

BRIEFING NOTE: RELEASE OF TAB CALCULATOR

On 10 July 2006 SARS released a beta version of a TAB Calculator for public comment by 31 August 2006. This was followed on 31 July 2006 by a second beta version with kink test functionality.

Modifications incorporated in this version as a result of the comments received

References to paragraphs in this note are to paragraphs in the Eighth Schedule to the Income Tax Act, 1962.

The calculator now takes account of the situation that arises under paragraph 27(4). This arises where there is an historical loss/break even situation and no market value on valuation date has been determined or published in the *Government Gazette*. The calculator previously erroneously assumed that a market value of nil had been determined and eliminated any resulting loss instead of allowing TAB to be used as the valuation date value (VDV). In addressing this issue a question has been inserted under 'inputs' which now asks whether a market value has been determined / published.

The notes to the Calculator have undergone some changes.

A commentator indicated that in the historical gain situation of paragraph 26 the calculator always returned a base cost based on TAB. As a result the calculator did not necessarily return the highest valuation date value, nor did it apply the paragraph 26(3) kink test when the market value method had been adopted and there was a resulting loss. While the calculator was not intended to be a highest base cost calculator, it was decided that it would be useful if the calculator pointed out the other available alternatives. The calculator now indicates whether the result obtained is the best one possible, and if not, what the other alternatives are. In presenting the alternatives, the calculator will apply the paragraph 26(3) kink test and limit any market value loss to nil in the historical gain situation.

Background information

The commentary below, which was included in the briefing notes that accompanied the beta versions of the calculator, is repeated with some modification for the sake of completeness.

The time-apportionment basis (TAB) is one of several methods that can be used to determine the valuation date value of assets acquired before 1 October 2001 for CGT purposes. The other methods are market value on valuation date, 20% X (proceeds less post-1 October 2001 expenditure) and weighted average.

Many taxpayers and their advisors have experienced difficulty in correctly applying the TAB formulae in terms of paragraph 30. In order to assist, SARS has released a basic TAB calculator that utilises a Microsoft Excel worksheet.

Applicable law

The calculator applies the TAB and proceeds formulae in paragraph 30(1) and (2) of the Eighth Schedule, as amended by the Revenue Laws Amendment Act 31 of 2005, which was promulgated on 1 February 2006.

Application

The calculator applies to disposals of assets made during years of assessment ending on or after 8 November 2005. In simple terms this means that in the case of individuals and trusts, it applies to disposals made on or after 1 March 2005. The calculator can still be used for earlier disposals, but in those cases the selling expenses block must be left empty, and any selling expenses must be included in the block entitled "Expenditure after 1.10.2001 (excl selling exps)".

The calculator does not apply in the following circumstances:

- Where the weighted average method has been adopted in respect of any of the four classes of identical assets referred to in paragraph 32(3A), namely, listed shares, participatory interests in collective investment schemes, gold and platinum coins and listed section 24J instruments. This method commences with the market value of assets on 1 October 2001 with post-CGT acquisitions added at cost. TAB is not an option under this method which must be applied to all the assets in the particular class. No switching to or from this method is possible unless all the assets in the class have been disposed of.
- In the case where there is no record of pre-1 October 2001 expenditure, TAB is not an option and either the market value or 20% of proceeds method must be used.
- In the case of allowance assets where expenditure has been incurred on or after 1 October 2001 and an overall gain is anticipated, the special depreciable assets TAB formulae in paragraph 30(3) and (4) must be applied.

Kink tests performed by the calculator and freedom of choice of valuation method

The calculator performs the loss limitation ("kink") tests contained in paragraphs 26(3) and 27(3) and (4).

A person's freedom to choose a particular valuation method (TAB, market value or 20% of proceeds) depends on whether the disposal results in

- an historical gain (proceeds exceed pre- and post-1 October 2001 expenditure), or
- an historical loss or break even situation (proceeds are less than or equal to pre- and post-1 October 2001 expenditure).

Historical gain (paragraph 26)

In the historical gain situation a person has the freedom to choose, with one limitation, any one of the three valuation methods referred to above. The limitation applies where the market value method has been adopted and a capital loss results. In that case, paragraph 26(3) substitutes the proceeds less any post-1 October 2001 expenditure as the valuation date value, resulting in no gain / no loss.

The calculator will provide the capital gain generated by the market value or 20% of proceeds methods where they give a more favourable result than TAB. Any capital loss generated by the adoption of the market value method will be limited to nil in terms of

paragraph 26(3), and this fact will be indicated by means of an asterisk and a corresponding note.

Historical loss/break even (paragraph 27)

When there is an historical loss or break even situation, the outcome is predetermined by paragraph 27 and there is no freedom to choose an alternative valuation method. The kink tests may substitute a different valuation date value in the place of TAB. In order to apply the paragraph 27 kink tests, users must simply answer the question as to whether they have determined a market value on 1 October 2001 or whether one has been published in the *Gazette*. They must then insert that market value in the space provided. This should be done where the asset was valued as at 1 October 2001 on or before 30 September 2004 or where the price of the asset was published in the *Government Gazette* (e.g. as in the case of SA listed shares and SA collective investment schemes).

Accuracy of inputs

As with any computer application, the accuracy of the outputs depends on the accuracy of the inputs. Users need to ensure that they correctly determine the input information in accordance with paragraphs 20 and 30 of the Eighth Schedule.

Any comments or suggestions regarding the calculator will be welcomed on an ongoing basis and can be sent by e-mail to policycomments@sars.gov.za.

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