amptenaar van daardie maatskappy, onverskillig of sodanige inkomste regstreeks aan daardie persoon van daardie maatskappy toegedeel is of deur tussenkoms van 'n ander private maatskappy,

but nothing herein contained shall be construed as relieving any person from any liability, responsibility or duty imposed upon him by this Act.

Liability of representative taxpayer.

70. (1) Every representative taxpayer, as regards the income to which he is entitled in his representative capacity, or of which in such capacity he has the management, receipt, disposal, remittance, payment or control, shall be subject in all respects to the same duties, responsibilities and liabilities as if the income were income received by or accruing to or in favour of him beneficially and shall be liable to assessment in his own name in respect of that income, but any such assessment shall be deemed to be made upon him in his representative capacity only.

(2) Any abatement, deduction, exemption or right to set off a loss which could be claimed by the person represented by him shall be allowed in the assessment made upon the representative taxpayer in his capacity as such.

(3) Any tax payable in respect of any such assessment shall, save in the case of an assessment upon the public officer of a company, be recoverable from the representative taxpayer, but to the extent only of any assets belonging to the person whom he represents which may be in his possession or under his management, disposal or control.

(4) Any tax payable in respect of any assessment made upon a public officer of a company in his capacity as such shall be recoverable from the company of which he is the public officer.

(5) If the income of a private company has been apportioned to shareholders in terms of section *thirty-seven* and the aggregate of the additional normal and super taxes payable by any shareholder and resulting from the apportionment to him exceeds the amount of the dividends distributed by such company to such shareholder during the period covered by the returns rendered by such company for the year of assessment under charge, or subsequent to that period but prior to the date of issue of the assessment made by the Commissioner upon the shareholder, the amount by which the aggregate of such additional normal and super taxes exceeds the dividends so distributed may be recovered by the Commissioner from such private company : Provided that if any person to whom an apportionment has been so made is, at the date on which the company is called upon by the Commissioner to pay such amount, no longer a shareholder in such company, the amount shall not be recoverable from the company but shall be payable by the person on whom the Commissioner's assessment of such additional amounts of normal and super taxes was made.

Right of representative taxpayer to indemnity.

71. (1) Subject to the provisions of sub-section (2), every representative taxpayer who, as such, pays any tax shall be entitled to recover the amount so paid from the person on whose behalf it is paid, or to retain out of any moneys that may be in his possession or may come to him in his representative capacity, an amount equal to the amount so paid.

(2) A private company which has been required by the Commissioner, in terms of sub-section (5) of section *seventy* to pay any amount, shall not be entitled to recover from the shareholder concerned the amount so paid, except by way of set-off against any dividend on the shares held by that shareholder, distributed by the company subsequent to the date on which the assessment of the said amount was made by the Commissioner, and the company shall not be entitled to include in the amount so set off any charge for interest, but shall be entitled to refuse to register the transfer of shares out of the name of the shareholder in respect of which the additional liability for tax arose, or, where the shares are registered on the shareholder's behalf in the name of some person other than the person upon whom the assessment was made by the Commissioner, out of the name of that other person, until the amount paid by the company has been refunded to the company by the shareholder or recovered by such company from the shareholder by way of set-off as herein provided.

maar geeneen van die bepalings hierin vervat het die bedoeling om 'n persoon te ontheft van aanspreeklikheid, verantwoordelikheid of 'n verpligting deur hierdie Wet aan hom opgelê nie.

70. (1) Elke vteenwoordigende belastingpligtige is, met Aanspreeklikheid van vteen-woordigende be-Instingpligtige. betrekking tot die inkomste waarop hy in sy vteenwoordigende hoedanigheid geregtig is of wat of waaroer hy in daardie hoedanigheid bevoeg is om te bestuur, te ontvang, te beskik, te remitteer, uit te betaal of te beheer, in alle opsigte onderhewig aan dieselfde pligte, verantwoordelikhede en verpligtings asof die inkomste deur hom ontvang was of aan of ten gunste van hom toegeval het tot sy voordeel, en is onderhewig aan aanslag op sy eie naam ten opsigte van daardie inkomste, maar 'n sodanige aanslag word geag op hom gedoen te word slegs in sy vteenwoordigende hoedanigheid.

(2) 'n Korting, afstrekking, vrystelling of reg om 'n verlies in vergelyking te bring wat deur die deur hom vteenwoordigde persoon gevorder kon word, word by die aanslag gedoen op die vteenwoordigende belastingpligtige in sy hoedanigheid as sulks toegestaan.

(3) 'n Belasting betaalbaar ten opsigte van 'n sodanige aanslag kan, behalwe in die geval van 'n aanslag op die openbare amptenaar van 'n maatskappy, van die vteenwoordigende belastingpligtige ingevorder word, maar slegs in die omvang van bate behorende aan die persoon wat hy vteenwoordig, wat in sy besit of onder sy bestuur, beskikking of beheer mag wees.

(4) 'n Belasting betaalbaar ten opsigte van 'n aanslag gedoen op 'n openbare amptenaar van 'n maatskappy in sy hoedanigheid as sulks kan van die maatskappy waarvan hy die openbare amptenaar is ingevorder word.

(5) Indien die inkomste van 'n private maatskappy ooreenkomsdig artikel *sewen-en-dertig* aan aandeelhouers toegedeel is, en die totaal van die addisionele normale en superbelastings betaalbaar deur 'n aandeelhouer en wat volg op die toedeling aan hom, die bedrag van die diwidende deur daardie maatskappy aan sodanige aandeelhouer uitgekeer gedurende die tydvak gedeel deur die opgawes wat deur daardie maatskappy vir die jaar van aanslag waarvoor die hessing geskied, verstrek is, of na bedoelde tydvak maar voor die datum van uitreiking van die aanslag deur die Kommissaris op die aandeelhouer gedoen, te bowe gaan, kan die bedrag waarmee die totaal van sodanige addisionele normale en superbelastings die aldus uitgekeerde diwidende oortref deur die Kommissaris van sodanige private maatskappy ingevorder word: Met dien verstande dat indien 'n persoon aan wie 'n toedeling aldus gedoen is, op die datum waarop van die maatskappy deur die Kommissaris vereis word om sodanige bedrag te betaal, nie meer 'n aandeelhouer in daardie maatskappy is nie, die bedrag nie op die maatskappy verhaal kan word nie, maar betaalbaar is deur die persoon op wie die Kommissaris se aanslag van sodanige addisionele bedrae van normale en superbelastings gedoen is.

71. (1) Behoudens die bepalings van sub-artikel (2), is elke vteenwoordigende belastingpligtige wat, as sodanig, 'n belasting betaal, geregtig om die aldus betaalde bedrag op die persoon ten behoeve van wie dit betaal is te verhaal of om 'n bedrag gelyk aan die aldus betaalde bedrag uit gelde wat in sy vteenwoordigende hoedanigheid in sy besit mag wees of hom ter hand mag kom, terug te hou.

(2) 'n Private maatskappy van wie ooreenkomsdig sub-artikel (5) van artikel *sewentig* deur die Kommissaris vereis is om 'n bedrag te betaal, is nie geregtig om die aldus betaalde bedrag op die betrokke aandeelhouer te verhaal nie behalwe by wyse van vergelyking met 'n diwidend op die aandele deur daardie aandeelhouer besit wat deur die maatskappy uitgekeer is na die datum waarop die aanslag van bedoelde bedrag deur die Kommissaris gedoen is, en die maatskappy is nie geregtig om 'n vordering vir rente by die bedrag aldus in vergelyking gebring in te sluit nie, maar is geregtig om te weier om die oordrag van aandele ten opsigte waarvan die addisionele belastingpligtigheid aan belasting ontstaan het uit die naam van die aandeelhouer te registreer, of, wanneer die aandele ten behoeve van die aandeelhouer geregistreer is in die naam van 'n ander persoon as die persoon op wie die aanslag deur die Kommissaris gedoen is, uit die naam van daardie ander persoon, totdat die deur die maatskappy betaalde bedrag deur die aandeelhouer aan die maatskappy terugbetaal is of deur sodanige maatskappy van die aandeelhouer ingevorder is by wyse van vergelyking soos hierin bepaal.

Personal liability
of representative
taxpayer.

72. Every representative taxpayer shall be personally liable for any tax payable by him in his representative capacity, if, while it remains unpaid—

- (a) he alienates, charges or disposes of the income in respect of which the tax is chargeable; or
- (b) he disposes of or parts with any fund or money, which is in his possession or comes to him after the tax is payable when from or out of such fund or money the tax could legally have been paid.

Company regarded
as agent for absent
shareholder.

73. Where a shareholder or a member of a company is absent from the Union, such company shall, for the purposes of this Act, be deemed to be the agent for such shareholder or member, and shall as regards such shareholder or member and in respect of any income received by or accruing to him or in his favour as shareholder or member, have and exercise all the powers, duties and responsibilities of an agent for a taxpayer absent from the Union.

Power to appoint
agent.

74. The Commissioner may, if he thinks necessary, declare any person to be the agent of any other person, and the person so declared an agent shall be the agent for the purposes of this Act and may be required to make payment of any tax due from any moneys, including pensions, salary, wages or any other remuneration, which may be held by him for or due by him to the person whose agent he has been declared to be.

Remedies of
Commissioner
against agent or
trustee.

75. The Commissioner shall have the same remedies against all property of any kind vested in or under the control or management of any agent or trustee as he would have against the property of any person liable to pay any tax and in as full and ample a manner.

Public officers of
companies.

76. (1) Every company carrying on business or having an office in the Union shall at all times be represented by an individual residing therein.

(2) Such individual shall be a person approved by the Commissioner and shall be appointed by the company or by an agent or attorney who has authority to appoint such a representative for the purposes of this Act: Provided that in the event of any company being placed in voluntary or compulsory liquidation the liquidator or liquidators duly appointed shall be required to exercise in respect of that company all the functions and assume all the responsibilities of a public officer under this Act during the continuance of the liquidation.

(3) The representative shall be called the public officer of the company and shall be appointed, in the case of a company which at the commencement of this Act so carries on business or has an office in the Union, within two months after such commencement, and in the case of a company which thereafter begins to carry on business or has an office in the Union, within one month after so beginning to carry on business or acquiring the office.

(4) In default of any such appointment the public officer of any company shall be such managing director, director, secretary or other officer of the company, as the Commissioner may designate for that purpose.

(5) Every company within the period prescribed by sub-section (3) shall also appoint a place within the Union approved by the Commissioner at which any notice or other instruments under this Act affecting the company may be served or delivered or to which any such notices or documents may be sent.

(6) No appointment shall be deemed to have been made under sub-section (3) or (5), until notice thereof specifying the name of the public officer and an address for service or delivery of notices and documents has been given to the Commissioner.

(7) Every company shall keep the office of public officer constantly filled and shall at all times maintain a place for the service or delivery of notices in accordance with sub-section (5); and every change of public officer or of the place for the service or delivery of notices shall be notified to the Commissioner within fourteen days of such change taking effect.

(8) Any company which makes default in appointing a public officer or appointing a place for service or delivery of notices in accordance with this Act, or in keeping the office of public officer constantly filled, or in maintaining a place for the service or delivery of notices or which fails to notify to the Commissioner any change of public officer or of the place for the service or delivery of notices, and every person who acts

72. Elke verteenwoordigende belastingpligtige is persoonlik aanspreeklik vir 'n belasting deur hom in sy verteenwoordigende hoedanigheid betaalbaar, indien hy, solang die belasting onbetaal bly—

Persoonlike aanspreeklikheid van verteenwoordigende belastingpligtige.

- (a) die inkomste ten opsigte waarvan die belasting hefbaar is vervreem, beswaar of daaroor beskik ; of
- (b) oor 'n fonds of geld beskik of uit sy hande laat gaan, wat in sy besit is of hom ter hand kom nadat die belasting betaalbaar word, indien die belasting wettig uit sodanige fonds of geld betaal kon geword het.

73. Wanneer 'n aandeelhouer of lid van 'n maatskappy uit die Unie afwesig is, word daardie maatskappy by die toepassing van hierdie Wet geag die agent van sodanige aandeelhouer of lid te wees, en met betrekking tot sodanige aandeelhouer of lid, en ten opsigte van inkomste deur hom ontvang of wat aan of ten gunste van hom as aandeelhouer of lid toeval, het en oefen hy al die bevoegdhede, pligte en verantwoordelikhede uit van 'n agent vir 'n uit die Unie afwesige belastingpligtige.

Maatskappy beskou as agent vir afwesige aandeelhouer.

74. Die Kommissaris kan, indien hy dit nodig ag, 'n persoon Bevoegdheid om tot agent van 'n ander persoon verklaar, en die persoon aldus agent aan te stel. tot agent verklaar is die agent vir die doeleindes van hierdie Wet, en van hom kan vereis word om 'n verskuldigde belasting te betaal uit gelde, met inbegrip van pensioene, salaris, lone of ander besoldiging wat deur hom gehou mag word vir, of deur hom verskuldig mag wees aan die persoon tot agent van wie hy verklaar is.

75. Die Kommissaris het dieselfde regsmiddelle teen alle eiendom van welke soort ook wat gevestig is in of onder die beheer of bestuur is van 'n agent of trustee, as wat hy sou hê teen die eiendom van 'n persoon wat verplig is om 'n belasting te betaal en op 'n ewe volle en ruime wyse.

Regsmiddelle van Kommissaris teen agent of trustee.

76. (1) Elke maatskappy wat in die Unie besigheid dryf Openbare amptenaar van maatskappye. of 'n kantoor het, word te alle tye deur 'n in die Unie woonagtige indiwidu verteenwoordig.

(2) Sodanige indiwidu moet 'n deur die Kommissaris goedgekeurde persoon wees en word aangestel deur die maatskappy of deur 'n agent of gevollmachtigde wat gemagtig is om so 'n verteenwoordiger aan te stel vir die doeleindes van hierdie Wet : Met dien verstande dat ingeval 'n maatskappy in vrywillige of gedwonge likwidasie geplaas word, die behoorlik aangestelde likwidateur of likwidateurs ten opsigte van daardie maatskappy al die werksaamhede moet verrig en al die verantwoordelikhede moet aanvaar van 'n openbare amptenaar ingevolge hierdie Wet solank die likwidasie voortduur.

(3) Die verteenwoordiger heet die openbare amptenaar van die maatskappy, en word aangestel, in die geval van 'n maatskappy wat by die inwerkingtreding van hierdie Wet aldus in die Unie besigheid dryf of 'n kantoor het, binne twee maande na sodanige inwerkingtreding, en in die geval van 'n maatskappy wat daarna in die Unie begin besigheid dryf of 'n kantoor het, binne een maand nadat hy aldus begin besigheid dryf of die kantoor verkry.

(4) By gebreke aan so 'n aanstelling is die openbare amptenaar van 'n maatskappy sodanige besturende direkteur, direkteur, sekretaris of ander amptenaar van die maatskappy as wat die Kommissaris vir daardie doel aanwys.

(5) Elke maatskappy moet ook binne die by sub-artikel (3) voorgeskrewe tydperk, 'n deur die Kommissaris goedgekeurde plek in die Unie aandui waar kennisgewings of ander stukke ingevolge hierdie Wet wat op die maatskappy betrekking het, gedien of aangelever kan word of waarna sodanige kennisgewings of stukke gestuur kan word.

(6) Geen aanstelling word geag ingevolge sub-artikel (3) of (5) gemaak te gewees het nie totdat kennisgewing daarvan, waarin die naam van die openbare amptenaar en 'n adres vir die diening of afluivering van kennisgewings en dokumente vermeld word, aan die Kommissaris gegee is.

(7) Elke maatskappy hou die amp van openbare amptenaar voortdurend gevul, en hou te alle tye 'n plek aan vir die diening of afluivering van kennisgewings ooreenkomsdig sub-artikel (5) ; en elke verandering van openbare amptenaar of van die plek vir die diening of afluivering van kennisgewings word binne veertien dae nadat sodanige verandering plaasgevind het, aan die Kommissaris meegedeel.

(8) 'n Maatskappy wat in gebreke bly om 'n openbare amptenaar aan te stel of om 'n plek vir die diening of afluivering van kennisgewings ooreenkomsdig hierdie Wet aan te dui, of om die amp van openbare amptenaar voortdurend gevul te hou, of om 'n plek vir die diening of afluivering van kennisgewings aan te hou of wat versuim om 'n verandering van openbare amptenaar of van die plek vir die diening of afluivering van dokumente

within the Union as agent or manager or representative of such company, shall incur a penalty not exceeding one pound for every day during which the default continues; and every such penalty shall be recoverable by the Commissioner by action in any court of competent jurisdiction.

(9) Every notice, process or proceeding which under this Act may be given to, served upon or taken against any company, may be given to, served upon, or taken against its public officer and if at any time there is no public officer, then any such notice, process or proceeding may be given to, served upon or taken against any officer or person acting or appearing to act in the management of the business or affairs of such company or as agent for such company.

(10) Every public officer shall be answerable for the doing of all such acts, matters or things as are required to be done under this Act by a taxpayer, and in case of default, shall be liable to the penalties provided in respect of defaults by a taxpayer.

(11) Everything done by any public officer which he is required to do in his representative capacity shall be deemed to have been done by the company which he represents.

(12) The absence or non-appointment of a public officer shall not exonerate any company from the necessity of complying with the provisions of this Act; but the company shall in all respects be subject to and liable to comply with the provisions of the Act as if there were no requirement to appoint such officer.

(13) Any public officer who was appointed or is deemed to have been appointed under the provisions of the Income Tax Act, 1925, as amended, and is holding office at the commencement of this Act, shall, provided that no objection to his continuance in office is raised by the Commissioner, be deemed to be a public officer appointed under this Act.

PART III.

Objections and Appeals.

Time and manner
of lodging objec-
tions.

77. (1) Objections to any assessment made under this Act may, subject to the provisions of sub-section (2), be made within twenty-one days after the date of the assessment notice, in the manner and under the terms prescribed by this Act by any taxpayer who is aggrieved by any assessment in which he is interested.

(2) If the taxable income or income subject to super tax of a private company has been apportioned in terms of section *thirty-seven*, the public officer of that company shall be the person entitled to make an objection in terms of sub-section (1) against—

- (a) the decision of the Commissioner in terms of paragraph (a), (b) or (c) of sub-section (2) of section *thirty-three*; and
- (b) the assessment issued to him in terms of sub-section (8) of section *sixty-seven*.

(3) The shareholder of any private company the taxable income or income subject to super tax of which has been apportioned in terms of section *thirty-seven* shall not be entitled to make an objection relating to matters specified in sub-section (2) but shall be entitled to make an objection against the determination made by the Commissioner in terms of section *thirty-six* as to the extent of the rights of such shareholder to participate in the profits or income of such private company.

(4) No objection shall be entertained by the Commissioner which is not delivered at his office or posted to him in sufficient time to reach him on or before the last day appointed for lodging objections, unless the Commissioner is satisfied that reasonable grounds exist for delay in lodging the objection.

(5) Every objection shall be in writing and shall specify in detail the grounds upon which it is made.

(6) On receipt of a notice of objection to an assessment the Commissioner may reduce or alter the assessment or may disallow the objection and shall send the taxpayer notice of

mente aan die Kommissaris mee te deel, en elke persoon wat in die Unie as agent of bestuurder of verteenwoordiger van sodanige maatskappy optree, loop 'n boete op van hoogstens een pond vir elke dag wat die versuim voortduur; en elke sodanige boete kan deur die Kommissaris by wyse van aksie in 'n bevoegde hof gevorder word.

(9) Alle kennisgewings, prosesstukke of geregtelike stappe wat ingevolge hierdie Wet gegee kan word aan, gedien kan word op, of gedoen kan word teen 'n maatskappy, kan gegee word aan, gedien word op, of gedoen word teen, sy openbare amptenaar, en as daar te eniger tyd geen openbare amptenaar is nie dan kan sodanige kennisgewings, prosesstukke of geregtelike stappe gegee word aan, gedien word op, of gedoen word teen enige amptenaar of persoon wat die bestuur van die besigheid of die sake van sodanige maatskappy waarnem of blyk waar te neem, of wat as agent vir sodanige maatskappy optree of oënskynlik optree.

(10) Elke openbare amptenaar is verantwoordelik vir die doen van al sulke handelings, aangeleenthede of dinge as wat ingevolge hierdie Wet deur 'n belastingpligtige gedoen moet word, en in geval van versuim is hy onderhewig aan die boetes bepaal ten opsigte van versuim deur 'n belastingpligtige.

(11) Alle dinge deur 'n openbare amptenaar gedoen wat hy in sy verteenwoordigende hoedanigheid moet doen, word geag deur die maatskappy wat hy verteenwoordig gedoen te gewees het.

(12) Die afwesigheid of nie-aanstelling van 'n openbare amptenaar onthef nie 'n maatskappy van die noodsaaklikheid om aan die bepalings van hierdie Wet te voldoen nie; maar die maatskappy is in alle opsigte onderhewig aan die bepalings van hierdie Wet en verplig om daaraan te voldoen asof daar geen verpligting was om so 'n amptenaar aan te stel nie.

(13) 'n Openbare amptenaar wat aangestel was of wat geag word aangestel te gewees het ingevolge die bepalings van die Inkomstebelastingwet, 1925, soos gewysig, en daardie amp by die inwerkingtreding van hierdie Wet beklee, word, mits geen beswaar teen die voortsetting van sy ampsbekleding deur die Kommissaris geopper word nie, geag 'n ingevolge hierdie Wet aangestelde openbare amptenaar te wees.

DEEL III.

Besware en Appelle.

77. (1) Besware teen 'n aanslag ingevolge hierdie Wet Tyd en wyse van indiening van besware.

(1) Besware teen 'n aanslag ingevolge hierdie Wet Tyd en wyse van indiening van besware.

(2) Indien die belasbare inkomste of aan superbelasting onderhewige inkomste van 'n private maatskappy ingevolge artikel *sewen-en-dertig* toegedeel is, is die openbare amptenaar van daardie maatskappy die persoon wat geregtig is om 'n beswaar ooreenkomstig sub-artikel (1) te maak teen—

- (a) die beslissing van die Kommissaris ooreenkomstig paragraaf (a), (b) of (c) van sub-artikel (2) van artikel *drie-en-dertig*; en
- (b) die aanslag aan hom uitgereik ooreenkomstig sub-artikel (8) van artikel *sewen-en-sestig*.

(3) Die aandeelhouer van 'n private maatskappy waarvan die belasbare inkomste of aan superbelasting onderhewige inkomste ingevolge artikel *sewen-en-dertig* toegedeel is, is nie geregtig om 'n beswaar met betrekking tot aangeleenthede in sub-artikel (2) bepaal te maak nie, maar is geregtig om 'n beswaar te maak teen die vasstelling gemaak deur die Kommissaris ooreenkomstig artikel *ses-en-dertig* aangaande die omvang van die regte van sodanige aandeelhouer om in die winste of inkomste van sodanige private maatskappy te deel.

(4) Geen beswaar word deur die Kommissaris in oorweging geneem wat nie in genoegsame tyd by sy kantoor aangelever is of per pos aan hom gestuur is om hom op of voor die laaste dag bepaal vir die indiening van besware te bereik nie tensy die Kommissaris oortuig is dat daar redelike gronde bestaan vir die vertraging by die indiening van die beswaar.

(5) Elke beswaar geskied in geskrifte en moet die gronde waarop dit steun in besonderhede aandui.

(6) Die Kommissaris kan by ontvangs van 'n kennisgiving van beswaar teen 'n aanslag, die aanslag verminder of wysig of die beswaar van die hand wya e' moet 'n kennisgiving

such alteration, reduction or disallowance, and record any alteration or reduction made in the assessment.

(7) Where no objections are made to any assessment or where objections have been allowed or withdrawn, such assessment or altered or reduced assessment, as the case may be, shall, subject to the right of appeal hereinafter provided, be final and conclusive.

The burden of proof as to exemptions, deductions or abatements.

78. The burden of proof that any amount is exempt from or not liable to any tax chargeable under this Act or is subject to any deduction, abatement or set-off in terms of this Act, shall be upon the person claiming such exemption, non-liability, deduction, abatement or set-off, and upon the hearing of any appeal from any decision of the Commissioner, the decision shall not be reversed or altered unless it is shown by the appellant that the decision is wrong.

Appeal to a specially constituted court against Commissioner's decision.

79. (1) Any person entitled to make an objection who is dissatisfied with any decision of the Commissioner as notified to him in terms of sub-section (6) of section *seventy-seven* may appeal therefrom to a special court for hearing income tax appeals, constituted in accordance with the provisions of this section.

(2) Every court so constituted shall consist of an advocate of one of the divisions of the Supreme Court of the Union, of not less than ten years' standing, who shall be the President of the Court, and an accountant of not less than ten years' standing and a representative of the commercial community: Provided that in all cases relating to the business of mining, such third member shall, if the appellant so desires, be a qualified mining engineer.

(3) The Governor-General may, by proclamation in the *Gazette*, constitute such court or courts for such area or areas as he may think fit and may from time to time by such proclamation abolish any existing court or courts or constitute such additional courts as circumstances may require: Provided that the courts so constituted under the provisions of the Income Tax Act, 1925, shall for the purpose of this Act be deemed to be courts constituted in accordance with this section.

(4) Any appeals lodged under the provisions of the Income Tax Act, 1925, may be heard and determined by any court constituted under the provisions of this Act or deemed to be so constituted.

(5) The members of the courts shall be appointed by the Governor-General by proclamation in the *Gazette*. Every such appointment unless sooner terminated by the Governor-General for any reason which in his opinion is good and sufficient or by reason of the abolition of the court in terms of sub-section (3), shall be for a period of five years from the date of such proclamation: Provided that any person so appointed shall be eligible for re-appointment for such further period or periods as the Governor-General may think fit: Provided further that the members of the courts constituted under the provisions of the Income Tax Act, 1925, and deemed to be constituted under the provisions of this Act, shall be deemed to be persons appointed under the provisions of this sub-section as from the commencement of this Act.

(6) Every notice of appeal shall be in writing and shall be lodged with the Commissioner within thirty days after the date of the notice mentioned in sub-section (6) of section *seventy-seven*. No such notice of appeal shall be of any force or effect whatsoever unless it has been lodged within the time prescribed by this sub-section.

(7) At any such appeal the person who made the objection shall be limited to the grounds stated in his notice of objection.

(8) If the assessment has been altered or reduced, the assessment as altered or reduced shall be deemed to be the assessment against which the appeal is made.

(9) At least ten days before the date fixed for the hearing of an appeal the Commissioner shall send to the person who made the objection or to his duly authorized attorney or representative a written notice of the time and place appointed for the hearing of such appeal.

(10) The hearing of an appeal may be adjourned by the court from time to time to any time and place that may seem convenient.

(11) The sittings of the court for the hearing of such appeals shall not be public, and the court shall, at any time on the application of the appellant, exclude from such sitting or re-

van sodanige wysiging, vermindering of afwysing aan die belastingpligtige stuur en moet elke wysiging of vermindering van die aanslag aanteken.

(7) Wanneer geen besware teen 'n aanslag gemaak word nie of wanneer besware gehandhaaf of teruggetrek is, is sodanige aanslag of gewysigde of verminderde aanslag, na gelang van die geval, behoudens die reg van appèl hierna bepaal, finaal en afdoende.

78. Die bewyslas dat 'n bedrag vrygestel is van of nie onderhewig is nie aan 'n belasting hefbaar ingevolge hierdie Wet, of onderhewig is aan 'n afstrekking, korting of vergelyking ooreenkomsdig hierdie Wet, rus op die persoon wat op sodanige vrystelling, nie-onderhewigheid, afstrekking, korting of vergelyking aanspraak maak, en by die verhoor van 'n appèl teen 'n beslissing van die Kommissaris, word die beslissing nie omvergewerp of verander nie tensy deur die appellant bewys word dat die beslissing verkeerd is.

79. (1) Elke persoon daartoe geregtig om 'n beswaar te maak wat ontevreden is met 'n beslissing van die Kommissaris soos aan hom meegedeel ooreenkomsdig sub-artikel (6) van artikel *seuen-en-sewentig* kandaar een appelleer na 'n spesiale hof vir die verhoor van inkomstebelasting-appelle, ingestel ooreenkomsdig die bepalings van hierdie artikel.

(2) Elke aldus ingestelde hof bestaan uit 'n advokaat van een van die afdelings van die Hooggereghof van die Unie, van 'n beroepstyd van minstens tien jaar, wat die Voorsitter van die hof moet wees, en 'n rekenmeester van 'n beroepstyd van ten minste tien jaar, en 'n verteenwoordiger van die handelstand : Met dien verstande dat in alle gevalle wat op die mynbesigheid betrekking het, sodanige derde lid 'n gekwalifiseerde myningenieur moet wees indien die appellant dit verlang.

(3) Die Goewerneur-generaal kan by proklamasie in die *Staatskoerant* sodanige hof of howe instel vir sodanige gebied of gebiede as wat hy goedvind, en kan van tyd tot tyd by so 'n proklamasie enige bestaande hof of howe afskaf of sulke addisionele howe instel as wat die omstandighede mag vereis : Met dien verstande dat die howe aldus ingestel ingevolge die bepalings van die Inkomstebelastingwet, 1925, by die toepassing van hierdie Wet geag word howe te wees wat ooreenkomsdig hierdie artikel ingestel is.

(4) Appellee aangeteken ingevolge die bepalings van die Inkomstebelastingwet, 1925, kan verhoor en beslis word deur 'n hof wat ingevolge die bepalings van hierdie Wet ingestel is of geag word aldus ingestel te wees.

(5) Die lede van die howe word deur die Goewerneur-generaal by proklamasie in die *Staatskoerant* aangestel. Elke sodanige aanstelling duur, tensy dit eerder deur die Goewerneur-generaal beëindig word om redes wat volgens sy oordeel gegrond en voldoende is of weens die afskaffing van die hof ooreenkomsdig sub-artikel (3), vir 'n tydvak van vyf jaar vanaf die datum van sodanige proklamasie : Met dien verstande dat 'n aldus aangestelde persoon in aanmerking kom vir weeraanstelling vir sodanige verdere tydvak of tydvakke as wat die Goewerneur-generaal goedvind : Met dien verstande voorts dat die lede van die howe ingestel ingevolge die bepalings van die Inkomstebelastingwet, 1925, en geag ingestel te wees ingevolge die bepalings van hierdie Wet, geag word persone te wees aangestel ingevolge die bepalings van hierdie sub-artikel vanaf die inwerkingtreding van hierdie Wet.

(6) Elke kennisgewing van appèl geskied skriftelik en word by die Kommissaris ingedien binne dertig dae na die datum van die kennisgewing in sub-artikel (6) van artikel *seuen-en-sewentig* vermeld. 'n Sodanige kennisgewing van appèl het geen uitwerking of krag hoegenaamd nie, tensy dit binne die by hierdie sub-artikel voorgeskrewe tydvak ingedien is.

(7) By so 'n appèl word die persoon wat die beswaar gemaak het beperk tot die gronde in sy kennisgewing van beswaar vermeld.

(8) Indien die aanslag gewysig of verminder is, word die aanslag soos gewysig of verminder geag die aanslag te wees waarteen geappelleer word.

(9) Ten minste tien dae voor die datum bepaal vir die verhoor van 'n appèl, stuur die Kommissaris aan die persoon wat die beswaar gemaak het of aan sy behoorlik gemagtigde prokureur of verteenwoordiger, 'n skriftelike kennisgewing van die tyd en plek wat vir die verhoor van sodanige appèl vasgestel is.

(10) Die verhoor van 'n appèl kan van tyd tot tyd deur die hof verdaag word tot 'n tyd en plek wat die hof geleë ag.

(11) Die sittings van die hof vir die verhoor van sulke appelle is nie vir die publiek toeganklik nie en die hof moet te eniger tyd, op aansoek van die appellant, alle of enige persone

Dio bowyslas van vrystellings,
vermindering of kortings.

Appèl na 'n
spesiale ingestelde
hof teen beslissing
van die Kommissaris.

quire to withdraw therefrom all or any persons whomsoever whose attendance shall not be necessary for the hearing of the appeal under consideration.

(12) The Commissioner or any person authorized by him may appear in support of the assessment on the hearing of any appeal, and the appellant and any person who is interested in such appeal may appear in person or by his counsel, attorney or agent.

(13) Subject to the provisions of this Act, the court may order any assessment under appeal 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.

(14) Any assessment made by the Commissioner on such reference shall be subject to objection and appeal as in this Part provided.

(15) Any decision of the court shall be recorded by the Commissioner.

(16) The court shall not make any order as to costs save when the claim of the Commissioner is held to be unreasonable or the grounds of appeal therefrom to be frivolous.

(17) Any decision of the court under this section shall, subject to the provisions of section *eighty-one*, be final.

Payment of tax pending appeal.

80. The obligation to pay and the right to receive and recover any tax chargeable under this Act shall not, unless the Commissioner so direct, be suspended by any appeal or pending the decision of a court of law under section *eighty-one*; but if any assessment is altered on appeal or in conformity with any such decision a due adjustment shall be made, for which purpose amounts paid in excess shall be refunded and amounts short-paid shall be recoverable with interest from the date of receipt or of short-payment.

Appeal in questions of law.

81. (1) Upon the determination of an appeal by the special court, the appellant or the Commissioner, if dissatisfied with that determination as being erroneous in point of law, may require the special court by notice in writing addressed to the registrar of the court, to state a case for the determination of such question of law by the provincial or local division of the Supreme Court of South Africa having jurisdiction in the area in which the sitting of the special court was held.

(2) An appeal shall lie to the Appellate Division of the Supreme Court of South Africa from a decision of a provincial or local division under this section.

(3) Any such notice shall be lodged with the registrar of the special court within thirty days of the date of the notice issued by him notifying the decision of the special court and shall contain a concise statement of the question of law upon which the decision of the provincial or local division of the Supreme Court is desired.

Members of courts not disqualified from adjudicating.

82. A member of any special court and a judge of any division of the Supreme Court of South Africa shall not, solely on account of his liability to be assessed under this Act, be deemed to be interested in any matter upon which he may be called upon to adjudicate thereunder.

PART IV.

Payment and Recovery of Tax.

Appointment of day for payment of tax.

83. (1) Any tax chargeable under this Act shall be paid on such days and at such places as may be notified by the Commissioner or as may be specified in this Act, and may be paid in one sum or in instalments of equal or varying amounts as may be determined by the Commissioner having regard to the circumstances of the case: Provided that nothing herein contained shall deprive any taxpayer of the right to pay his tax either through the post or personally at the chief office of the Commissioner.

(2) Interest at seven per cent. per annum shall be payable on any amount not paid by the taxpayer on or before the due date.

Persons by whom normal and super tax payable.

84. Subject to the provisions of this Act normal tax and super tax leviable thereunder shall be payable—

(a) by the representative taxpayer, in respect of any income received or controlled by him in such representative capacity;

wie ook al wie se aanwesigheid nie nodig is vir die verhoor van die appèl onder oorweging nie, van sodanige sitting uitsluit of verlang dat hulle hul daarvan moet onttrek.

(12) Die Kommissaris of 'n deur hom gemagtigde persoon kan ter ondersteuning van die aanslag by die verhoor van 'n appèl verskyn, en die appellant en elke persoon wat by so 'n appèl belang het kan persoonlik of deur sy advokaat, prokureur of agent verskyn.

(13) Met inagneming van die bepalings van hierdie Wet kan die hof beveel dat 'n aanslag onder appèl gewysig, verminder of bekragtig word, of kan, indien hy dit nodig ag, die aanslag na die Kommissaris terugverwys vir verdere ondersoek en aanslag.

(14) 'n Aanslag deur die Kommissaris gedoen ingevolge so 'n terugverwysing is onderhewig aan beswaar en appèl volgens voorskrif van hierdie Deel.

(15) Alle beslissings van die hof word deur die Kommissaris aangeteken.

(16) Die hof gee nie 'n bevel met betrekking tot koste nie bebalwe wanneer die vordering van die Kommissaris onredelik geag word of die gronde van appèl daarteen beuselagtig.

(17) Met inagneming van die bepalings van artikel een-en-tagting is 'n beslissing van die hof ingevolge hierdie artikel aafdoende.

80. Die verpligting om 'n belasting hefbaar ingevolge hierdie Wet te betaal, en die reg om dit te ontvang en te in word Betaling van
belasting hangende
appèl. nie, tensy die Kommissaris aldus beveel, opgeskort deur 'n appèl of hangende die beslissing van 'n geregshof ingevolge artikel een-en-tagting nie, maar indien 'n aanslag verander word op appèl of ooreenkomsdig 'n sodanige beslissing, vind 'n behoorlike wysiging plaas, vir watter doel bedrae wat te veel betaal is terugbetaal word en bedrae wat te min betaal is verhaal kan word met rente vanaf die datum van ontvangs of van te min betaling.

81. (1) Na die beslissing van 'n appèl deur die spesiale hof, Appèl op wets-kan die appellant of die Kommissaris, indien ontevrede met punto. daardie beslissing op grond daarvan dat dit regtens onjuis is, by skriftelike kennisgewing aan die griffier van die hof gerig, van die spesiale hof verlang om 'n saak te stel ter beslissing van sodanige regspunt deur die provinsiale of plaaslike afdeling van die Hooggeregshof van Suid-Afrika wat regsvoegdheid het in die gebied waarin die sitting van die spesiale hof plaasgevind het.

(2) Teen 'n beslissing van 'n provinsiale of plaaslike afdeling ingevolge hierdie artikel kan na die Afdeling van Appèl van die Hooggeregshof van Suid-Afrika geappelleer word.

(3) 'n Sodaanige kennisgewing word ingedien by die griffier van die spesiale hof binne dertig dae na die datum van die kennisgewing deur hom uitgereik waarin die beslissing van die spesiale hof meegedeel word, en moet 'n bondige uiteensetting van die regsvraag waaromtrent die beslissing van die provinsiale of plaaslike afdeling van die Hooggeregshof verlang word, bevatt.

82. 'n Lid van 'n spesiale hof en 'n regter van 'n afdeling van die Hooggeregshof van Suid-Afrika word nie, om die enkele rede dat hy aan aanslag ingevolge hierdie Wet onderhewig is, onbevoeg om te
beslis nie. geag 'n belang te hê in 'n saak wat ingevolge hierdie Wet aan hom ter beslissing voorgelê word nie.

DEEL IV.

Betaling en Invordering van Belasting.

83. (1) 'n Belasting hefbaar ingevolge hierdie Wet word op vasstelling van dag sulke dae en op sulke plekke betaal as wat deur die Kommissaris vir betaling van bekend gemaak word of wat in hierdie Wet bepaal word, en kan betaal word in een bedrag of in paaiemente van gelyke of verskillende bedrae soos deur die Kommissaris bepaal word met inagneming van die omstandighede van die geval: Met dien verstande dat geen bepaling hiervan 'n belastingpligtige die reg ontneem om sy belasting of deur die pos of persoonlik by die hoofkantoor van die Kommissaris te betaal nie.

(2) Rente teen sewe persent per jaar is betaalbaar op 'n bedrag wat nie deur die belastingpligtige op of voor die vervaldag betaal is nie.

84. Met inagneming van die bepalings van hierdie Wet is Persono deur wie
normalo en super-
belasting
betaalbaar is. normale en superbelasting hefbaar ingevolge daarvan betaalbaar—

(a) deur die verteenwoordigende belastingpligtige, ten opsigte van inkomste deur hom in sodanige verteenwoordigende hoedanigheid ontvang of beheer;

- (b) by the spouse upon whom any separate assessment notice has been served, where separate assessments have been made upon two spouses under the provisions of sub-section (6) of section *sixty-seven*;
- (c) in respect of every other income and in all other cases, by the person by whom the income is received or is deemed to have been received or to whom or in whose favour it accrues or is deemed to accrue or who is legally entitled to the receipt thereof: Provided that any person who is required under the provisions of this Act to include in his income any income which has been received by or accrued to or in favour of his minor child or children shall be entitled to recover from the funds held by or on behalf of such child or children such proportion of the taxation paid by him under this Act as is due to the inclusion in his income of the income of such child or children.

Recovery of tax.

85. (1) Any tax shall, when it becomes due or is payable, be deemed to be a debt due to the Government of the Union and shall be payable to the Commissioner in the manner and at the place prescribed, and may be sued for and recovered by action by the Commissioner in any court of competent jurisdiction.

(2) Notwithstanding anything contained in the Magistrates' Courts Act, 1917, or any amendment thereof, any amount whatsoever due and payable under this Act shall be recoverable by action in the court of the magistrate having jurisdiction in respect of the person by whom such amount is payable in accordance with the provisions of this Act.

(3) Any tax due and payable by any person married without community of property and not separated from his wife under a judicial order or written agreement may be recovered from the assets of his wife in so far as the tax is payable in respect of the income of his wife deemed to be his under the provisions of sub-section (2) of section *nine*.

Tax to be a liquid debt.

86. (1) Proceedings in any court for the recovery of any tax shall be deemed to be proceedings for the recovery of a liquid debt..

(2) In any action or proceedings for the recovery of any tax it shall not be competent for the defendant to question the correctness of any assessment, notwithstanding that objection and appeal may have been lodged thereto.

Substitution of section 101 of Act 24 of 1936.

87. Section *one hundred and one* of the Insolvency Act, 1936, as substituted by section *twenty-three* of the Income Tax Act, 1940, is hereby repealed and the following section substituted therefor :

"*Preference in regard to taxes on income.* 101. Thereafter any balance of the free residue shall be applied in paying—
 (a) any tax on the income of the insolvent levied under any Act of Parliament relating to income tax or to any other tax upon income or profit or any part thereof, in respect of any period prior to the date of the sequestration of his estate, whether or not that tax has become payable after that date ;
 (b) in the case of an insolvent partnership, so much of any tax due and payable by any partner as is referable to the taxable income derived by him from the partnership. The amount to be deemed to be so referable shall be a sum which bears to the total amount due by him as tax the same ratio that his taxable income derived from the partnership business bears to his total taxable income from all sources within the Union."

Evidence as to assessments.

88. The production of any document under the hand of the Commissioner purporting to be a copy of or extract from any notice of assessment shall be conclusive evidence of the making of such assessment and, except in the case of proceedings on appeal against the assessment, shall be conclusive evidence that the amount and all the particulars of such assessment appearing in such document are correct.

- (b) deur die eggenoot of eggenote op wie 'n afsonderlike kennisgewing van aanslag gedien is, waar afsonderlike aanslae op beide eggenotes gedoen is ingevolge die bepalings van sub-artikel (6) van artikel *sewen-en-sesig*;
- (c) ten opsigte van alle ander inkomste en in alle ander gevalle deur die persoon deur wie die inkomste ontvang word of geag word ontvang te gewees het of aan of ten gunste van wie dit toeval of geag word toe te val of wat volgens wet op die ontvangs daarvan geregtig is: Met dien verstande dat 'n persoon van wie dit ingevolge die bepalings van hierdie Wet vereis word om in sy inkomste enige inkomste in te sluit wat ontvang is deur of toegeval het aan of ten gunste van sy minderjarige kind of kinders, geregtig is om op die fondse deur of ten behoeve van bedoelde kind of kinders gehou, so 'n gedeelte van die deur hom ingevolge hierdie Wet betaalde belasting te verhaal as wat die gevolg is van die insluiting van die inkomste van sodanige kind of kinders in sy inkomste.

85. (1) 'n Belasting word, wanneer dit verskuldig word of *Invordering van belasting*, betaalbaar is, geag 'n skuld te wees verskuldig aan die Regering van die Unie, en is betaalbaar aan die Kommissaris op die voorgeskreve wyse en plek, en daarvoor kan gedagvaar word en dit kan verhaal word by wyse van aksie deur die Kommissaris in enige bevoegde hof.

(2) Ondanks enige bepaling van die „Magistraatshoven Wet, 1917” of 'n wysiging daarvan, kan enige bedrag hoegenaamd wat ingevolge hierdie Wet verskuldig en betaalbaar is, ingevorder word by wyse van aksie in die hof van die magistraat watregsbevoegdheid het ten aansien van die persoon deur wie sodanige bedrag ooreenkomsdig die bepalings van hierdie Wet betaalbaar is.

(3) 'n Belasting verskuldig en betaalbaar deur 'n persoon wat buite gemeenskap van goedere getroud is en wat nie van tafel en bed van sy vrou geskei is ingevolge 'n geregtelike bevel of skriftelike ooreenkoms nie, kan op die bate van sy vrou verhaal word na mate die belasting betaalbaar is ten opsigte van die inkomste van sy vrou wat ingevolge die bepalings van sub-artikel (2) van artikel *nege* geag word sy inkomste te wees.

86. (1) Geregtelike stappe in enige hof vir die invordering Belasting is 'n van 'n belasting word geag geregtelike stappe te wees vir die likwiede skuld.

(2) In 'n aksie of geding vir die invordering van 'n belasting is die verweerde nie bevoeg om die juistheid van 'n aanslag in twyfel te trek nie, nieteenstaande dat 'n beswaar en appèl daarteen ingedien is.

87. Artikel *honderd-en-een* van die Insolvencieswet, 1936, *Vervanging van soos vervang deur artikel drie-en-twintig van die Inkomstebelastingwet, 1940*, word hierby herroep en deur die volgende artikel vervang—

„Voorrang 101. Daarna word die orige van die vrye oorten opsigte skot aangewend tot betaling—

van inkomstebelasting. (a) van 'n belasting op die inkomste van die insolvent gehef ingevolge 'n Parlements-wet op inkomstebelasting of op enige ander belasting op inkomste of wins of 'n gedeelte daarvan, ten opsigte van 'n tydperk voor die datum van die sekwestrasie van sy boedel, onverskillig of daardie belasting na daardie datum betaalbaar geword het al dan nie;

(b) in die geval van 'n insolvente vennootskap, van soveel van 'n belasting verskuldig en betaalbaar deur 'n vennot as wat betrekking het op die belashbare inkomste deur hom uit die vennootskap verkry. Die bedrag wat geag moet word aldus betrekking te hê is 'n som wat dieselfde verhouding dra tot die totale bedrag deur hom aan belasting verskuldig as wat sy belashbare inkomste uit die vennootskapsbesigheid verkry, dra tot sy totale belashbare inkomste uit alle bronne in die Unie verkry.

88. Die oorlegging van 'n dokument onderteken deur die *Bewys van aanslag*. Kommissaris wat voorgee 'n afskrif van of 'n uittreksel uit 'n kennisgewing van aanslag te wees, is afdoende bewys dat so 'n aanslag gedoen is, en behalwe in die geval van geregtelike stappe op appèl teen die aanslag, is dit afdoende bewys dat die bedrag en al die besonderhede van so 'n aanslag wat in sodanige dokument voorkom, juis is.

PART V.

Miscellaneous.

Refund

89. (1) If it is proved to the satisfaction of the Commissioner that any amount paid by a taxpayer was in excess of the amount properly chargeable under this Act, the Commissioner may authorize a refund to such taxpayer of any tax overpaid: Provided that no amount paid in respect of an assessment made in accordance with the practice generally prevailing at the time when that assessment was made and accepted by the taxpayer shall be deemed to have been otherwise than properly so chargeable.

(2) The Commissioner shall not authorize any refund under this section unless the claim therefor is made within three years after the date when the assessment was made.

Transactions or operations designed to avoid liability for or reduce amount of tax.

90. Whenever the Commissioner is satisfied that any transaction or operation has been entered into or carried out for the purpose of avoiding liability for the payment of any tax imposed by this Act, or reducing the amount of any such tax, any liability for any such tax, and the amount thereof, may be determined, and the payment of the tax chargeable may be required and enforced, as if the transaction or operation had not been entered into or carried out: Provided that any decision of the Commissioner under this section shall be subject to objection and appeal, and in any proceedings relating thereto, whenever it is proved that the transaction or operation in question would result in the avoidance of liability for the payment of any such tax, or in the reduction of the amount thereof, it shall be presumed, unless the contrary is proved, that the transaction or operation was entered into or carried out for the purpose of avoiding such liability or of reducing such amount.

Offences.

91. (1) Any person who with intent to evade or to assist any other person to evade assessment or taxation—

- (a) makes any false statement or entry in any return rendered in terms of this Act; or signs any statement or return so rendered without reasonable grounds for believing the same to be true; or
- (b) gives any false answer, whether verbally or in writing, to any request for information made under this Act by the Commissioner or any person duly authorized by him or any officer referred to in section three; or
- (c) prepares or maintains or authorizes the preparation or maintenance of any false books of account or other records or falsifies or authorizes the falsification of any books of account or records; or
- (d) makes use of any fraud, art or contrivance whatsoever, or authorizes the use of any such fraud, art or contrivance,

shall be guilty of an offence and shall be liable to a fine not exceeding five hundred pounds or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(2) Whenever in any proceedings under this section it is proved that any false statement or entry is made in any return rendered under this Act by or on behalf of any taxpayer or in any books of account or other records maintained by or on behalf of any taxpayer, that taxpayer shall be presumed, until the contrary is proved, to have made that false statement or entry with intent to evade assessment or taxation.

Authentication and service of documents.

92. (1) Every form, notice, demand or other document issued or given by, or on behalf of the Commissioner or other officer under this Act shall be sufficiently authenticated if the name of the Commissioner or officer by whom the same is issued or given is stamped or printed thereon.

(2) Any notice required or authorized under this Act to be served upon any person shall be effectually served—

- (a) if delivered to him; or
- (b) if left with some adult person apparently residing at or occupying or employed at his last known abode or office or place of business in the Union; or
- (c) if despatched by registered post in an envelope on which is written his name and his last known address,

DEEL V.

Diverse.

89. (1) As dit tot genocë van die Kommissaris bewys word Terugbetalings dat 'n bedrag deur 'n belastingpligtige betaal die bedrag behoorlik hefsbaar ingevolge hierdie Wet oortref het, kan die Kommissaris 'n terugbetaling van die te veel betaalde belasting aan so 'n belastingpligtige magtig: Met dien verstande dat geen bedrag betaal ten opsigte van 'n aanslag gedoen ooreenkomsdig die algemeen heersende praktyk toe daardie aanslag gedoen is en deur die belastingpligtige aangeneem, geag word anders as behoorlik aldus hefsbaar te gewees het nie.

(2) Die Kommissaris magtig nie 'n terugbetaling ingevolge hierdie artikel nie tensy die vordering daarom binne drie jaar na die datum waarop die aanslag geskied het, gedoen word.

90. Wanneer die Kommissaris oortuig is dat een of ander Transaksies of handelings met oogmerk om belastingpligtigheid aan belasting te ontdruk of bedrag van belasting te verminder. transaksie of handeling aangegaan of uitgevoer is met die oogmerk om aanspreeklikheid vir die betaling van 'n deur hierdie Wet opgelegde belasting te ontdruk, of om die bedrag van 'n sodanige belasting te verminder, kan belastingpligtigheid aan so 'n belasting, en die bedrag daarvan, vasgestel word, en die betaling van die hefsbare belasting kan vereis en afgedwing word, asof die transaksie of handeling nie aangegaan of uitgevoer was nie: Met dien verstande dat 'n beslissing van die Kommissaris ingevolge hierdie artikel aan beswaar en appèl onderhewig is, en dat dit in enige verrigtings met betrekking daartoe, wanneer dit bewys word dat die betrokke transaksie of handeling die ontdrukking van aanspreeklikheid vir die betaling van sodanige belasting of die vermindering van die bedrag daarvan tot gevolg sou hê, vermoed word, tensy die teendeel bewys word, dat die transaksie of handeling aangegaan of uitgevoer is met die oogmerk om sodanige aanspreeklikheid te ontdruk of om sodanige bedrag te verminder.

91. (1) 'n Persoon wat met die oogmerk om aanslag of Oortredings belasting te ontdruk of om 'n ander persoon by die ontdrukking van aanslag of belasting behulpsaam te wees—

- (a) 'n valse verklaring of inskrywing doen in 'n opgaaf ooreenkomsdig hierdie Wet verstrek, of 'n aldus verstrekte verklaring of opgaaf onderteken sonder om op redelike gronde te glo dat dit waar is; of
- (b) 'n valse antwoord gee, ditsy mondeling of skriftelik, op 'n versoek om inligting deur die Kommissaris of 'n behoorlik deur hom gemagtigde persoon of 'n in artikel drie bedoelde amptenaar ingevolge hierdie Wet gedoen; of
- (c) valse rekeningboeke of ander stukke voorberei of aanhou of die voorbereiding of aanhouding daarvan magtig of rekeningboeke of ander stukke vervals of die vervalsing daarvan magtig; of
- (d) enige bedrog, kunsgreep of lis van welke aard ook al aanwend of die aanwending van sodanige bedrog, kunsgreep of lis magtig,

is aan 'n misdryf skuldig en strafbaar met 'n boete van hoogstens vyshonderd pond of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar of met beide sodanige boete en sodanige gevangenisstraf.

(2) Wanneer dit by verrigtings ingevolge hierdie artikel bewys word dat 'n valse verklaring of inskrywing gedoen word in 'n opgaaf ingevolge hierdie Wet deur of namens 'n belastingpligtige verstrek, of in rekeningboeke of ander registers wat deur of namens 'n belastingpligtige gehou word, word dit vermoed, totdat die teendeel bewys word, dat daardie belastingpligtige daardie valse verklaring of inskrywing gedoen het met voorneme om aanslag of belasting te ontdruk.

92. (1) Elke vorm, kennisgewing, aanskrywing of ander Waarmerking en dokument uitgereik of gegee deur of ten behoeve van die diening van Kommissaris of ander amptenaar ingevolge hierdie Wet, word voldoende gewaarmerk indien die naam van die Kommissaris of amptenaar deur wie dit uitgereik of gegee word daarop gestempel of gedruk is.

(2) Elke kennisgewing wat ingevolge hierdie Wet op 'n persoon gedien moet word of waarvan die diening op 'n persoon aldus gemagtig word, word met goeie gevolg gedien—

- (a) indien dit aan hom afgeliever word; of
- (b) indien dit gelaat word by 'n volwasse persoon wat oënskynlik sy laasbekende woonplek of kantoor of besigheidsplek in die Unie bewoon of daarby woonagtig of in diens is; of
- (c) indien dit per aangetekende pos gestuur word in 'n koevert waarop sy naam en sy laasbekende adres,

which may be any such place or office as is referred to in paragraph (b) or his last known post office box number or that of his employer,

and, in the case of a company, shall be effectually served—

- (i) if delivered to the public officer of the company ; or
- (ii) if left with some adult person apparently residing at or occupying or employed at the place appointed by the company under sub-section (5) of section *seventy-six*, or if no such place has been appointed by the company, if left with some adult person apparently residing at or occupying or employed at the last known office or place of business of the company in the Union ; or
- (iii) if despatched by registered post in an envelope on which is written the name of the company or its public officer, and its or his last known address, which may be any such office or place as is referred to in paragraph (ii) or its or his last known post office box number or that of his employer.

Regulations

93. (1) The Governor-General may make regulations for all or any of the following purposes, that is to say—

- (a) prescribing the duties of all persons engaged or employed in the administration of this Act ;
- (b) defining the limits of areas within which such persons are to act ;
- (c) prescribing the nature of the accounts to be rendered by any taxpayer in support of any returns rendered under this Act and the manner in which such accounts shall be authenticated ;
- (d) prescribing the procedure to be observed in the conduct and hearing of objections and appeals before the special courts,

and generally for giving effect to the objects and purposes of this Act.

(2) The regulations may prescribe penalties for any contravention thereof or failure to comply therewith, not exceeding a fine of twenty pounds.

Prevention of, or relief from, double taxation.

94. (1) The Governor-General may enter into an agreement with the Government of any other country or territory, whereby arrangements are made with such Government with a view to the prevention, mitigation or discontinuance of the levying, under the laws of the Union and of such other country or territory, of income tax in respect of the same income.

(2) As soon as may be after the conclusion of any such agreement the arrangements thereby made shall be notified by proclamation by the Governor-General in the *Gazette*, whereupon until such proclamation is revoked by the Governor-General, the arrangements notified therein shall, so far as they relate to immunity, exemption or relief in respect of Union income tax, have effect as if enacted in this Act, but only if and for so long as such arrangements, so far as they relate to immunity, exemption or relief in respect of income tax levied or leviable in such other country or territory have the effect of law in such country or territory.

(3) As soon as may be after the publication in the *Gazette* of any such proclamation copies thereof shall be laid upon the Tables of both Houses of Parliament.

(4) The Governor-General may at any time revoke any such proclamation by proclamation in the *Gazette*, and the arrangements notified in such earlier proclamation shall cease to have effect upon a date fixed in such latter proclamation, but the revocation of any proclamation shall not affect the validity of anything previously done thereunder.

(5) As soon as may be after the publication in the *Gazette* of any proclamation revoking any such proclamation, copies thereof shall be laid upon the Tables of both Houses of Parliament.

(6) The duty imposed by any law to preserve secrecy with regard to income tax shall not prevent the disclosure, to any authorized officer of the country or territory mentioned in any proclamation issued in terms of sub-section (2), of the facts knowledge of which is necessary to enable it to be determined whether immunity, exemption or relief ought to be given in accordance with the arrangements notified in such proclamation.

wat so 'n plek of kantoor kan wees soos in paragraaf (b) bedoel, of sy laasbekende posbusnommer of dié van sy werkewer, geskrywe is,
en, in die geval van 'n maatskappy, word dit met goeie gevolg gedien—

- (i) indien dit aan die openbare amptenaar van die maatskappy afgelewer word ; of
- (ii) indien dit gelaat word by 'n volwasse persoon wat oënskynlik die plek deur die maatskappy ingevolge sub-artikel (5) van artikel *ses-en-sewentig* aangedui, bewoon of daarby woonagtig of in diens is, of, indien 'n sodanige plek nie deur die maatskappy aangedui is nie, indien dit gelaat word by 'n volwasse persoon wat oënskynlik die laasbekende kantoor of besigheidsplek van die maatskappy in die Unie bewoon of daarby woonagtig of in diens is ; of
- (iii) indien dit per aaangetekende pos gestuur word in 'n koevert waarop die naam van die maatskappy of sy openbare amptenaar, en sy laasbekende adres, wat so 'n kantoor of plek kan wees as wat in paragraaf (ii) bedoel word, of sy laasbekende posbusnommer of dié van sy werkewer, geskrywe is.

93. (1) Die Goewerneur-generaal kan regulasies uitvaardig Regulasies vir een of meer van die volgende doeleindeste, naamlik waarby—

- (a) die pligte van alle persone wat hulle besig hou met of in diens geneem is by die uitvoering van hierdie Wet, voorgeskryf word ;
- (b) die grense van gebiede waarin sulke persone moet optree, bepaal word ;
- (c) die aard van die rekenings wat deur 'n belastingpligtige verstrek moet word ter stawing van opgawes ingevolge hierdie Wet verstrek, en die wyse waarop sodanige rekenings gewaarmerk moet word, voorgeskryf word ;
- (d) die procedure wat gevolg moet word by die behandeling en die verhoor van besware en appelle voor die spesiale howe, voorgeskryf word,

en in die algemeen vir die verwesenliking van die oogmerke en doeleindeste van hierdie Wet.

(2) Die regulasies kan strawwe voorskryf vir 'n oortreding daarvan of versuim om daaraan te voldoen van hoogstens 'n boete van twintig pond.

94. (1) Die Goewerneur-generaal kan 'n ooreenkoms met die Voorkoming of regering van 'n ander land of gebied aangaan, waarvolgens verligting van reëlings met daardie regering getref word wat ten doel het om dubbelo die heffing, ingevolge die wette van die Unie en van daardie ander land of gebied, van inkomstebelasting ten opsigte van dieselfde inkomste te voorkom, te lenig of te staak.

(2) Die reëlings deur 'n sodanige ooreenkoms getref, word so spoedig doenlik na die sluiting van die ooreenkoms deur die Goewerneur-generaal by proklamasie in die *Staatskoerant* aangekondig, en daarna, totdat die proklamasie deur die Goewerneur-generaal herroep word, is die daarby aangekondigde reëlings, vir sover hul betrekking het op ontheffing, vrystelling of verligting ten opsigte van inkomstebelasting in die Unie, van krag asof hulle by hierdie Wet ingevoer was, maar slegs indien en terwyl sodanige reëlings, vir sover hulle betrekking het op ontheffing, vrystelling of verligting ten opsigte van inkomstebelasting gehef of hefbaar in daardie ander land of gebied, die krag van wet in daardie land of gebied het.

(3) So spoedig doenlik na die bekendmaking in die *Staatskoerant* van 'n sodanige proklamasie moet afskrifte daarvan in beide Huise van die Parlement ter Tafel gelê word.

(4) Die Goewerneur-generaal kan te eniger tyd 'n sodanige proklamasie by proklamasie in die *Staatskoerant* herroep, en die reëlings by die vorige proklamasie aangekondig tree op 'n deur die latere proklamasie bepaalde datum buite werking, maar die herroeping van 'n proklamasie doen geen afbreuk aan die geldigheid van iets wat voorheen uit kragte daarvan gedoen is nie.

(5) So spoedig doenlik na die bekendmaking in die *Staatskoerant* van 'n proklamasie waarby 'n sodanige proklamasie herroep word, word afskrifte daarvan in albei Huise van die Parlement ter Tafel gelê.

(6) Die by wet opgelegde plig om geheimhouding te bewaar met betrekking tot inkomstebelasting, belet nie die openbaring, aan 'n gemagtigde amptenaar van die land of gebied vermeld in 'n ooreenkomsdig sub-artikel (2) uitgevaardigde proklamasie, van die feite nie wat bekend moet wees ten einde vas te stel of ontheffing, vrystelling of verligting ooreenkomsdig die in bedoelde proklamasie aangekondigde reëlings verleen behoort te word.

(7) Any proclamation issued before the commencement of this Act under the provisions of section *seventy-one bis* of the Income Tax Act, 1925 (Act No. 40 of 1925), as inserted by section *three* of the Income Tax Act, 1935 (Act No. 28 of 1935), shall be deemed to have been issued under this section.

Amendment of section 11 of Act 10 of 1913, as amended by section 9 of Act 46 of 1925, section 1 of Act 39 of 1927 and section 3 of Act 50 of 1935.

95. (1) Sub-section (4) of section *eleven* of the Financial Relations Act, 1913 (Act No. 10 of 1913), as amended, is hereby amended—

- (a) by the insertion in sub-paragraph (ii) of paragraph (a) after the word "percentage" of the words "of eighty per centum"; and
- (b) by the addition at the end of paragraph (b) of the words "Provided further that subject to the first proviso, no portion of the taxable income of a private company which is apportioned to its shareholders in terms of section *thirty-seven* of the Income Tax Act, 1941, shall be subject to such tax."

(2) The provisions of any provincial ordinance passed before the commencement of this Act, directing how the amount of any tax upon the incomes of persons other than companies is to be determined, shall, in its application to the taxes imposed by this Act, be construed as if any reference therein to the amount of normal and/or super tax paid or payable were a reference to eighty per cent. of that amount.

Repeal and amendment of laws.

96. The laws specified in the Second Schedule to this Act are hereby repealed or amended to the extent set out in the third column of that Schedule: Provided that notwithstanding such repeal or amendment, any tax which would have been leviable under any such law and which has not been collected at the commencement of this Act may be collected in accordance with and subject to the provisions of such repealed or amended law.

Short title and commencement.

97. This Act shall be called the Income Tax Act, 1941, and shall come into operation on the first day of July, 1941.

First Schedule.

COMPUTATION OF TAXABLE INCOME DERIVED FROM THE BUSINESS OF INSURANCE (SUB-SECTION (1) OF SECTION *eighteen* OF THIS ACT).

1. The provisions of the following paragraphs shall be observed in the assessment of the taxable income derived by any company from the carrying on of any class of insurance business.

For the purpose of this Schedule the term "company" means any company, association of two or more persons, or individual.

Nothing in this Schedule contained shall be construed as relieving any company from the obligation of rendering returns of any income other than that derived from the business of insurance, or of any liability for taxation in respect of such income.

2. In this Schedule—

"mutual insurance company" means any company carrying on the business of insurance in the Union which does not derive profit or gain (other than from investments), out of transactions with persons other than its members and in which only the holders of policies issued by such company can derive the benefit of any profit or gains derived by the company whether from investments or otherwise;

"non-mutual insurance company" means any company carrying on the business of insurance in the Union which is not a mutual insurance company;

"received in the Union" means in the case of a company having its head office in the Union received at the head office of the company without the intervention of any agent, or received by or through any agent of the company in the Union, and in the case of a company whose head office is not in the Union received by or through any agent in the Union.

3. The return rendered by any insurance company in respect of its insurance business, whether framed on a basis of profits or of receipts from investments, shall specify separately the gross income derived from each of the following branches of insurance business, viz.:—

Life,
Annuity,
Fire,
Accident (including Employers' Liability),
Marine,
Fidelity or Guarantee,
Miscellaneous,

4. The taxable income of every non-mutual insurance company shall be determined as follows:

- (a) In regard to life assurance (carried on by an association of two or more persons, other than a company as defined in section *one* of

(7) 'n Proklamasie wat voor die inwerkingtreding van hierdie Wet uitgevaardig is ingevolge die bepalings van artikel *een-en-sentig bis* van die Inkomstebelastingwet, 1925 (Wet No. 40 van 1925), soos ingevoeg deur artikel *drie* van die Inkomstebelastingwet, 1935 (Wet No. 28 van 1935), word geag ingevolge hierdie artikel uitgevaardig te gewees het.

95. (1) Sub-artikel (4) van artikel *elf* van die „Finansiële Wysiging van Verhoudings Wet, 1913“ (Wet No. 10 van 1913), soos gewysig, word hierby gewysig—

- (a) deur die woorde „van tachtig percent“ na die woorde „percentage“ in sub-paragraaf (ii) van paragraaf (a) in te voeg; en
- (b) deur die volgende woorde aan die end van paragraaf (b) toe te voeg: „Met dien verstande voorts dat met inachtneming van de eerste voorbehoudsbepaling, geen deel van de belastbare inkomsten van een private maatskappij dat aan zijne aandeelhouders toegedeeld wordt overeenkomstig artikel *zeven en dertig* van de Inkomstebelastingwet, 1941, aan zodanige belasting onderhewig is“.

(2) Die bepalings van 'n provinsiale ordonnansie wat voor die inwerkingtreding van hierdie Wet ingevoer is en wat voor-skryf hoe die bedrag van 'n belasting op die inkomstes van ander persone as maatskappy vasgestel moet word, word, by sy toepassing op die belastings by hierdie Wet opgelê, uitgelê asof 'n verwysing daarin na die bedrag van normale en/of superbelasting wat betaal of betaalbaar is, 'n verwysing na tachtig persent van daardie bedrag was.

96. Die wette opgenoem in die Tweede Bylae van hierdie Herroeping en Wet word hierby herroep of gewysig vir sover in die derde kolom van daardie Bylae bepaal word: Met dien verstande dat nieteenstaande sodanige herroeping of wysiging, 'n belasting wat hefbaar sou gewees het ingevolge enige van bedoelde wette en wat by die inwerkingtreding van hierdie Wet nie geïn is nie, ooreenkomsdig en met inagneming van die bepalings van sodanige herroope of gewysigde wet geïn kan word.

97. Hierdie Wet heet die Inkomstebelastingwet, 1941, Kort titel en inwerkingtreding, en tree op die eerste dag van Julie 1941, in werking.

Eerste Bylae.

BEREKENING VAN BELASBARE INKOMSTE VERKRY UIT DIE BESIGHEID VAN VERSEKERING (SUB-ARTIKEL (1) VAN ARTIKEL *agtien* VAN HIERDIE WET).

1. Die bepalings van dio volgende paragrawe word in ag geneem by dio aanslag van dio belasbare inkomste deur 'n maatskappy verkry uit dio dryf van een of ander soort versokeringsbesigheid.

Vir die doeleindes van hierdie Bylae beteken dio uitdrukking „maatskappy“ enige maatskappy, veroniging van twee of meer persone of individu.

Geen bopaling van hierdie Bylae het dio bedoeling om 'n maatskappy te onthef van dio verpligting om opgawes te verstrok van ander inkomste as dió uit dio besigheid van versekering verkry, of van belastingpligtigheid aan belasting ten opsigte van sodanige inkomste nie.

2. In hierdie Bylae beteken—

„onderlinge versekeringsmaatskappy“, 'n maatskappy wat die besigheid van versekering in die Unie dryf en geen wins of profyt (behalwe uit beleggings) maak uit transaksies met ander persone as sy ledo nie, en waarin slegs die houers van polisse deur sodanige maatskappy uitgereik dio voordeel van enige wins of profyt deur die maatskappy ditsy uit beleggings of andersins verkry, kan trek;

„nie-onderlinge versekeringsmaatskappy“, 'n maatskappy wat die besigheid van versekering in die Unie dryf en nie 'n onderlinge versekeringsmaatskappy is nie;

„ontvang in die Unie“, in dio geval van 'n maatskappy wat sy hoofkantoor in die Unie het, ontvang by die hoofkantoor van die maatskappy sonder dio tussenkomst van 'n agent, of ontvang deur of deur die tussenkomst van 'n agent van dio maatskappy in die Unie, en in dio geval van 'n maatskappy wie se hoofkantoor nie in die Unie is nie, ontvang deur of deur dio tussenkomst van 'n agent in die Unie.

3. Die opgaaf verstrek deur 'n versekeringsmaatskappy ten opsigte van sy versokeringsbesigheid, ditsy opgemaak op 'n grondslag van winste of van ontvangsto uit beleggings, inoot dio bruto-inkomste verkry uit elkeen van dio volgende asdelings van versokeringsbesigheid afsonderlik vernold—

Lewe,
Jaargeld,
Brand,
Ongeluk (met inbegrip van werkgeweraanspreeklikheid),
See,
Getrouheid of Garansie,
Gemeng.

4. Die belasbare inkomste van elke nie-onderlinge verskeringsmaatskappy word as volg vasgestel—

(a) met betrekking tot lowensversekering (uitsluitende begrafnis-versekering gedryf deur 'n assosiasie van twee of meer persone

this Act, or by an individual (excluding funeral insurance), and annuities, by taking a proportion of the dividends distributed to shareholders during the year of assessment out of the profits derived from life and annuity business in the ratio that the sum total resulting from the addition of the amount of the premiums received in the Union in respect of life assurance, to the amount of the annual payments made in the Union in respect of annuities bears to the sum total resulting from the addition of the amount of such premiums received from all sources to the amount of all such annual payments wherever made: Provided that where the business of a company includes, with life assurance and annuities, other branches of insurance, any dividend distributed shall be deemed to have been distributed out of profits derived from life assurance and annuities in the proportion that the profits derived from those sources bear to the profits derived from all branches of insurance during the period since the last preceding declaration of a dividend.

(b) In regard to any other branch of insurance business (including funeral insurance, carried on by an association of two or more persons, other than a company as defined in section one of this Act, or by an individual) by charging against the premiums received (less any premiums paid on reinsurance), and other amounts received within the Union from the carrying on of the business of insurance the actual losses (after deduction of reinsurance received), and expenses incurred in the Union in respect of that business: Provided that no amount set aside for unearned premiums shall be allowed in arriving at the amount so ascertained.

5. The proportion of the receipts from investments of any mutual insurance company to rank as income for the purpose of this Schedule shall be determined by taking a proportion of the total dividends, interest and other amounts received by or accrued to the company during the year of assessment from all investments in respect of such branches of insurance as are not exempted by paragraph (d) of subsection (1) of section ten of the Act, in the ratio that the premiums received in the Union for those branches of insurance bear to the total premiums received by the company for the said branches.

6. The amount determined under the provisions of the last preceding paragraph shall, after the deduction of the allowance provided in the next succeeding paragraph, and subject to any set-off as provided in paragraph 8 of this Schedule, be deemed to be the taxable income derived by such company from those branches of insurance.

7. There shall be deducted from the proportion of the total receipts from investments as determined in paragraph 5 of this Schedule an allowance for the expenses of management to be ascertained by taking a proportion of the total management expenses of the company (excluding commissions), based on the ratio that the said proportionate part of such receipts bears to the total receipts derived by the company from investments.

8. Every insurance company shall be entitled in the calculation of its taxable income from the business of insurance to set off against the amount determined under the preceding paragraphs of this Schedule any loss assessed or ascertained in accordance with the provisions of this Schedule and carried forward from any preceding year of assessment in so far as that loss, not being a loss of a capital nature, was incurred in carrying on the business of insurance.

Second Schedule.

LAWS REPEALED.

Number and Year of Law.	Short Title.	Extent of Repeal or Amendment.
Act No. 40 of 1925..	Income Tax Act, 1925 ..	The repeal of the whole.
Act No. 36 of 1926..	Income Tax Act, 1926 ..	"
Act No. 23 of 1927..	Income Tax Act, 1927 ..	"
Act No. 18 of 1928..	Income Tax Act, 1928 ..	"
Act No. 29 of 1929..	Income Tax Act, 1929 ..	"
Act No. 31 of 1930..	Income Tax Act, 1930 ..	"
Act No. 30 of 1931..	Income Tax Act, 1931 ..	"
Act No. 28 of 1932..	Income Tax Act, 1932 ..	"
Act No. 31 of 1933..	Income Tax Act, 1933 ..	"
Act No. 44 of 1934..	Income Tax Act, 1934 ..	"
Act No. 28 of 1935..	Income Tax Act, 1935 ..	"
Act No. 34 of 1936..	Income Tax Act, 1936 ..	"
Act No. 51 of 1937..	Income Tax Act, 1937 ..	"
Act No. 20 of 1938..	Income Tax Act, 1938 ..	"
Act No. 38 of 1939..	Income Tax Act, 1939 ..	"
Act No. 25 of 1940..	Income Tax Act, 1940 ..	The repeal of section one; the repeal of sections nineteen, twenty-one and twenty-three.
Act No. 34 of 1940..	Additional Taxation Act, 1940	Sections one and four.

behalwe 'n maatskappy soos in artikel *een* van hierdie Wet omskryf, of deur 'n individu) en jaargeld, deur 'n gedeelte te neem van die diwidendo aan aandeelhouers uitgoekoer gedurende die jaar van aanslag uit die winste verkry uit lewens- en jaargeldbesigheid, na dio verhouding waarin die totale bedrag verkry deur die bedrag van die in die Unio ontvang premies op lewensversekerings besigheid te tel by die bedrag van die jaarlikse betalings wat in die Unio geskied ten opsigte van jaargelde, staan tot die totale bedrag verkry deur die bedrag van sulke uit alle bronre ontvang premies te tel by die bedrag van al sulke jaarlikse betalings, waar ook geskied: Met dien verstande dat wanneer die besigheid van 'n maatskappy benouwens lewensversekerings en jaargelde, ook ander afdelings van versekerings omvat, alle uitgekoerde diwidende geag word uitgekoer te gewees het uit winste verkry uit lewensversekerings en jaargelde na die verhouding waarin die uit daardie bronre verkreeë winste staan tot die winste uit alle versekeringsafdelings verkry gedurende die tydvak sedert die laaste voorafgaando diwidendverklaring.

(b) Ten opsigte van elke ander afdeling van versekeringsbesigheid (met inbegrip van begrafnisversekerings gedryf deur 'n assosiasie van twee of meer persone behalwe 'n maatskappy soos in artikel *een* van hierdie Wet omskryf, of deur 'n individu), deur met dio ontvang premies (min premies betaal by herversekerings) en ander bedrae in die Unio ontvang uit die dryf van versekeringsbesigheid, die werklike verliese (na afstrekking van ontvang herversekerings) en onkoste in die Unio gely en gemaak ten opsigte van daardie besigheid in vergelyking to bring: Met dien verstande dat geen bedrag afgesonder vir onverdiende premies toegelaat word by die berekening van die aldus vasgestelde bedrag nie.

5. Dio gedeelte van dio ontvangste uit beleggings van 'n onderlinge versekeringsmaatskappy wat vir dio doeleindes van hierdie Bylae as inkomsto beskou word, word vasgestel deur 'n deel te neem van die gesamentliko diwidonde, ronte, en ander bedrae ontvang deur of toegeval aan die maatskappy gedurende die jaar van aanslag uit alle beleggings ten opsigte van sodanige versekeringsafdelings wat nie deur paragraaf (d) van sub-artikel (1) van artikel *tien* van dio Wet vrygestel is nie, na dio verhouding waarin die in die Unio ontvang premies vir daardie versekeringsafdelings staan tot die gesamentliko premies deur die maatskappy vir bedoelde afdelings ontvang.

6. Die bedrag vasgestel ingevolge dio bepalings van dio voorafgaande paragraaf word, na afstrekking van dio korting in die eersvolgende paragraaf bepaal, en onderworpe aan 'n vergelyking soos in paragraaf 8 van hierdie Bylae bepaal, geag die belasbare inkomsto te wees deur sodanige maatskappy uit daardie afdelings van versekerings verkry.

7. Van die gedeelte van die gesamentliko ontvangste uit beleggings soos in paragraaf 5 van hierdie Bylae bepaal, word vir bestuursuitgawe 'n korting afgetrek wat vasgestel word deur 'n gedeelte te neem van die gesamentliko bestuursuitgawes van die maatskappy (mot uitsondeling van kommissies), op dio grondslag van die verhouding waarin bedoelde eweredige gedeelte van sodanige ontvangste staan tot die gesamentliko ontvangste deur die maatskappy uit beleggings verkry.

8. Elke versekeringsmaatskappy is geregtig om by dio berekening van sy belasbare inkomsto uit dio besigheid van versekerings, met dio bedrag ingevolge dio voorgaande paragraaf van hierdie Bylae vasgestel enige verlies nangeslaan of vasgestel ooreenkomsdig die bepalings van hierdie Bylae en oorgebring van 'n vorigo jaar van aanslag, in vergelyking te bring vir sover daardie verlies, (nie synde 'n verlies in die aard van kapitaal nie) by dio dryf van versekeringsbesigheid gely is.

Tweede Bylae.

HERROEPRE WETTE.

Nummer en jaar van Wet.	Kort Titel.	Omvang van herroeping of wysiging.
Wet No. 40 van 1925	Inkomstebelastingwet, 1925	Dio herroeping van die geheel.
Wet No. 36 van 1926	Inkomstebelastingwet, 1926	"
Wet No. 23 van 1927	Inkomstebelastingwet, 1927	"
Wet No. 18 van 1928	Inkomstebelastingwet, 1928	"
Wet No. 29 van 1929	Inkomstebelastingwet, 1929	"
Wet No. 31 van 1930	Inkomstebelastingwet, 1930	"
Wet No. 30 van 1931	Inkomstebelastingwet, 1931	"
Wet No. 28 van 1932	Inkomstebelastingwet, 1932	"
Wet No. 31 van 1933	Inkomstebelastingwet, 1933	"
Wet No. 44 van 1934	Inkomstebelastingwet, 1934	"
Wet No. 28 van 1935	Inkomstebelastingwet, 1935	"
Wet No. 34 van 1936	Inkomstebelastingwet, 1936	"
Wet No. 51 van 1937	Inkomstebelastingwet, 1937	"
Wet No. 20 van 1938	Inkomstebelastingwet, 1938	"
Wet No. 38 van 1939	Inkomstebelastingwet, 1939	"
Wet No. 25 van 1940	Inkomstebelastingwet, 1940	Dio herroeping van artikel <i>een</i> ; dio herroeping van artikels negentien, twintig, een-en-twintig, en drie-en-twintig.
Wet No. 34 van 1940	Addisionele Belastingwet, 1940.	Artikels <i>een</i> en vier.