

## INCOME TAX (AMENDMENT) ACT, 1982

No. 28



of 1982

### ARRANGEMENT OF SECTIONS

#### SECTION

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3. Amendment of section 5 of principal Act
4. Amendment of section 30 of principal Act
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8. Amendment of section 40 of principal Act
9. Amendment of section 43A of principal Act
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11. Insertion of new section 60A in principal Act
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17. Repeal of paragraphs 1 to 4 of Third Schedule

#### **An act to amend the Income Tax Act**

*Date of Assent: 25.10.82.*

*Date of Commencement: 1.7.82*

**ENACTED** by the Parliament of Botswana.

1. (1) This Act may be cited as the Income Tax (Amendment) Act, 1982. Short title and commencement  
(2) Subject to the provisions of subsection (3), this Act shall be deemed to have come into operation on 1st July, 1982.  
(3) Section 14 shall be deemed to have come into operation on 1st July, 1973.
2. Section 2 of the Income Tax Act (hereinafter referred to as "the principal Act") is amended— Amendment of section 2 of Cap. 52:01

- (a) in the definition of the word “business” thereof by substituting for—
  - (i) the word “venture” which appears therein, the words “adventure in the nature of trade,”; and
  - (ii) the words “farming or mining” which appear in the proviso thereto, the words “farming, mining or any disposal of property under section 34(1)”;
- (b) in the definition of “mineral”, by inserting therein, immediately after the words “natural gas”, which appear therein, the words “petroleum,”;
- (c) by substituting for the definition of “mining or prospecting right” the following new definition—
 

“mining or prospecting right” means a mineral concession as defined in the Mines and Minerals Act, or a development licence or exploration licence as defined in the Petroleum (Exploration and Production) Act,”; and
- (d) by inserting therein, immediately after the definition of “person”, the following new definition—
 

“petroleum has the meaning assigned to it in the Petroleum (Exploration and Production Act, 1981;”.

Cap. 66:01  
Act 12 of 1981

Amendment  
of section 5  
of principal  
Act

3. Section 5 of the principal Act is amended—
- (a) in subsection (1) thereof by inserting immediately after the word “secret”, which appears therein, the words “and shall not disclose the contents of any such document or communicate any such information to any other person other than the person to whom the document or information relates or his lawful representative except as required in the performance of his functions under this Act or by order of court,”;
  - (b) in subsection (3) thereof by substituting for that subsection **the following new subsections—**

“(3) Nothing in this section shall apply to the disclosure of any confidential information—

    - (a) to the Attorney-General;
    - (b) to the Governor of the Bank of Botswana or his lawful representative;
    - (c) to the Minister or any other person where such disclosure is necessary for the purposes of this Act;
    - (d) for the purposes of a prosecution under this Act;
    - (e) to any person being a consultant to or officer employed by the Government who is approved by the Minister to receive such confidential information;
    - (f) to the Master of the High Court for the purposes of the Death Duties Act; or

Cap. 53:04

(g) to any authorized officer of the Government of a country with which an agreement for the avoidance of double taxation exists, for the purposes of that agreement.

(3A) Where in the course of any proceedings before a court, evidence relating to any document or information referred to in subsection (1) is intended or likely to be adduced, the court may, on the application of any party to the proceedings or any person likely to be affected by such evidence that all or any portion of the public be excluded during any part of the proceedings, make an order excluding from the proceedings persons other than the parties thereto and their legal representatives and any other person whom the court may permit to be present.

(4) Every person appointed under or employed in carrying out the provisions of this Act and every person to whom confidential information is disclosed under paragraph (b), (c) or (e) of subsection (3), except the Minister, shall make an oath or declaration of secrecy in the manner and form prescribed."

4. Section 30 (1) of the principal Act is amended-

(a) by deleting the word "and" which appears at the end of paragraph (c) thereof; and

(b) by inserting immediately after the said paragraph (c), the following new paragraph-

"(A) be deemed to include the amount of any royalty repaid, remitted or exempted during that tax year under section 74 or 76 of the Petroleum (Exploration and Production) Act, 1981, where such royalty has been allowed as a deduction under section 40 (1) (d) of this Act; and".

Amendment  
of section 30  
of Principal  
Act

5. Section 34 of the principal Act is amended by substituting for subsection (1) thereof the following new subsection-

"(1) Except as otherwise provided in the Twelfth Schedule, the gross income of any person for any tax year commencing on or after 1st July, 1982, shall include any amount accruing to him on the disposal of —

Amendment  
of section 34  
of principal  
Act

(a) any movable or immovable property of a business carried on by him in Botswana; and

(b) any shares or debentures of a company:

Provided that the provisions of this subsection shall not apply to any amount which would otherwise be included in gross income under section 9 accruing on the disposal of any property in the ordinary course of business."

6. The principal Act is amended by inserting immediately after section 38 thereof, the following new section-

<sup>"Income from disposal of property of business"</sup> 38A. Notwithstanding the other provisions of this Part, the chargeable income in respect of any amount accruing to any person under section 34 (1) shall be ascertained in accordance with the Twelfth Schedule."

Insertion  
of new  
section 38A  
in principal  
Act

Substitution  
of section 39A  
of principal  
Act

**7. The principal Act is amended by substituting for section 39A thereof, the following new section-**

“Farming  
average  
chargeable  
income

**39A. (1) Subject to the provisions of this section and save as provided in section 39C, any person other than a company carrying on a business of farming may, within six months after the end of any tax year by notice in writing to the Commissioner, elect that his chargeable income derived from the business of farming for that tax year and each of the two preceding tax years shall be determined by substituting for the chargeable income for each of the three years the annual average of the chargeable income derived from his business of farming for those three tax years.**

**(2) Where an election has been made in respect of any tax year under subsection (1), no further election shall be made as regards that tax year.**

**(3) Notwithstanding the provisions of section 85 (1), the Commissioner shall take such action as is necessary to give effect to an election made under subsection (1).”**

Amendment  
of section 40  
of principal  
Act

**8. Section 40 (1) of the principal Act is amended-**

**(a) by deleting the word “and” which appears at the end of paragraph (b) thereof;**

**(b) by substituting for the full stop at the end of paragraph (c), a semicolon and the word “and”; and**

**(c) by adding immediately after the said paragraph (c), the following new paragraph -**

**“(d) any liability to pay royalties under Part V of the Petroleum (Exploration and Production) Act, 1981, which arose during the tax year, whether or not payment thereof has been deferred under section 76 (2) of that Act.”**

Amendment  
of section  
43A of  
principal Act

**9. Section 43A of the principal Act is amended by adding immediately after subsection (2) thereof the following new subsection-**

**“(3) For the purposes of this section, chargeable income referred to in the preceding provisions of this section shall not include any chargeable income ascertained in accordance with the provisions of the Twelfth Schedule.”**

Amendment  
of section 54  
of principal  
Act

**10. Section 54 of the principal Act is amended—**

**(a) by substituting for subsection (3) thereof, the following new subsection—**

**“(3) Any agreement entered into under this section may in respect of the person with whom it is made, vary the provisions of this Act insofar as such provisions either impose liability to tax or regulate the imposition of such liability and may provide for-**

- (a) the exemption of any dividend, interest, commercial royalty, entertainment fee or management or consultancy fee paid by that person to a non-resident;
- (b) the exemption or limitation of liability in respect of any amount accrued or deemed to have accrued or any benefits granted to a non-resident in terms of a contract of employment entered into by the person with whom the tax agreement under this section is made; or
- (c) the relief of that person from any duty, responsibility and liability under any provision of this Act.”.

11 The principal Act is hereby amended by inserting immediately after section 60 thereof, the following new section-

**60A.** (1) Subject to the provisions of this section, where in any tax year any chargeable income, ascertained in accordance with the provisions of the Twelfth Schedule, is taken into consideration in calculating the taxable income of such person, other than a company, and the highest rate of tax charged on his taxable income in accordance with the rates specified in the Tenth Schedule for each of the three preceding tax years immediately before the tax year in question did not exceed 20 per cent, then, the tax chargeable on the chargeable income included in his taxable income in accordance with the rates specified in the Tenth Schedule shall not exceed the amount of tax chargeable at the average of the effective rates at which he was liable to tax in those three preceding tax years.

(2) The highest rate of tax referred to in subsection (1) means the highest rate of tax charged on a taxable income without the inclusion in such taxable income of any chargeable income ascertained in accordance with the provisions of the Twelfth Schedule.

(3) Where the taxable income of a resident individual includes the earned income of his wife, the highest rate of tax referred to in subsection (1) shall be the highest rate applicable to the taxable income of that person before the inclusion of the earned income of the wife.

(4) For the purposes of section 60, the earned income of a wife includes any chargeable income ascertained in accordance with the provisions of the Twelfth Schedule in respect of any amount derived from the disposal of any property mentioned in section 34 (1) (a), and accordingly the provisions of subsection (1) relating to the calculation of tax on such amount shall apply to the amount included in such earned income.

(5) For the purposes of this section, “effective rate of tax” means the amount obtained by dividing the tax

Insertion  
of new  
section 60A  
in principal  
Act

“Tax charge-  
able on charge-  
able income”

charged for a tax year by the amount of taxable income for that tax year:

Provided that any chargeable income ascertained in accordance with the Twelfth Schedule and the tax thereon shall be excluded from such calculation.

(6) The provisions of section 60(4) relating to earned income of a wife shall apply to the earned income of a wife under this section."

Insertion of new section 61A in principal Act

12. The principal Act is amended by inserting immediately after section 61 thereof, the following new section-

61A. Where any tax has been paid by a designated company under section 110B, the tax so paid shall be set off against the tax charged under section 59 for the tax year in respect of which such payment was made."

Insertion of new sections 110A, 110B and 110C in principal Act

13. The principal Act is amended by inserting therein, immediately after section 110 thereof, the following new sections-

110A. (1) The Commissioner may by notice in writing served on any company, designate that company for the purposes of section 110B and 110C.

(2) Every notice served on a company under this section shall specify the tax year in respect of which the provisions of sections 110B and 110C shall commence to apply (in sections 110B and 110C and in the Thirteenth Schedule referred to as "the first tax year") and no such notice shall have any validity unless it is served on the company at least 3 months immediately before the end of that tax year.

(3) Every reference in section 110B or 110C or in the Thirteenth Schedule to a designated company shall be construed as a reference to a company designated by the Commissioner under this section.

Computation and payment of income tax during current tax year

110B. (1) Every designated company shall, before 30th September in every tax year, estimate the taxable income for that tax year and tax chargeable thereon for that year and pay that tax in four equal instalments on or before 30th September, 31st December, 31st March and 30th June respectively in that tax year:

Provided that, in respect of the first tax year and the next two succeeding tax years, the provisions of the Thirteenth Schedule shall apply.

(2) For the purpose of complying with subsection (1),—

(a) a designated company shall calculate the amount of its estimated tax for any tax year by applying to its estimated taxable income for

that tax year the rate of tax specified in the Tenth Schedule at the time the calculation is made; and

(b) a designated company's estimated taxable income for any tax year shall, subject to the provisions of subsection (3), be-

(i) the chargeable income disclosed in its tax return for the immediately preceding tax year less the estimated amount of dividend referred to in section 51A which is expected to be paid in the current tax year; or

(ii) if no such tax return was made or no tax was payable by the company for the immediately preceding tax year, such taxable income as may be estimated and accepted by the Commissioner or, in default of such estimate and acceptance, as may be notified by the Commissioner to the company:

Provided that, where subparagraph (i) applies but the tax return therein referred to included chargeable income for a period less than 12 months or greater than 12 months, the company's estimated taxable income for the tax year in question shall be such amount as may be estimated by the company and accepted by the Commissioner or, in default of such estimate and acceptance, as may be notified by the Commissioner to the Company.

(3) Where, on the application of a designated company, the Commissioner is satisfied that the amount of the taxable income of the company is likely to be less than in the immediately preceding tax year, he may accept the lesser amount as the company's estimate of taxable income for the current tax year.

(4) Any tax payable under this section shall-

(a) be due and payable within the time specified in subsection (1); and

(b) when it becomes due and payable, be a debt to the Government and if unpaid, the provisions of section 94 (2) and 95 relating to payment by instalments and interest on unpaid tax shall apply to the debt.

Declaration of  
estimated tax

110C. (1) Every designated company shall, in respect of every tax year, submit to the Commissioner in accordance with this section a declaration (in this section referred

to as “the annual declaration”) of its estimated tax for that tax year calculated in accordance with section 110B.

(2) The annual declaration shall be made in the prescribed form, and shall be lodged with the Commissioner not later than 30th September of the tax year to which it relates:

Provided that, in respect of the first tax year or the next succeeding tax year, as the case may be, the annual declaration shall be lodged with the Commissioner not later than the date specified in respect of that year in the Thirteenth Schedule.

(3) Where a designated company fails to lodge the annual declaration with the Commissioner by the relevant date prescribed by subsection (2),-

- (a) the Commissioner may, by notice in writing served on the company, specify its estimated tax for the tax year in question; and
- (b) whether or not a notice is served on the company under paragraph (a), it shall remain under a duty to comply with this section and, on so doing, the Commissioner may cancel any such notice.

(4) If, after the annual declaration has been submitted to the Commissioner by a designated company in accordance with this section it appears that tax for the tax year in question will be substantially different from that specified in the declaration, the company may submit to the Commissioner a revised declaration, in the prescribed form, which shall be treated as replacing that previously delivered.

(5) If it appears to the Commissioner that the estimated tax specified in the annual declaration submitted by a designated company is not correct, he may at any time, by notice in writing served on the company, specify its estimated tax for the tax year in question and the annual declaration shall thereupon cease to have effect.

(6) The amount of the estimated tax of a designated company specified in the annual declaration or in a revised declaration replacing the same or by notice served on the company under subsection (3) (a) or (5), as the case may be, shall be deemed to have been computed by the company in accordance with section 110B and the provisions of that section shall apply accordingly.

(7) The amount of the estimated tax for a designated company specified in the annual declaration or in a revised declaration replacing the same or by notice

served on the company under subsection (3)(a) or (5), as the case may be, which declaration or notice was submitted or served—

- (a) after 30th September in the tax year in question, and on or before 31st March in that tax year, shall be apportioned (after allowance for any sums already paid) into equal instalments each of which shall be paid on one of the remaining dates prescribed by section 110B (1); or
- (b) after 31st March in the tax year in question, shall be paid in one amount (after allowance for any such sums already paid) on 30th June in that tax year or, if that date is passed, at the time the declaration is submitted or forthwith upon service of the notice, as the case may be.”

14. The Second Schedule to the principal Act is amended-

(a) in Part I thereof by substituting for paragraph (viii) therein, the following new paragraph-

“(viii) any organization in respect of which an order has been made under section 4 of the Diplomatic Immunities and Privileges Act;” and,

(b) in Part II thereof by substituting—

(i) for paragraph (ii) (b) therein, the following new paragraph-

“(b) members of the staff of such missions and consulates who are resident in Botswana solely for the purpose of carrying out their duties as members of such mission”;

(ii) for paragraph (iii) therein, the following new paragraph-

“(iii) the official salary and emoluments of an official of any organization in respect of which an order has been made under section 4 of the Diplomatic Immunities and Privileges Act”;

(iii) by deleting the word “and” which appears at the end of paragraph (xxvii);

(iv) by substituting for the full stop which appears at the end of paragraph (xxviii), a semicolon and the word “and”; and

(v) by adding at the end of the said paragraph (xxviii), the following new paragraph-

“(xxix) any income exempted under an agreement entered into under section 53 or 54.”.

Amendment  
of second  
Schedule to  
principal Act

Cap. 39:01

15. The Third Schedule to the principal Act is amended-

(a) by inserting immediately after Part I thereof, the following new Part-

Amendment  
of Third  
Schedule to  
principal Act

**“PART IA — Initial Allowances**

Initial allowance for industrial building

1. In ascertaining the chargeable income of any person for any tax year derived from an approved industrial business there shall be deducted from his business assessable income an allowance (in this Part referred to as “an initial allowance”) in respect of the expenditure incurred by that person on or after 1st July, 1982, on the erection or purchase of any new industrial building or improvements thereto if that building was used in that tax year solely for the purposes of the business carried on by that person.

Computation of initial allowance

2. The initial allowance deductible under paragraph 1 shall be made in respect of the tax year during which the building was first used or improvements thereto were completed and such allowance shall be of an amount equal to 25 per cent of the expenditure mentioned in paragraph 1:

Provided that where the expenditure was incurred before 1st July, 1982, but the building was not first used in that business before that date, then, such expenditure shall be deemed to have been incurred on the date the building was first brought into use.”;

(b) In Part II thereof-

(i) by substituting for paragraph 5, the following new paragraph-

Annual allowances, industrial building

5. (1) The annual allowance deductible under paragraph 4 shall—

(a) in the case of any expenditure incurred before 1st July, 1982, be made in respect of the tax year during which the building was first used or improvements thereto were completed and of the next nine succeeding tax years and such allowance shall be of an amount equal to 10 per cent of the expenditure incurred on the building when it was first used or when the improvements thereto were completed; and

(b) subject to the provisions of subparagraph (2), in respect of expenditure incurred on or after 1st July, 1982, be made in respect of the tax year during which the building was first used or improvements thereto were completed and of the next 39 succeeding tax years and such allowance shall be of an amount equal to two and one half per cent of the expenditure incurred on the building when it was first used or when improvements thereto were completed:

Provided that where an expenditure was incurred on a building before 1st July, 1982, but the building was not first used in that business before that date, then, such expenditure shall be deemed to have been incurred on the date the building was first brought into use.

(2) Where the aggregate amount of any initial and annual allowances given in respect of any industrial building in accordance with the provisions of Part IA and the preceding provisions of this paragraph, equals the expenditure incurred in respect of such building, no further allowance shall be given in respect of such building.”;

(ii) by substituting for paragraph 7, the following new paragraph—

“Annual allowances, plant or machinery

7. (1) Subject to the provisions of this paragraph the annual allowance deductible under paragraph 6 shall,-

- (a) in respect of expenditure incurred before 1st July, 1982, be an amount equal to the whole or such proportion as he may choose, of the expenditure incurred by him on such plant or machinery; and
- (b) in respect of expenditure incurred on or after 1st July, 1982, be such amount not being less than 10 per cent nor more than 25 per cent of the expenditure incurred by him on such plant or machinery as the Commissioner may consider to be fair and reasonable having regard to the expected life of the plant or machinery.

(2) Where the aggregate amount of annual allowances given in respect of any plant or machinery in accordance with the provisions of paragraph 6 equals the expenditure incurred in respect of such plant or machinery, no further annual allowance shall be given in respect of the plant or machinery.

(3) Where any plant or machinery used by a non-resident is used in Botswana for a period of less than 12 months in any tax year, the annual allowance in respect of such plant or machinery shall be such amount as the Commissioner may consider to be fair and reasonable having regard to the period of use of such plant or machinery in Botswana.”; and

(iii) by adding immediately after paragraph 7, the following new paragraphs-

“Deductions in relation to commercial building

8. In ascertaining the business chargeable income of any person for any tax year, there shall be deducted from his business assessable income an annual

allowance in respect of the expenditure incurred by him on the construction or purchase of a commercial building or on any improvements, other than repairs, thereto, used in that tax year solely for commercial purposes.

Computation  
of allowances  
deductible

9. The annual allowance deductible under paragraph 8 shall be made in respect of the tax year during which the building was first used or improvements thereto were completed and of the next 39 succeeding tax years and such allowance shall be of an amount equal to two and a half per cent of the expenditure incurred on the building when it was first used or when the improvements thereto were completed.”;

(c) in paragraph 4 of Part VI thereof-

(i) by inserting immediately after the words “the amount of any balancing charge” which appear therein, the words “arising from the disposal of any plant or machinery”;

(ii) by substituting for the word “property” wherever it appears in the paragraph, the words “plant or machinery.”;

(d) in paragraph 5 of Part VI thereof-

(i) by substituting a full stop for the colon at the end of the words “referred to”; and

(ii) by deleting the proviso thereto;

(e) in paragraph 1 of Part VII thereof-

(i) by substituting for the definition of “allowances granted” which appear therein, the following new definition-  
“allowances granted” means the aggregate of all allowances and deductions granted under-

(a) Parts IA and II of this Schedule;

(b) paragraphs (c), (d) and (da) of section 13 (1) of the previous Act; and

(c) paragraphs 7 and 8 of the Third Schedule to the previous Act; and

(d) any amount by which any expenditure incurred on the replacement of any plant or machinery is reduced by the amount of balancing charge under paragraph 5 of Part VI.”;

(ii) by inserting immediately after the definition of “business chargeable income” which appear therein, the following new definition-

“commercial building” means any building in use for the purposes of a business other than-

- (a) a building in respect of which allowances or deductions relating to the expenditure incurred on such building are provided for under any other provisions of this Act; or
- (b) any residential building"; and
- (iii) by inserting immediately after the definition of the word "expenditure incurred" which appear therein, the following new definition-  
 "residential building" means any building or structure or part thereof which the Commissioner is satisfied is in use as a dwelling house or for any purposes ancillary thereto."

16. The principal Act is amended by adding immediately after the Eleventh Schedule, the following new Schedules—

Addition of new 12th and 13th Schedules to principal Act

**"TWELFTH SCHEDULE  
 CHARGEABLE INCOME FROM THE DISPOSAL OF BUSINESS  
 PROPERTY**

**ARRANGEMENT OF PARAGRAPHS**

**PARAGRAPHS**

1. Ascertainment of chargeable income on disposal of business property
2. Amounts accruing on disposal of immovable property acquired before 1st July, 1982
3. Amounts accruing on disposal of property acquired by gift or inheritance
4. Computation of cost of acquisition of bonus shares, debentures or other properties
5. Ascertainment of chargeable income
6. Non-application of provisions of Schedule

1. Subject to the provisions of paragraphs 2, 3 and 4, in ascertaining the chargeable income of any person in any tax year on the disposal of any property referred to in section 34 (1), there shall, upon due claim and subject to such evidence as the Commissioner may require, be deducted from the amount included in the assessable income of such person derived from the disposal of such property under the said section 34 (1)-

Ascertainment of chargeable income on disposal of business

- (a) the cost of acquiring the property disposed of including any expenditure wholly, exclusively and necessarily incurred for the purpose of the acquisition;
- (b) the cost of any improvements to the property effected by the person disposing of it or if any improvements were effected or to be effected by any other person under an agreement, the amount in respect of such improvements which was included under section 33 (1) (c) in the gross income of the person disposing of such property;
- (c) any expenditure wholly, exclusively and necessarily incurred for the disposal; and
- (d) if a leasehold property is disposed of by a lessee, any premium paid and expenditure incurred by the lessee in obtaining the leasehold,

the cost of any improvements effected to the property by him or any amount paid by him of the required improvements under the terms of the lease and any expenditure wholly, exclusively and necessarily incurred by him in disposing of the property:

Provided that no allowance shall be made under this subparagraph in respect of-

- (i) any expenditure or any proportion thereof if for the same or any other tax year an allowance is or can be made in respect of it under section 39 (1) (g) (i) or section 13 (1) (k) of the previous Act; and
- (ii) any amount included or which will be included in the gross income of such person under section 28 (2) (c) (iii) for the tax year.

Amounts accruing on disposal of immovable property acquired before 1st July 1982

2. Where an amount accruing to any person on the disposal of a property is in respect of an immovable property acquired by such person before 1st July, 1982, there shall be added to the cost of acquisition and the cost of any improvements effected thereto before that date whether by the person making the disposal or any other person under agreement, an amount equal to five per cent of such cost for every period of twelve months from the date on which the property was acquired or the improvements thereto were effected, as the case may be, up to 30th June, 1982.

Amounts accruing on disposal of property acquired by gift or inheritance

3. (1) Subject to the provisions of this paragraph, where an amount accruing to any person on the disposal of a property is in respect of a property acquired by way of gift inter vivos or inheritance, there shall, in addition to such allowance as may be given under paragraph 1 in respect of any expenditure thereby incurred, be deducted from such amount—

- (a) the cost of acquiring the property and the cost of any improvements effected thereto by the donor or the deceased, as the case may be:

Provided that in the case of an immovable property acquired by the donor or the deceased before 1st July, 1982, the cost of acquisition and improvements effected thereto shall be determined in accordance with the provisions of paragraph 2;

- (b) in the case of any property acquired by way-
  - (i) of a gift, the expenses wholly, exclusively and necessarily incurred by the donor in making the gift, and
  - (ii) of inheritance by the person making the disposal any duty paid by him in respect of his succession to the ownership of the property.

(2) In ascertaining the chargeable income of any person on the disposal of any property acquired by way of gift or inheritance where such property had been acquired by the donor or the deceased himself by way of gift or inheritance, the cost of acquisition shall be deemed to be the market value of the property on the date on which it was acquired by the donor or the deceased:

Provided that if such market value is not known to the person making the disposal, then, the market value shall be the value on 1st July, 1982.

4. Where any property disposed of by any person in accordance with the provisions of paragraph 1 consists of bonus shares, debentures, securities or any other property, the cost of acquiring any such property shall be the value of such property included in the assessable income of such person as dividend under section 2.
5. (1) The chargeable income in respect of any amount accruing to any person in accordance with the preceding provisions of this Schedule shall-
- (a) in the case of a company, be the amount by which any aggregate amount of gains exceeds the aggregate amount of losses; and
- (b) in any other case, be one half of the amount by which any aggregate amount of gains exceeds the aggregate amount of losses:
- Provided that in no case shall the aggregate of losses exceed the aggregate of gains.
- (2) For the purposes of this paragraph-
- (a) "gain" means the amount by which the assessable income of any person derived on the disposal of any property under paragraph 1 exceeds the total deductions allowed under that paragraph; and
- (b) "loss" means the amount by which the total deductions allowed exceed the assessable income.
6. (1) The provisions of this Schedule shall not apply to the disposal of any of the following properties-
- (a) any property of a business in respect of which an initial or annual allowance has been granted on the disposal of such property under Part IA or Part II of the Third Schedule in ascertaining the chargeable income of that business for any tax year;
- (b) any property referred to in section 30;
- (c) the principal private residence of any person:
- Provided that where such a person owns more than one private residence, the property designated by such person as his principal private residence;
- (d) any shares in or debentures of a company which has been-
- (i) recognised by the Commissioner as a public company under section 125 (2) (a), (c), (d), (e) or (f), or
- (ii) designated by the Minister to be a company in respect of which the disposal of its shares or debentures is exempt from the provisions of section 34 (1).
- (2) The Minister may by statutory instrument make an order exempting the disposal of shares in and debentures of such company as may be designated by him to be exempt from the provisions of section 34 (1).

Computation of cost of acquisition of bonus shares, debentures or other properties

Ascertainment of chargeable income

Non-application of provisions of Schedule

**THIRTEENTH SCHEDULE**  
**PAYMENT OF ESTIMATED INCOME TAX DURING CURRENT**  
**TAX YEAR OF ASSESSMENT**

**TRANSITIONAL PROVISIONS**

**ARRANGEMENT OF PARAGRAPH**

**PARAGRAPH**

**1. Payment of estimated tax by designated company**

Payment of  
estimated tax  
by designated  
company

1. A company designated by the Commissioner under section 110A shall calculate the amount of its estimated tax-

- (a) for the first tax year by 31st March in that year and pay that tax in four instalments of 30 per cent of the estimated tax for each of the first three instalments and ten per cent for the last instalment on or before 31st March, 30th June, in that tax year and 30th September and 31st December, in the following tax year;
- (b) for the second tax year by 31st December in that year and pay that tax in four instalments of 20 per cent, 30 per cent, 30 per cent and 20 per cent of the estimated tax on or before 31st December, 31st March, 30th June, in that tax year and 30th September in the following tax year; and
- (c) for the third tax year by 30th September in that year and pay that tax in four instalments of ten per cent of the estimated tax for the first instalment and 30 per cent of the estimated tax for each of the remaining three instalments on or before 30th September, 31st December, 31st March and 30th June respectively in that tax year."

Repeal of  
paragraphs 1  
to 4 of Third  
Schedule

17. Paragraphs 1 to 4 of Part I of the Third Schedule to the principal Act are hereby repealed:

Provided that the repeal effected by the preceding provisions of this section shall not affect any deduction allowable to any person in respect of any expenditure incurred by him on the erection or purchase of a new industrial building or any improvements thereto or on the acquisition of a new or used plant or machinery and such building, plant or machinery, as the case may be, was used in accordance with the provisions of the said paragraphs 1 to 4 immediately before the commencement of this Act.

**PASSED by the National Assembly this 19th day of August, 1982**

**B.K. TEMANE,**  
*Clerk of the National Assembly*