GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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CONTENTS

Government Notice

OFFICE OF THE PRIME MINISTER

No. 177 1994

PROMULGATION OF ACT
OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 17 of 1994: Income Tax Amendment Act, 1994.

EXPLANATORY NOTE:

________ Words underlined with solid line indicate insertions in existing enactments.

[ ] Words in bold type in square brackets indicate omissions from existing enactments.

ACT

To amend the Income Tax Act, 1981 so as to change the definition of "pension fund" by adding a requirement that such a fund shall be registered in Namibia under the Pension Funds Act, 1956 and by adjusting an amount specified in a certain provision required to be included in the rules of a pension fund; to provide that amounts taxable on the revaluation of livestock be deducted from taxable income for the purpose of determining the rate of tax; to increase certain tax abatements; to exclude companies from the exemption from tax applicable in respect of interest received or accrued on deposits with the Post Office Savings Bank; to make provision that a certain percentage of a taxpayer's taxable income derived from the export of certain manufactured goods may be deducted by means of an allowance; to empower the Permanent Secretary to require the submission of certified financial statements in support of tax returns; to make certain adjustments in relation to the percentages of the amount of the increased values of livestock required to be included in the income of farmers over certain years of assessment; to require that any increase in the value of livestock resulting from any increase in the standard values applicable to livestock be included in income; to introduce new rates of tax; and to provide for incidental matters.

(Signed by the President on 23 September 1994)

BE IT ENACTED by the Parliament of the Republic of Namibia, as follows:-

Amendment of section 1 of Act 24 of 1981, as amended by section 1 of Proclamation AG 10 of 1985, section 1 of Act 8 of 1987, section 1 of Act 1 of 1989, section 24 of Act 3 of 1991, section 1 of Act 8 of 1991, section 1 of Act 12 of 1991, section 1 of Act 25 of 1992 and section 1 of Act 10 of 1993.

1. Section 1 of the Income Tax Act, 1981 (hereafter referred to as the principal Act) is amended -

(a) by the insertion after paragraph (a) of the definition of "pension fund" of the following paragraph:

"(aA) that the fund is registered in Namibia as a pension fund under the Pension Funds Act, 1956 (Act 24 of 1956); and"; and

(b) by the substitution for subparagraph (iv) of paragraph (b) of the definition of "pension fund" of the following subparagraph:

"(iv) that not more than one-third of the total value of the annuity or annuities to which any employee becomes entitled may be commuted for a single payment, except where such total value does not exceed **[R5 000]** N$10 000;".

Amendment of section 5 of Act 24 of 1981, as amended by section 1 of Proclamation AG. 25 of 1989, section 24 of Act 3 of 1991, section 2 of Act 25 of 1992 and section 2 of Act 10 of 1993.

2. (1) Section 5 of the principal Act is amended -

(a) by the substitution for subsection (3) of the following subsection:

"(3) For the purpose only of determining the rate of normal tax payable by any person (other than a **[person referred to in subsection (5)]** company) whose income for the year of assessment in question includes -

(a) any amount referred to in paragraph (d) or (dB)(ii) or (iii) of the definition of "gross income" in section 1;

(b) any amount by virtue of the provisions of paragraph 4(2)(c)(i) of the First Schedule to this Act,

there shall be deducted from the income of such person for such year of assessment the amount so included in his or her income, but in no case, subject to subsection (4), shall the rate of normal tax be less than that applicable to the first **[rand]** Namibia Dollar of taxable amount and this subsection shall not be construed as relieving any person from liability for taxation in terms of this Act upon any portion of his or her taxable income."; and

(b) by the addition of the following subsections:

"(4) Where, but for the inclusion in the income of a person referred to in subsection (3) of any amount by virtue of the provisions of paragraph 4(2)(c)(i) of the First Schedule to this Act, such person would not have had any taxable amount for the year of assessment in question, no tax shall, notwithstanding anything to the contrary contained in subsection (3) or any other provision of this Act, be leviable on the amount representing such person's taxable amount as a result of the inclusion of that amount in such person's income.

(5) Where, but for the inclusion in the income of any company carrying on pastoral, agricultural or other farming operations of any amount by virtue of the provisions of paragraph 4(2)(c)(ii) of the First Schedule to this Act, such company would not have had any taxable income for the year of assessment in question, no tax shall, notwithstanding anything to the contrary contained in this Act, be leviable on the amount representing such company's taxable income as a result of the inclusion of that amount in its income.".

(2) The amendments effected by subsection (1) shall be deemed to have come into operation at the beginning of the year of assessment which commenced on or after 1 March 1993.

Amendment of section 7 of Act 24 of 1981, as substituted by section 4 of Act 25 of 1992 and amended by section 4 of Act 10 of 1993.

3. Section 7 of the principal Act is amended by the substitution for subsection (2) of the following subsection:

"(2) Subject to the provisions of subsection (4), there shall, for the purposes of this section, in respect of every taxpayer who is a natural person, be allowed by way of an income rebate -

(a) an amount of **[R5 000]** N$10 000 if such person is not the sole breadwinner;

(b) an amount of **[R8 000]** N$14 000 if such person is the sole breadwinner;

(c) an additional amount of **[R1 000]** N$1 000 if such person, on the last day of the year of assessment, was or would, had he or she been alive, have been over the age of sixty-five years.".

Amendment of section 16 of Act 24 of 1981 as amended by section 5 of Proclamation AG 10 of 1985, section 5 of Act 8 of 1987, section 5 of Act 12 of 1991, section 1 of Act 33 of 1991, section 6 of Act 25 of 1992 and section 16 of Act 10 of 1993.

4. Section 16 of the principal Act is amended by the substitution for subparagraph (i) of paragraph (m) of subsection (1) of the following subparagraph:

"(i) interest received by or accrued to any person, other than a company, from any deposit in the **[South West Africa]** Post Office Savings Bank;".

Amendment of section 17B of Act 24 of 1981 as inserted by section 8 of Act 10 of 1993.

5. Section 17B of the principal Act is amended by the substitution in subsection (1) for the definition of "exporter" of the following definition:

" 'exporter' means any registered manufacturer recognised as an exporter under subsection **[(4)]** (3);".

Insertion of section 17C in Act 24 of 1981.

6. The following section is inserted in the principal Act after section 17B:

"Allowance in respect of profits attributable to the export of certain manufactured goods.

17C. (1) Where a taxpayer's taxable income has been derived, whether wholly or partly, from the export of manufactured goods, but excluding manufactured fish or meat products, such taxable income shall be reduced by an allowance equal to 80% of the amount representing the taxable income so derived, but subject to subsection (3).

(2) Where the taxable income of a taxpayer contemplated in subsection (1) has not been wholly derived from the export of manufactured goods referred to in that subsection, the amount representing taxable income so derived shall be determined by the Permanent Secretary in accordance with the relation which the gross profit of the taxpayer derived from such exports bears to the taxpayer's total gross profit, and subject to such adjustments as the Permanent

Secretary in any particular case deems necessary to be made in order to reflect the true taxable amount derived from such exports.

(3) The Permanent Secretary may for the purposes of subsection (1) prescribe the accounting procedures to be followed by taxpayers in general or a particular taxpayer in order to qualify for the allowance granted by that subsection, and may, in a case where any taxpayer has failed to adhere to any accounting procedures so prescribed, decline to allow any reduction as contemplated in that subsection, and in such an event the taxpayer concerned shall not be entitled to that reduction.".

Insertion of section 62A in Act 24 of 1981.

7. The following section is inserted after section 62 of the principal Act:

"Power of Permanent Secretary to require submission of certified financial statements in support of returns.

62A. The Permanent Secretary may require any taxpayer to submit, in support of any return furnished by such taxpayer, financial statements certified by an accountant registered with the Institute of Chartered Accountants of Namibia or by any other person who is a member of any association or body representing any profession involved in the performance of functions in accounting and related fields similar to those performed by members of the Institute of Chartered Accountants and which has been approved by the Permanent Secretary.".

Amendment of section 99 of Act 24 of 1981.

8. Section 99 of the principal Act is amended by the substitution for the words preceding paragraph (a) of subsection (1) of the following words:

"The **[Council of Ministers]** Minister may make regulations -".

Amendment of Schedule 1 to Act 24 of 1981, as amended by section 3 of Act 12 of 1982, section 15 of Proclamation AG. 10 of 1985, section 19 of Act 25 of 1992 and section 12 of Act 10 of 1993.

9. Schedule 1 to the principal Act is amended -

(a) by the substitution for subparagraph (c) of paragraph 4(2) of the following subparagraph -

"(c) There shall, notwithstanding anything to the contrary in this Act contained, be included in the income -

(i) of a farmer who is not a company -

(aa) for the years of assessment ending on the last day of February 1994 and 1995, respectively, an amount equal to 10 per cent; and

(bb) for the years of assessment ending on the last day of February 1996, 1997 and 1998, respectively, an amount equal to 13,33 per cent;

of the amount representing the difference in the value of the livestock referred to in subparagraph (a), as at the end of the year of assessment ending on 28 February 1993, (determined in accordance with the provisions of paragraph 6 before its amendment by the Income Tax Amendment Act, 1993), and the value thereof as at the beginning of the year of assessment ending on 28 February 1994, (determined in accordance with those provisions as so amended); or

(ii) of a company carrying on farming operations -

(aa) for the years of assessment commencing on or after 1 January 1993 and 1 January 1994, respectively, an amount equal to 10 per cent; and

(bb) for the years of assessment commencing on or after 1 January 1995, 1996 and 1997, respectively, an amount equal to 13,33 per cent, of the amount representing the difference in the value of the livestock referred to in subparagraph (b), as at the end of the financial year commencing on or after 1 January 1992 (determined in accordance with the provisions of paragraph 6 before its amendment by the Income Tax Amendment Act, 1993), and the value thereof as at the beginning of the financial year commencing on or after 1 January 1993, (determined in accordance with those provisions as so amended)."; and

(b) by the insertion after paragraph 6 of the following paragraph:

"6A. (1) If any increase occurs in the standard value of any class of livestock fixed by regulation under paragraph 6(1)(a)(ii), 6(1)(c)(i) or 6(1)(d)(i), by reason of an amendment of such regulation by the Minister, the amount by which the value of any class of livestock of any taxpayer carrying on farming operations is increased as a result of such an amendment, shall, without prejudice to the provisions of paragraph 4(2)(c), but subject to subparagraphs (2) and (3) of this paragraph, be included in such taxpayer's income.

(2) Where in the year of assessment immediately before the year of assessment in which any increase in the standard value of any class of livestock fixed by regulation becomes effective by reason of an amendment of such regulation as contemplated in subparagraph (1), the value of any class of livestock of a taxpayer was determined in accordance with any other standard value which had been adopted by such taxpayer in accordance with the provisions of paragraph 6(1)(a)(iii), 6(1)(c)(ii) or 6(1)(d)(ii), read with paragraph 6(3), and, as a result of such increase of the standard value fixed by regulation, the standard value of that class of livestock so adopted by the taxpayer is less than the new standard value fixed by regulation for that class of livestock, the new standard value so fixed shall be applicable to such taxpayer, unless the taxpayer is, in accord-

ance with the provisions of paragraph 6(3), granted approval again to adopt any other standard value for that class of livestock, and in such an event the amount by which the previous other standard value which had been adopted by the taxpayer is increased by the adoption of a new other standard value, as contemplated in this subparagraph, shall be included in the taxpayer's income, but subject to subparagraph (3).

(3) Where a taxpayer is granted approval to again adopt any other standard value in respect of any class of livestock as contemplated in subparagraph (2), the new standard value so adopted shall not be less than an amount which is equal to the previously adopted standard value increased by such percentage as by which the standard value fixed by regulation has been increased by the Minister as contemplated in subparagraph (1), except if the Permanent Secretary, under the proviso to paragraph 6(3), approves the adoption of a standard value lower than the new standard value so fixed by regulation.".

Amendment of Schedule 4 of Act 24 of 1981, as added by section 21 of Act 25 of 1992 and amended by section 14 of Act 10 of 1993.

10. Schedule 4 to the principal Act is amended by the substitution for paragraph 1 of the paragraph set out in the Schedule to this Act.

Short Title and commencement.

11. This Act shall be called the Income Tax Amendment Act, 1994, and shall be deemed to have come into operation, unless otherwise stated -

(a) in the case of any taxpayer other than a company, at the beginning of the year of assessment commencing on or after 1 March 1994;

(b) in the case of any taxpayer which is a company, at the beginning of the year of assessment of such company commencing on or after 1 January 1994.

SCHEDULE

(section 10)

"1 RATES OF NORMAL TAX

(section 6)

Taxable amount	Rates of Tax
Where the taxable amount -	
does not exceed N$10 000	14 per cent of each N$1 of the taxable amount;
exceeds N$10 000, but does not exceed N$15 000	N$1 400 plus 20% of the amount by which the taxable amount exceeds N$10 000;
exceeds N$15 000, but does not exceed N$20 000	N$2 400 plus 22% of the amount by which the taxable amount exceeds N$15 000;
exceeds N$20 000, but does not exceed N$25 000	N$3 500 plus 26% of the amount by which the taxable amount exceeds N$20 000;
exceeds N$25 000, but does not exceed N$30 000	N$4 800 plus 30% of the amount by which the taxable amount exceeds N$25 000;
exceeds N$30 000, but does not exceed N$40 000	N$6 300 plus 34% of the amount by which the taxable amount exceeds N$30 000;
exceeds N$40 000, but does not exceed N$60 000	N$9 700 plus 35% of the amount by which the taxable amount exceeds N$40 000;
exceeds N$60 000, but does not exceed N$80 000	N$16 700 plus 36% of the amount by which the taxable amount exceeds N$60 000;
exceeds N$80 000, but does not exceed N$120 000	N$23 900 plus 37% of the amount by which the taxable amount exceeds N$80 000;

exceeds N$120 000	N$38 700 plus 38% of the amount by which the taxable amount exceeds N$120 000.".