



21 July 2021

To: The National Treasury
240 Madiba Street
PRETORIA
0001

Via email: National Treasury - taxincentivereviews@treasury.gov.za

Dear Colleagues,

RE: FOLLOW-UP SUBMISSION ON THE TAX INCENTIVE SUNSET DATES

As part of its review of tax incentives, National Treasury announced the potential sunset of the following incentives:

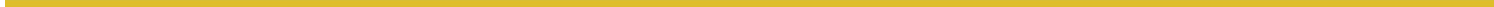
Income Tax Act	Tax incentive description	Effective date	Sunset date
Section 12F	Deduction in respect of airport and port assets	01/01/2001	28/02/2022
Section 12DA	Deduction in respect of rolling stock	01/01/2008	28/02/2022
Section 13sept	Deduction in respect of sale of low-cost residential units on loan account	21/10/2008	28/02/2022
Section 12O	Exemption in respect of films	01/01/2012	01/01/2022

Submissions were made by several parties over the last few months and a meeting between Government and various private sector tax specialists was held on 31 March 2021. SAIT made a submission to National Treasury on 1 April 2021 and was involved in the meeting held on Monday, 5 July 2021.

The purpose of this submission is to provide a few additional thoughts on the incentives discussed.

Yours sincerely,

South African Institute of Tax





PART 1: Addressing sections 12DA, 12F and 13sept

General considerations

A. Low-Cost Employer Housing (section 13sept)

As highlighted in our submission, we are of the view that section 13sept has a questionable market-focus. This section provides for a deduction for the sale of low-cost residential units by an employer to its employees through interest-free loan. However, employer sales of property to employees on loan account is not a widespread practice nor economically viable for more employers.

The incentive provided for in section 13sept is designed to accelerate depreciation with the objective of promoting housing developers. Typically, developers purchase residential property with the intention to sell. We fail to see how accelerated depreciation for employers means much, especially when the transfer to an employee will be subject to recoupment. The incentive is also too small to really impact employer decisions or stimulate construction by developers.

In short, we see no interest in this incentive given the lack of desire to comment on its removal. We fully concur that this incentive can be withdrawn as long as employer-owned residential units can receive the basic residential rental regime under section 13sex while these units remain employer-owned.

B. Airport, Port and Rolling Stock Assets (Section 12DA and 12F)

With regards to the remaining incentives for airport assets, (sea)port assets and rolling stock (e.g. locomotives and railroad cars), we restate that these assets generally experience economic depreciation over their useful life in a manner akin to all other assets. We therefore recommend that a general allowance for unaccelerated, basic wear and tear be designed as an alternative as relates to the aforementioned. We would ask that incentivising the depreciation of these assets be removed and propose that the following options be considered as alternatives:

- Option 1:

The depreciation of airport and (sea)port assets as well as rolling stock should follow a simple pattern that is aligned with other similar depreciation allowances that are provided for in the Act.

For example: We would suggest that the incentive for rolling stock be removed and the tax treatment for rolling stock be dealt with under the provisions of the previous section 11(e). SARS can then determine useful life based its economic analysis.





We understand from Transnet in the 5 July meeting that rolling stock was previously depreciated over 15 years on a straight-line method.

Regarding the depreciation on buildings, we recommend that the incentive be removed. The standard 5% depreciation for commercial buildings (as provided for in section 13quin) should be provided for as an alternative.

- Option 2:

As an alternative, we recommend that a study be undertaken regarding the manner in which accounting useful lives of assets are calculated and treated on an international scale. Based on this study, we would ask that the international standards for the treatment of tax depreciation be utilised to align the depreciation of the aforementioned assets accordingly.

For example: Extensive studies have been conducted by a number of stakeholders in the tax fraternity regarding the general benchmark for tax depreciation rates for useful life write offs for the above-mentioned assets. One particular study was conducted regarding the tax depreciation of these assets in *inter alia* the Asia-Pacific, America and EMEIA regions. The study was performed in approximately 30 countries. For brevity's sake, typically the general parameters of the tax depreciation that is provided for in respect of freeports (i.e., airports and sea(ports)) (buildings, runway or ancillary structure), is approximately 10%. We suggest that consideration be given to international standards of practice in this regard and to align the tax depreciation of the aforementioned assets accordingly.

PART 2: Film

After many further discussions, we continue to find that the most important incentives for the film industry relate to cash grants by the Department of Trade, Industry and Competition (DTIC). These grants provide a key cash injection for many films and often operate as “seed” capital to attract future investors. Therefore, from a tax perspective, the most important request from the industry is to preserve the tax exemption for the government grant. This exemption for government grants would be in line with the exemption for other government grants listed in the 11th Schedule.

More importantly, our further review indicated that section 12O oddly failed to cover all of the DTIC film grants offered. Under current law, section 12O covers only the South African Film and Television Production and co-Production incentive. The DTI film grants should also include:

- The South African Film and Television Production Incentive;
 - The South African Emerging Black Filmmakers Incentive; and
 - The Foreign Film and Television Production and Post-Production Incentive.
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The National Film and Video Foundation, an agency of the Department of Arts and Culture, also offers various additional funding in support of film production and development. This funding covers: (1) films relating to fiction development and documentary development, (2) fiction production – animation, (3) documentary production – archive funding, and (4) documentary and fiction post-production.

In terms of section 12O overall, a split exists amongst filmmakers as to its value. Some filmmakers found the incentive mildly helpful, but most found the incentive of little use. One of the main stumbling blocks relates to the required approval from the National Film and Video Foundation (section 12O(2)(a)). It seems that this approval is far too slow. Many wanted the return of section 24F allowance, but most realise that National Treasury would likely oppose the allowance's return.

Given this split, we would ask that the incentive be extended for one more year to finalise the debate. Given the small revenue involved, we doubt the cost to the fiscus will be significant. If removing corporate incentives remains a priority, we would suggest that section 12O be limited to natural persons other than the special purpose vehicle required by the DTIC (which is merely a temporary reporting entity).

End.
