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Tax Incentives for Individuals who invest in renewable energy in South Africa

Solar panel incentive for individuals

A Draft Taxation Laws Amendment Bill (initial batch) was published which proposes an insertion of section 6C “solar energy tax credit” in line with the announcement by the Finance Minister to introduce a tax incentive for individuals to invest in renewable energy.

Qualifying criteria:

- The credit will be available only to natural persons,
- for new or unused solar photovoltaic panel with generation capacity of each not less than 275W, brought into use by the natural person on or after 1 March 2023 and before 1 March 2024.
- The solar panels must be installed and mounted on a residence mainly used for domestic purposes.
- The installation must be connected to the distribution board of the residence with an electric certificate issued to the natural person in respect of the installation.

How much is the credit?

The credit as announced during the 2023 Budget speech is limited to 25% of the cost of the solar panels and cannot in aggregate exceed R15 000.

Where you and your partner split the cost of the Solar panels can you both claim up to R15K?

Where the cost of the solar is split the tax credit must be apportioned with the deduction for the total cost limited to 25% of the total cost of the solar panels of R15K whichever is higher. An example where the cost is shared 50% and total cost was R150K.

25% of 150K = R37.5K therefore higher than 15K the tax credit for the residence is therefore limited to 15K. The partners in the determination of their respective taxable income can claim a tax credit of R7.5K each.

How will SARS potentially collect data to verify compliance of the taxpayer for Solar panels incentives?

As indicated above, to be able to claim this rebate an individual needs to have a valid invoice and certificate of compliance indicating that the panels were brought into use for the first time in the period from 1 March 2023 to 29 February 2024.

The taxpayers will be able to claim the rebate on assessments during the 2023/24 tax filing season. Provisional taxpayers will be able to claim the rebate against provisional and final payments.

The installers will be required to submit third party returns with the cost of the solar panels, physical address of the taxpayer where installation took place and date on which the solar panels are brought into use after installation, income tax reference number or identity number for solar PV panels that were brought into use for the first time between March 1, 2023, and February 29, 2024, by May 31, 2024.



Zimasa Faas
Tax Trainee



Tijiselani Sithole
Senior Consultant



Sipho Mhaga
Senior Manager Customs & Excise



Khanyisa Cingo-Ngandu CA(SA)
Director & Head of Tax



Understanding tax incentives and other benefits of using renewable energy in South Africa (Business)

The government announced renewable energy related tax incentives in February 2023 to assist businesses and consumers alike as they attempt to mitigate the destruction brought about by loadshedding.

Recently the National Treasury published a draft bill for commentary detailing how the incentive will be applied. In this article we comment on existing incentives and other benefits currently available to taxpayers. We also summarize the contents of the draft bill.

Tax incentives for businesses involved in generation of electricity.

The draft bill proposes that section 12BA is added to the Income Tax Act No.58 of 1962. This section will allow qualifying businesses to claim 125% of costs incurred in respect of qualifying investments.

This is limited to investments brought into use for the first time between 1 March 2023 and 28 February 2025. There will be no thresholds on the size of the projects that qualify, and the incentive will be available for two years to stimulate investment in the short term. Below we compare the incentive per the draft bill to existing incentives that businesses can apply to similar projects/assets.

Applicable section	12B	12BA	12E
Qualifying criteria	• Owned by the taxpayer	• Owned by the taxpayer	• Taxpayer is a small business corporation Plant/machinery is owned by the taxpayer
	• Brought into use for the first time	• Brought into use for the first time by that taxpayer on or after 1 March 2023 and before 1 March 2025	• Brought into use by that taxpayer on or after 1 April 2001
	• Used by that taxpayer in generation of electricity from	• Used by that taxpayer in the generation of electricity from	Used in the manufacturing process or any other
	Wind power,	Wind power;	
	• Photovoltaic solar energy of more than 1 megawatt,	• Photovoltaic solar energy;	
	• Photovoltaic solar energy not exceeding 1 megawatt,		
	• Concentrated solar energy,	• Concentrated solar energy;	
	• Hydropower to produce electricity of not more than 30 megawatts,	• Hydropower to produce electricity;	

¹Small business cooperations are defined to be a personal liability company, close corporation, or private enterprise. The entity's shares (proprietary interests) must be held by natural people at all times during the assessment year and the gross income of the entity may not exceed R20,000,000.

Applicable section	12B	12BA	12E
	<ul style="list-style-type: none"> Biomass comprising organic wastes, landfill gas or plant material 	<ul style="list-style-type: none"> Biomass comprising organic wastes, landfill gas or plant material, 	
Qualifying criteria	<ul style="list-style-type: none"> Photovoltaic solar energy not exceeding 1 megawatt=100% of cost 	125%	<ul style="list-style-type: none"> Asset is used in a process of manufacture=100% of cost in year asset is brought into use
	<ul style="list-style-type: none"> Other: 50% (1st year), 30% (2nd year), 20% (3rd year) 		<ul style="list-style-type: none"> Other 50% (1st year), 30% (2nd year), 20% (3rd year)
Recoupment	Recoupment to be calculated in terms of section 8(4)(a)	if asset disposed of before 1 March 2026 25% of the cost of the asset that is recovered or recouped must be included in the taxpayer's income in addition to a recoupment to be calculated in terms of 8(4)(a)	Recoupment to be calculated in terms of section 8(4)(a)

Energy consumption- Section 12L

Section 12L of the Income Tax Act provides for an additional allowance for energy efficiency savings. The deduction of the energy efficiency savings is calculated at 95 cents per kilowatt hour or kilowatt hour equivalent. Before making a deduction under section 12L during any year of assessment, the taxpayer must have a certificate from South African National Energy Development Institute (SANEDI) that confirms and provides proof of energy savings in their possession

For the carbon tax purposes, some items are not eligible for the renewable energy premium deduction depending on the purchase, use, disposal of such renewable energy.



Zimasa Faas
Tax Trainee



Tiyiselani Sithole
Senior Consultant



Siphon Mhaga
Senior Manager Customs & Excise



Khanyisa Cingo-Ngandu CA(SA)
Director & Head of Tax

Carbon Tax/Excise

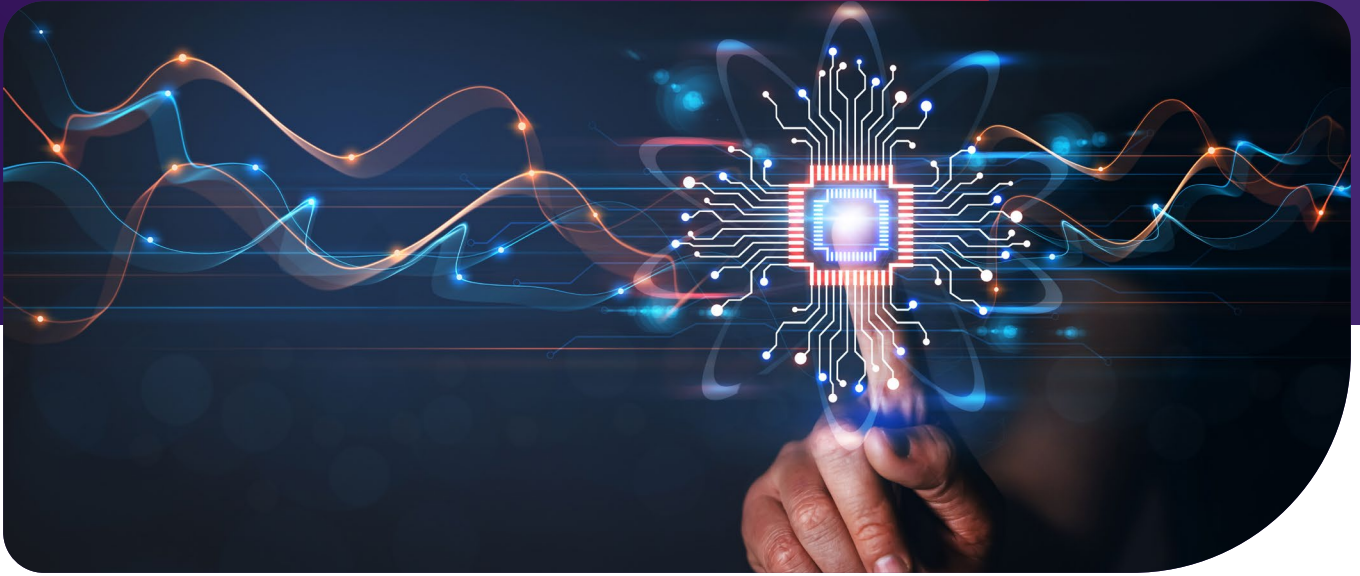
Renewable energy premium

Eskom and other electricity generators who during the tax period purchased renewable energy at a price inclusive of the renewable energy premium under the Renewable Energy Independent Power Producer tariff are the only ones who are eligible to use the provision in Section 6(2) of the Carbon Tax Act, 2019, which allows the deduction of the Renewable Energy Premium against the taxpayer's carbon tax liability.

The carbon taxpayer must meet the following requirements to be eligible for the deduction:

- i) Be licensed with the National Energy Regulator of South Africa (NERSA); and
- ii) Supply electricity to the national grid with a Purchasing Power Agreement (PPA) with Eskom.

The carbon tax liability may only be offset by direct and primary purchases of renewable energy for which the renewable energy premium was paid. Therefore, the deduction is only available to carbon taxpayers who are producing electricity and who really paid the premium for renewable energy on those purchases made during the tax period.



Introduction to the Transfer Pricing Risk Assessment Tool

The South African transfer pricing legislation was introduced in 1995 through section 31 of the Income Tax Act, 1962. The provisions of Section 31 were introduced to counter transfer pricing practices which may have adverse tax implications for the South African fiscus.

The provisions of section 31 have been updated to be more general in order to cover all transactions as opposite to addressing specific transactions. Certain concepts were also introduced to align the provision of section 31 to the OECD (Organisation for Economic Cooperation and Development) Guidelines.

The provisions of section 31 require the taxpayer to price their cross-border intercompany transactions in a manner consistent with the price that would be charged or paid if the transaction had taken place between two comparable independent parties (i.e., arm's length price). Furthermore, it empowers SARS to adjust the consideration in respect of these cross-border intercompany transactions to reflect an arm's length price.

SARS requires the taxpayer to prepare and submit transfer pricing documentation (i.e., master file and local file) that supports the arm's length nature of these transactions, if certain thresholds are met.

The SARS issued Public Notice no. 41186 in terms of section 29 of the Tax Administration Act, 2011 which requires taxpayers to submit transfer pricing documentation (i.e., master file and local file) if the aggregate of the taxpayers potentially affected transactions exceed or are expected to exceed R100 million in that specific year of assessment.

The tax technology team together with transfer pricing experts of SizweNtsalubaGobodo Grant Thornton have developed a transfer pricing risk assessment tool that will assist the taxpayer assess whether there is a requirement to submit transfer pricing documentation based on the South African transfer pricing documentation requirements.

The tool provides the user with a risk rating based on the input provided and indicates the taxpayer's obligation in relation to the transfer pricing documentation.

SizweNtsalubaGobodo Grant Thornton's team of transfer pricing experts can assist the taxpayers in ensuring that they are compliant with the South Africa transfer pricing legislation and regulations.

Please refer to the International Tax & Transfer Pricing | Grant Thornton site for an extensive list of the services that can be provided by our transfer pricing experts.

The Transfer Pricing Risk Assessment Tool can be accessed through the below link:

<https://tptool.azurewebsites.net/User/SignIn>



Ellaine Raboroko
Manager
Transfer pricing



Disebo Makhetha
Associate Director
Tax



Cross border transactions that do not trigger the Value Added Tax (“VAT”) registration in the Republic of South Africa (Flash Title Sale).

To promote access to our local goods from the international market and customers, South Africa has a VAT concept called “Flash title sale.” This concept involves a South African registered vendor selling its movable goods to a foreign customer who is not registered for VAT in South Africa.

These movable goods, are not intended to be delivered by the RSA Vendor to the foreign country i.e. they remain in South Africa (within the designated ports) post the sale. That foreign customer in return sells the same movable goods to another foreign customer(s).

In between the sale, the movable goods are stored in the bounded warehouse in the customs-controlled area in South Africa until the second foreign customers makes a collection. The foreign purchasers are defined as a “Qualifying

Purchasers” in the export regulation (GNR.316 of 2 May 2014). Goods sold to a Qualifying Purchaser, may be subject to VAT at a zero rate where all other requirements are met.

A “Qualifying Purchaser” can write to the Commissioner requesting not to be classified or recognised as a “Qualifying Purchaser”. Where this is the case, the supply of goods will be treated as a normal standard sale within borders of South Africa i.e. the RSA vendor will be required to impose VAT at the standard rate (15%).

The table below outlines in summary the benefits and drawbacks for Qualifying Purchasers:

Benefits	Drawbacks
<ul style="list-style-type: none"> • Access to RSA market with limited administrative costs as you do not need to register for VAT RSA 	<ul style="list-style-type: none"> • Warehousing costs- the Qualifying Purchase will incur warehousing costs for the goods while they are stored in RSA.
<ul style="list-style-type: none"> • End customer for the qualifying purchaser is not limited, i.e. can set up a supply base/warehouse out of RSA 	<ul style="list-style-type: none"> • The warehouse must adhere to the requirements of the Customs and Excise Act as far as it relates to storage of goods.



Mbusi Mthwane
Senior Manager
Tax



SARS's new tax compliance disclosure requirements for transferring funds abroad.

SARS has enhanced its Tax Compliance Status (TCS) application process and forms to easily deal with the growing volumes of taxpayers requesting 3rd party verification requests, including Foreign Investment Allowance and Emigration.

The enhanced TCS system was introduced on 24 April 2023 by SARS following its consultations with authorised dealers and the SARB (South African Reserve Bank).

Taxpayers who wish to transfer funds abroad will be required to obtain the Approval for International Transfer (AIT) pin from SARS if the funds to be transferred exceed R1 million but up to R10 million in a calendar year. No AIT pin is required for transfers of a single discretionary allowance of up to R1 million in a calendar year.

A stricter verification process will be applied by SARS where the Foreign Investment Allowance exceeds R11 million. An application for a Letter of Compliance will need to be made to SARS and this application is also subject to the SARB approval.

You will be required to indicate your South African Tax Residency Status when applying for the AIT pin. If you are a non-resident taxpayer, you will be required to provide the following information to SARS:

- Confirmation that you have ceased to be a resident of South Africa for tax purposes, including the date on which you ceased to be a resident.
- Detailed Capital Gains Tax Calculation schedule relating to any tax payable on deemed disposal of assets on the day before you ceased to be a tax resident.

Separate non-resident applications are accepted for each member of the family unit.

You will also be required to confirm the following on your application for the AIT pin:

- Whether you are a beneficiary of a Trust(s)?
- Whether you have a shareholding directly/indirectly in any Legal Entity (Local or Foreign) of 20% or more?
- Whether you have any existing loan(s) to a Trust (Local or Foreign)?

You will also be required to submit the following supporting documents:

- Relevant material that demonstrates the source of the capital to be invested. (SARS has provided nine distinct types of "source(s)" for selection and one additional option for "other" sources. Types of source(s) include loans, donation, inheritance, sale of crypto assets, etc.)
- Statement of assets and liabilities for the previous three tax years (this should include disclosure of all investments, loan accounts and distributions from local and foreign companies, trusts, etc.).

All supporting documentation provided to SARS in respect of the Approval for International Transfer are subject to the verification process.

For any queries, please feel free to contact us on:
tax.info@sng.gt.com



Laurence Mbokwane
Senior Tax Consultant
Employees' Tax and Global Mobility



ChatGPT: Capabilities and Limitations

Undoubtedly, most of us have heard of the word ChatGPT. In this article, we will take a cursory look at what ChatGPT is, some of its amazing and equally scary capabilities as well as promises. ChatGPT is a computer program that can carry out an intelligent conversation with a human and answer questions, generate text based on input.

It can answer follow-up questions, admit its mistakes, challenge incorrect premises, reject inappropriate requests, correct grammar, summarize difficult texts into simple concepts, convert movies into emojis, fix bugs in code, to list a few applications. It is based on a form of Artificial Intelligence (AI) called Deep Learning to generate text based on a given prompt.

AI has been around for almost 80 years and conversational AI has been considered the most difficult branch of AI due to imprecision, nuances, and context boundedness of natural languages. This is at variance with branches like mathematics which are characterized by precision. However, ChatGPT was able to defy the odds and carry on a conversation better than humans in some topics.

ChatGPT, released on November 30, 2022, in San Francisco, can be thought of as a virtual writing assistant or a smart chatbot that can understand and respond to humans in natural language.

It was developed by OpenAI based on natural language processing which has been trained on massive amounts of text data from various sources such as books, theses, case studies allowing it to generate human-like responses to a variety of questions and prompts. It is a machine that has read and learned a lot so it can write its own replies and stories.

ChatGPT forms part of what is known as Generative AI (chatbot). This is a form of AI that can generate its own content rather than simply analyze or act on existing data. An example of this is a program called DALL.E 2, a text to image program that creates 'realistic' images that never existed based on simple written input text description.

Unfortunately, Generative AIs can be manipulated to be sources of false information. However, an Application Programming Interface (API) called Moderation API has been developed to counter this. This is a moderation system intended to assist developers when things go against their content policy like illegal or unsafe information.

Microsoft and Meta both launched their own Generative AIs called Tay and BlenderBot 3 before ChatGPT.

Twitter users unfortunately taught Tay rude, racist, and misogynist language which led to its downfall.

This was also the case with BlenderBot 3. The Moderation API is not a hundred percent full proof but certainly helps.

Despite its capabilities, ChatGPT does have limitations. It may occasionally generate incorrect information, produce harmful instructions or biased content, and has limited knowledge of the world and events post 2021.

There are also ethical implications that come with Generative AIs such as ChatGPT including having programmers using it to write their codes and school kids using it to answer their exam questions. People can also be the target of Generative AI through deep fake videos, explicit content, or propaganda.

Notwithstanding its limitations and ethical implications, ChatGPT is seen as the next era defining innovation which is bound to change how we interact with the world and the internet as we have come to know it.



Senzeni Mtetwa
Senior Manager
Tax

