

Abstract Section 12B of the 2016 Income Tax Act

Abstract Section 12B of the 2016 Income Tax Act

Machinery, plant, implements, utensils or articles or improvements thereto (the asset) used in farming or production of renewable energy. An allowance will be granted for assets owned by a taxpayer or acquired by the taxpayer as purchaser in terms of an “instalment credit agreement” as defined in the VAT Act, and brought into use for the first time by the taxpayer –

in the carrying on of farming operations except –

- any motor vehicle of which the sole primary function is the conveyance of persons;
- any caravan;
- any aircraft (other than an aircraft used solely or mainly for crop spraying); or
- any office furniture or equipment);

for the purpose of trade to be used for the production of bio-diesel or bio-ethanol;

for the purpose of his trade to generate electricity from –

- Wind power;
- Photovoltaic solar energy of more than 1 megawatt; not exceeding 1 MW; or concentrated solar energy;
- Hydropower to produce electricity of not more than 30 MW; and
- Biomass comprising organic wastes, landfill gas or plant material.

An allowance for –

- assets used to generate electricity from photovoltaic solar energy not exceeding 1 MW, equal to 100% (in respect of years of assessment commencing on or after 1 January 2016); and
- all other assets, equal to 50% of the cost of the asset to the taxpayer in the year of assessment (first year of assessment) in which the asset is so brought into use; 30% of such cost in the second year of assessment; and 20% of such cost in the third year of assessment,

will be granted [see section 12B (2)].

Any foundation or supporting structure to which the abovementioned assets are mounted or affixed forms part of the asset and qualifies for the allowance.

The depreciable cost of the asset is the lesser of –

The actual cost to the taxpayer; or
The arm's length cash price at the time of acquisition.

Any recoupment of the allowance granted will be accounted for in exactly the same manner as mentioned in 2.6.4. The asset has to be brought into use for the purposes of the taxpayer's trade in order to generate electricity from the specified renewable energy sources.

Section 12B thus provides for an accelerated capital allowance on the cost of the asset and can be claimed in full, even if the asset is used for only part of the year of assessment.

Section 12B (3) deems the cost of the asset to be the lesser of:

- the actual cost to the taxpayer, or
- the cost under a cash transaction concluded at arm's length on the date on which the transaction for its acquisition was in fact concluded;
- plus, the direct cost of its installation or erection.
- Finance charges are excluded, as these are deductible under section 11(bA). The section 12B allowance is also only available for movable assets, hence it cannot be claimed on buildings.

The cost of the asset includes improvements and foundations. If the lessee undertakes obligatory improvements on leased property in terms of a Public Private Partnership or for obligations incurred on or after 1 January 2013, the Independent Power Producer Procurement Programme of section 12N (administered by the Department of Energy) will apply. If the lessee uses the property for purposes of earning income, section 12N allows for the depreciation on the improvements to be calculated as if the lessee owned the underlying property directly.

The section 12B allowance is also available on foundations or supporting structures that are deemed to be part of the qualifying asset, if:

- the asset is mounted or fixed to any concrete or other supporting structure or foundation;
- the supporting structure or foundation is designed for the asset in such a way that it is an integral part of the asset; and
- the foundation or supporting structure is brought into use on or after 1 January 2013.

