INTERPRETATION NOTE: NO. 47 (Issue 3)

DATE: 2 November 2012

ACT : INCOME TAX ACT NO. 58 OF 1962 (the Act)
SECTION : SECTION 11(*e*)
SUBJECT : WEAR-AND-TEAR OR DEPRECIATION ALLOWANCE

CONTENTS

Preamble

In this Note unless the context indicates otherwise –

- **"allowance"** means the wear-and-tear or depreciation allowance granted under section 11(*e*);
- **"qualifying assets"** mean machinery, plant, implements, utensils and articles qualifying for the allowance;
- **"section"** means a section of the Act;
- **"Value-Added Tax Act"** means the Value-Added Tax Act No. 89 of 1991;
- **"Tax Administration Act"** means the Tax Administration Act No. 28 of 2011; and
- any word or expression bears the meaning ascribed to it in the Act.

1. Purpose

This Note provides guidance on the application and interpretation of section 11(*e*) in relation to the determination of –

- the "value" of a qualifying asset on which the allowance is based; and
- acceptable write-off periods of such assets.

This Note is a binding general ruling made under section 89 of the Tax Administration Act on section 11(*e*) in so far as it relates to the determination –

- of the value of an asset for purposes of section 11(*e*); and
- the amount that will qualify as an allowance.

This ruling applies to any qualifying asset brought into use during any year of assessment commencing on or after 1 March 2009.

2. Background

This Note provides guidance on the circumstances under which the wear-and-tear or depreciation allowance provided for in section 11(*e*) may be claimed as a deduction. It also contains **Annexure A** which provides the different write-off periods for qualifying assets.

3. The law

Section 11(*e*)

11. General deductions allowed in determination of taxable income.—For the purpose of determining the taxable income derived by any person from carrying on any trade, there shall be allowed as deductions from the income of such person so derived—

(*e*) save as provided in paragraph 12(2) of the First Schedule, such sum as the Commissioner may think just and reasonable as representing the amount by which the value of any machinery, plant, implements, utensils and articles (other than machinery, plant, implements, utensils and articles in respect of which a deduction may be granted under section 12B, 12C, 12DA, 12E(1) or 37B) owned by the taxpayer or acquired by the taxpayer as purchaser in terms of an agreement contemplated in paragraph (*a*) of the definition of "instalment credit agreement" in section 1 of the Value-Added Tax Act, 1991 (Act No. 89 of 1991), and used by the taxpayer for the purpose of his or her trade has been diminished by reason of wear and tear or depreciation during the year of assessment: Provided that—

(i) ……

(iA) no allowance may be made in respect of any machinery, plant, implement, utensil or article the ownership of which is retained by the taxpayer as a seller in terms of an agreement contemplated in paragraph (*a*) of an "instalment credit agreement" as defined in section 1 of the Value-Added Tax Act, 1991;

(ii) in no case shall any allowance be made for the depreciation of buildings or other structures or works of a permanent nature;

(iiA) where any machinery, implement, utensil or article qualifying for an allowance under this paragraph is mounted on or affixed to any concrete or other foundation or supporting structure and the Commissioner is satisfied—

(*aa*) that the foundation or supporting structure is designed for such machinery, implement, utensil or article and constructed in such manner that it is or should be regarded as being integrated with the machinery, implement, utensil or article;

(*bb*) that the useful life of the foundation or supporting structure is or will be limited to the useful life of the machinery, implement, utensil or article mounted thereon or affixed thereto,

the said foundation or supporting structure shall for the purposes of this paragraph not be deemed to be a structure or work of a permanent nature but shall for the purposes of this Act be deemed to be a part of the machinery, implement, utensil or article mounted thereon or affixed thereto;

(iii) no allowance shall be made under this paragraph in respect of any ship to which the provisions of section 14(1)(*a*) or (*b*) apply or in respect of any aircraft to which the provisions of section 14*bis*(1)(*a*), (*b*) or (*c*) apply;

(iiiA) no allowance shall be made under this paragraph in respect of any machinery, implement, utensil or article of which the cost has been allowed as a deduction from the taxpayer's income under the provisions of section 24D;

(iv) ……

(v) the value of any machinery, implements, utensils or articles used by the taxpayer for the purposes of his trade shall be increased by the amount of any expenditure (other than expenditure referred to in paragraph (*a*)) which is proved to the satisfaction of the Commissioner to have been incurred by the taxpayer in moving such machinery, implements, utensils or articles from one location to another;

(vi) . . . . . .

(vii) where the value of any such machinery, implements, utensils and articles acquired by the taxpayer on or after 15 March 1984 is for the purposes of this paragraph to be determined having regard to the cost of such machinery, implements, utensils and articles, such cost shall be deemed to be the cost which, in the opinion of the Commissioner, a person would, if he had acquired such machinery, implements, utensils and articles under a cash transaction concluded at arm's length on the date on which the transaction for the acquisition of such machinery, implements, utensils and articles was in fact concluded, have incurred in respect of the direct cost of the acquisition of such machinery, implements, utensils and articles, including the direct cost of the installation or erection thereof; and

(viii) . . . . . .

(ix) where any such machinery, plant, implement, utensil or article was used by the taxpayer during any previous year of assessment or years of assessment for the purposes of any trade carried on by such taxpayer, the receipts and accruals of which were not included in the income of such taxpayer during such year or years, the Commissioner shall take into account the period of use of such asset during such previous year or years in determining the amount by which the value of such machinery, plant, implement, utensil or article has been diminished;

4. Application of the law

4.1 General principles

4.1.1 Qualifying assets

Section 11(*e*) provides for the deduction of a wear-and-tear allowance on qualifying assets used for the purposes of trade which are –

- owned by the taxpayer; or
- acquired by the taxpayer as purchaser under an "instalment credit agreement" as defined in paragraph (*a*) of the definition of that term in section 1(1) of the Value-Added Tax Act.

Paragraph (*a*) of the definition of an "instalment credit agreement" in section 1(1) of the Value-Added Tax Act reads as follows:

"instalment credit agreement" means any agreement entered into on or after the commencement date whereby any goods consisting of corporeal movable goods or of any machinery or plant, whether movable or immovable—

(*a*) are supplied under a sale under which—

(i) the goods are sold by the seller to the purchaser against payment by the purchaser to the seller of a stated or determinable sum of money at a stated or determinable future date or in whole or in part in instalments over a period in the future; and

(ii) such sum of money includes finance charges stipulated in the agreement of sale; and

(iii) the aggregate of the amounts payable by the purchaser to the seller under such agreement exceeds the cash value of the supply; and

(iv) (*aa*) the purchaser does not become the owner of those goods merely by virtue of the delivery to or the use, possession or enjoyment by him thereof; or

(*bb*) the seller is entitled to the return of those goods if the purchaser fails to comply with any term of that agreement; or

The "commencement date" referred to in the definition of an "instalment credit agreement" is 30 September 1991.

4.1.2 Non-qualifying assets

No allowance will be allowed on non-qualifying assets. These assets are –

- assets used by a person carrying on farming activities, which constitute assets contemplated in paragraph 12(1) of the First Schedule to the Act;[1]
- assets for which a deduction may be granted under section 12B, 12C, 12DA, 12E(1)[2] or 37B.[3] The exclusion of these assets applies even if a higher allowance would otherwise have resulted under section 11(*e*). In the case of assets of a "small business corporation"[4] (SBC) for which an allowance is granted under section 12E(1) no deduction is permissible under section 11(*e*). However, in the case of assets referred to in section 12E(1A), the SBC may elect to be granted either the 50:30:20 allowance under section 12E(1A) or the allowance under section 11(*e*);
- assets which are not owned by the person claiming the allowance (except assets purchased under an "instalment credit agreement" [5]);[6]
- assets the ownership of which is retained by the taxpayer as a seller under an "instalment credit agreement"[7] [8]
- buildings or other structures or works of a permanent nature;[9]

[1] Under the opening words of section 11(*e*) read with paragraph 12(2) of the First Schedule.
[2] The reference to section 12E has been replaced with section 12E(1) by the Taxation Laws Amendment Act No. 7 of 2010 in order to limit the scope of application of this paragraph only to sub-section (1) of section 12E and not to the entire section 12E.
[3] Under the opening words of section 11(*e*).
[4] As defined in section 12E(4)(*a*).
[5] As contemplated in paragraph (*a*) of the definition of an "instalment credit agreement" in section 1(1) of the Value-Added Tax Act, 1991.
[6] Under the opening words of section 11(*e*).
[7] As contemplated in paragraph (*a*) of the definition of an "instalment credit agreement" in section 1(1) of the Value-Added Tax Act, 1991.
[8] Paragraph (iA) of the proviso to section 11(*e*).
[9] Paragraph (ii) of the proviso to section 11(*e*).

- any ship to which section 14(1)(*a*) or (*b*) applies;[10]
- any aircraft to which section 14*bis*(1)(*a*), (*b*) or (*c*) applies;[11] and
- assets of which the cost has been allowed as a deduction from the taxpayer's income under section 24D (expenditure on a National Key Point or specified important place or area).[12]

Sections 23B(1) and (2) which address the claiming of deductions under more than one provision of the Act must also be borne in mind.

4.1.3 Amount allowable

The amount of the allowance will be the amount that the Commissioner regards as just and reasonable (see **4.2.1**).

4.1.4 Use requirement

The allowance will only be deductible to the extent that the qualifying asset is *used* by a taxpayer for purposes of his or her trade. The asset will be written off over its useful life.

An asset held in reserve or as a replacement in the event of a breakdown is not considered to be "used" but rather "held" and accordingly will not qualify for the allowance until such time as it is brought into use by the taxpayer.

4.1.5 Apportionment

The allowance for a qualifying asset that has not been used for the purposes of trade throughout the year of assessment must be apportioned. This would apply, for example, to an asset acquired and brought into use during the year of assessment or an asset disposed of during the year of assessment (see **4.3.8**). Similarly, the allowance will not be available once an asset has been decommissioned or mothballed since it will have ceased to be "used" by the taxpayer.

4.2 Value of a qualifying asset for purposes of section 11(*e*)

4.2.1 General rule

Although the word "value" is not defined in section 11(*e*), it has always been the policy of SARS to, unless otherwise prescribed, regard the value of a qualifying asset for purposes of determining the amount of the allowance as the taxpayer's cost of acquisition of the asset, that is, the cash cost excluding finance charges. The revaluation of an asset would, for example, have no effect on the value of that asset for purposes of determining the amount of the allowance.[13] Examples of exceptions to this general rule are assets acquired by the taxpayer by way of donation, inheritance, distribution *in specie* or from a connected person.

[10] Paragraph (iii) of the proviso to section 11(*e*).
[11] Paragraph (iii) of the proviso to section 11(*e*).
[12] Paragraph (iiiA) of the proviso to section 11(*e*).
[13] In ITC 1546 (1992) 54 SATC 477 (C) a landlord acquired second-hand furniture and fittings at a bargain price from the liquidator of its tenant. The landlord attempted to claim the wear-and-tear allowance on a revalued amount, based on paragraph (vii) of the proviso to section 11(*e*). This was rejected by the court which held that the allowance was properly claimable on the cost of the articles.

Under paragraph (vii) of the proviso to section 11(*e*), the acquisition cost of qualifying assets, shall be deemed to be the cost which, in the opinion of the Commissioner, a person would incur if that person had acquired that asset under a cash transaction concluded at arm's length (also known as the market value), including the direct installation and erection costs.

Under section 23C(1), any value-added tax payable (input tax) on acquisition of an asset must be excluded from the cost for purposes of calculating the allowance if the taxpayer is –

- a registered vendor; and
- is or was entitled under section 16(3) of the Value-Added Tax Act to a deduction of "input tax" as defined in section 1(1) of that Act.

The cost pertaining to the acquisition of an asset could, therefore, include –

- the original purchase price (excluding input tax to which the vendor is or was entitled, or including input tax in case the vendor was not entitled to a deduction or the taxpayer is not a registered vendor);
- the shipping or delivery charges relating to the delivery of the asset;
- any costs incurred in moving the asset from one location to another; and
- the costs directly relating to the installation or erection of the asset.

Interest and finance charges should be excluded from the cost of the qualifying asset.

4.2.2 Foundations and supporting structures

Under paragraph (iiA) of the proviso to section 11(*e*) any concrete or other foundation or supporting structure on which a qualifying asset is mounted or affixed to is not regarded as a structure or work of a permanent nature, but is treated as part of that qualifying asset provided the Commissioner is satisfied that –

- the foundation or supporting structure is designed for the asset and constructed in such manner that it is or should be regarded as being integrated with the asset; and
- the useful life of the foundation or supporting structure is or will be limited to the useful life of the asset mounted on it or affixed to it.

4.2.3 Moving costs

Paragraph (v) of the proviso to section 11(*e*) provides that the value of the qualifying asset must be increased by the amount of any expenditure which is proved to the satisfaction of the Commissioner to have been incurred by the taxpayer in moving the asset from one location to another. Moving costs must thus be written off over the remaining estimated useful life of the asset. For example, if the asset is being written off over five years and moving costs are incurred in year 4, those costs will be allowed as a deduction in years 4 and 5. If the asset has been written off in full the moving costs will be allowable in the year of assessment in which they are incurred.

4.2.4 Qualifying assets acquired by way of donation, inheritance or as a distribution *in specie*

The allowance is based on the market value of the asset acquired by a taxpayer by way of donation, inheritance or as a distribution *in specie*. This market value is determined under paragraph (vii) of the proviso to section 11(*e*) (see **4.2.1**).

The Commissioner's discretion in this regard will usually be exercised upon audit of the case. Taxpayers must ensure that they have the necessary information or documentation readily available when requested by the Commissioner to substantiate the arm's length price of an asset and the inclusion of any amount in the determination of the value of an asset.

4.2.5 Limitation of allowance granted on a qualifying asset previously held by a connected person (section 23J)

(a) Years of assessment ending before 1 January 2008

Before paragraph (viii) of section 11(*e*) was deleted by section 17(1)(*a*) of the Revenue Laws Amendment Act No. 35 of 2007, it provided that when a section 11(*e*) deduction or a deduction under section 11B(3), 11D(2), 12B(1), 12C(1), 12E or under section 27(2)(*d*) prior to its deletion by section 28(*b*) of the Income Tax Act No. 129 of 1991, was previously granted to a connected person in relation to a taxpayer on any asset acquired by the taxpayer on or after 21 June 1993, the allowance had to be calculated on an amount not exceeding the lesser of –

- the cost of the asset to the connected person; or
- its market value as determined on the date upon which it was acquired by the taxpayer.

The term "connected person" is defined in section 1(1).

The market value in this context is the price which a willing buyer would pay a willing seller at the time and place and under the conditions under which the applicable assets are offered for sale.

(b) Years of assessment ending on or after 1 January 2008

Section 23J was inserted into the Act by section 38 of the Revenue Laws Amendment Act No. 35 of 2007, and replaced the connected person rule that was previously provided for under paragraph (viii) of the proviso to section 11(*e*).

Section 23J

> **23J. Limitation of allowances granted in respect of assets previously held by connected persons.—**(1) Where a depreciable asset acquired by a taxpayer was held within a period of two years preceding the acquisition by a person who was a connected person in relation to that taxpayer at any time during that period, the cost or value of the depreciable asset for the purposes of this section and any deduction or allowance claimed by the taxpayer in respect of that asset shall not exceed an amount determined in accordance with subsection (2).
>
> (2) The amount to be determined for purposes of subsection (1) is the sum of—
>
> (*a*) the cost of the depreciable asset for purposes of any deductions allowable in respect of that asset to the most recent person contemplated in subsection (1) that previously held that asset (hereinafter referred to as the "connected person"), less the sum of—

(i) all deductions which have been allowed to the connected person in respect of the asset; and

(ii) all deductions that are deemed to have been allowed to the connected person in respect of the asset in terms of section 11(*e*)(ix), 12B(4B), 12C(4A), 12D(3A), 12DA(4), 12F(3A), 13(1A), 13*bis*(3A), 13*ter*(6A), 13*quin*(3) or 37B(4);

(*b*) any amount contemplated in paragraph (*n*) of the definition of "gross income" in section 1 that is required to be included in the income of the connected person that arises as a result of the disposal of the asset by the connected person; and

(*c*) the applicable percentage in paragraph 10 of the Eighth Schedule, of the capital gain of the connected person that arises as a result of the disposal of the asset by the connected person.

Section 23J brought the various depreciable-asset-connected-person provisions in the Act under a single section. While the "connected person" rule in section 11(*e*) limited the cost to the purchaser to the lower of the cost to the connected person (seller) or the market value at the time of the disposal by the connected person, section 23J gives credit to intervening taxation arising from the disposal by the connected person. More specifically, under section 23J(2) the cost for the purchaser equals the sum of –

- the cost (taking into account any subsequent tax adjustments) of the depreciable asset to the connected person (seller);
- all inclusions in gross income by way of the recoupment of amounts allowed as a deduction upon the disposal by the connected person; and
- any inclusion stemming from any capital gain triggered on the disposal by the connected person.

Example 1 – Determination of the value on which the allowance is to be based when a qualifying asset is acquired from a connected person

Facts:

Company X owns 60% of the shares in Company Y and Company Z. The financial years of both companies end on the last day of February.

On 1 March 2012 Company Y sells a motor vehicle to Company Z for R110 000. Company Y initially purchased the vehicle for R100 000 and claimed allowances on it of R30 000. The following are triggered on disposal of the vehicle:

- First, a recoupment is triggered under section 8(4)(*a*) of R30 000 which results in an inclusion in the gross income of Company Y under paragraph (*n*) of the definition of the term "gross income".

- Secondly, a taxable capital gain of R5 000 is triggered and should be included in the taxable income of Company Y under section 26A, determined as follows:

	R	R
Amount received on disposal	110 000	
Less: Recoupment	(30 000)	
Proceeds		80 000
Less: Base cost		(70 000)
Cost of asset	100 000	
Less: All amounts previously allowed under section 11(*e*)	(30 000)	
Capital gain		10 000
Inclusion rate		66,6%
Taxable capital gain [66,6% x R10 000]		6 660

Result:

Company Z will base the future allowances on the motor vehicle on the cost of R105 000, determined under section 23J as follows:

	R
Cost to Company Y [section 23J(2)]	100 000
Less: Allowances claimed by Company Y [section 23J(2)(*a*)]	(30 000)
Income tax value of asset to Company Y	70 000
Recoupment in Company Y [section 23J(2)(*b*)]	30 000
Taxable capital gain in Company Y [section 23J(2)(*c*)]	6 660
Deemed cost to Company Z for purposes of the allowance	106 660

Thus, under section 23J the actual cost of R110 000 for the motor vehicle to Company Z is limited to R106 660 for Company Z for purposes of calculating the allowance.

A special rule in section 23J(1) applies to prevent taxpayers from artificially breaking the "connected person" chain. Under this rule an asset acquired from a non-connected person will be treated as having been acquired from a connected person if the asset was held by a connected person at any time during the two years before the date of acquisition.

4.2.6 Leased assets

The allowance granted to a lessor must be based on the cost of the asset less any residual value, as specified in the lease agreement. Many lease agreements, particularly those involving vehicles, provide for a residual value. This residual value is what the lessor expects the asset to be worth at the end of the lease. At the end of the lease the lessor will usually sell the asset to recover the residual. A lessee who has not returned an asset to the lessor in good condition or who has exceeded the agreed usage criteria (for example, a restriction of 100 000 kilometres over 54 months in the case of a vehicle), must reimburse the lessor. In this way the value of the asset at the end of the lease is assured. Section 11(*e*) permits a deduction for the amount by which the value of an asset has been diminished by reason of wear and tear or depreciation during the year of assessment. Since the portion of the cost of the asset representing the residual value is guaranteed (that is, it is not subject to diminution in value), there is no justification for granting the allowance on that portion of the cost.

An asset with a cost of R100 leased with an agreed residual of R20, means that the value by which the asset is expected to depreciate over the period of the lease is

R80. It is for this reason that lessors are required to reduce the cost of their leased assets by the residual value for the purposes of determining the allowance.

Should any initial amount paid by the lessee not form part of the income of the lessor for income tax purposes, it must be excluded from the lessor's cost of acquisition of the asset.

At the termination of the lease agreement the residual value is the value of the asset for income tax purposes and any further write-off or recoupment will depend on how the asset is dealt with. As far as the lessee is concerned, the recoupment provisions of section 8(5) will apply.

See also **4.3.3(a)** on the relationship between the write-off periods under **Annexure A** and the lease period.

4.2.7 Qualifying assets acquired in a foreign currency

Section 25D provides that if any expenditure is incurred by a taxpayer in any currency other than the currency of the Republic of South Africa, it must be translated to rand by applying the spot rate on the date on which the expenditure was so incurred.

A natural person or trust (other than a trust which carries on a trade) may, however, elect that all amounts of expenditure incurred in a foreign currency be translated into rand by applying the average exchange rate for the relevant year of assessment [section 25D(3)].

Refer to Interpretation Note No. 63 "Rules for the Translation of Amounts Measured in Foreign Currencies" (19 September 2011) for a detailed discussion on this topic.

4.3 Policies on the determination of the amount of the allowance

4.3.1 Withdrawal of permission to use the debtor accounting system

Previously it was SARS's policy to allow a qualifying lessor to adopt the "debtor accounting system" for income tax purposes. The lessor was required to satisfy the Commissioner that, for purposes of claiming the allowance, the volume of the lessor's leasing business rendered it impracticable to maintain a separate asset account for each article let.

Under the "debtor accounting system", only the finance charges earned by the lessor during a year of assessment are to be reflected as "gross income". It follows that in such a case a lessor will not be allowed the allowances for leased assets.

This policy is, however, withdrawn for any asset let under an agreement entered into during any year of assessment commencing on or after 1 March 2010.

4.3.2 Methods for determining the allowance

In determining the allowance, taxpayers may elect between –

- the diminishing-value method (under this method the allowance for a year of assessment is calculated on the remaining value (also known as the income tax value), that is, the cost of the qualifying asset less an allowance for the previous years of assessment); or
- the straight-line method (under this method the allowance is claimed in equal instalments over the expected useful life of the asset).

It is unnecessary for a taxpayer to notify the Commissioner when changing the method for determining the allowance. Taxpayers must ensure that they have the necessary records supporting the write-off of all assets readily available, should these be requested by the Commissioner.

4.3.3 Write-off periods

Under the diminishing-value method, the allowance must be determined on the income tax value of a qualifying asset during each year of assessment in which the asset is used for the purposes of trade. A taxpayer using the diminishing-value method that wishes to adopt the straight-line method must write off the income tax value of existing assets in equal instalments over their remaining estimated useful lives.

Example 2 – Change from the diminishing-value method to the straight-line method

Facts:

A taxpayer purchased an asset having an estimated useful life of five years at the beginning of year 1 at a cost of R5 400. For the first two years the taxpayer claimed the allowance using the diminishing-value method. At the beginning of year 3 the taxpayer changed to the straight-line method. Determine the wear-and–tear allowance for each of the five years.

Result:

	R
Original cost	5 400
Allowance for year (R5 400 x 20%)	(1 080)
Income tax value at end of year 1	4 320
Allowance for year 2 (R4 320 x 20%)	(864)
Income tax value at end of year 2	3 456

Under the straight-line method, for years 3 to 5 the income tax value at the end of year 2 is written off in three equal instalments, that is, R3 456/3 = R1 152 per year.

Under the straight-line method the cost of an asset must be written off in equal annual instalments over its estimated useful life.

(a) Qualifying assets for which write-off periods have been listed in Annexure A

Annexure A contains a schedule of write-off periods that are acceptable to the Commissioner for assets that are written off on the straight-line method. These write-off periods are acceptable for assets that are used for purposes of trade, including a trade of leasing, and are applicable to any asset brought into use during a year of assessment commencing on or after 1 March 2009. Please note that the assets listed in **Annexure A** are of general application and not intended for specific industries.

Any application to write off an asset over a shorter period than that reflected in **Annexure A** must be fully motivated and submitted to the SARS office where the taxpayer is on register for income tax purposes. The application must be lodged before submission of the return of income in which the allowance is to be claimed. Factors which may result in an asset having a shorter useful life than the write-off period specified in **Annexure A** could include the environment in which the asset operates and the intensity with which the asset is used.

An asset which is let for a period exceeding that prescribed in **Annexure A** must be written off over the period of the lease. In contrast, an asset let for a period shorter than that reflected in Annexure A must be written off over the period reflected in **Annexure A** unless a shorter period can be motivated as described in the preceding paragraph.

(b) Qualifying assets for which write-off periods have not been listed in Annexure A

The period of write-off of any asset not included in **Annexure A** must be determined by its expected life.

The following factors must be taken into account in determining the expected life of an asset:

- How long the taxpayer expects the asset to last.
- How the taxpayer expects to use the asset.
- Whether the asset is likely to become obsolete.
- Whether the effective life of the asset is limited to the life of a particular project.

The kind of information that could be useful in determining the expected useful life of an asset includes –

- manufacturer's specifications;
- independent engineering information;
- the taxpayer's own past experience with similar assets;
- the accounting write-off period; and
- the past experience of other users of similar assets.

The Commissioner's discretion in this regard will be exercised upon assessment or audit of the case. Taxpayers must ensure that they have the necessary information or documentation pertaining to the period of write-off readily available when requested by the Commissioner.

A request to include the write-off period of an asset which does not appear in **Annexure A** may be sent by e-mail to **policycomments@sars.gov.za**. In order to be included in the schedule, the asset must not be unique or be used in a unique manner.

4.3.4 Used qualifying assets

A used or second-hand asset must be written off over its expected useful life, taking into account its condition.

4.3.5 "Small" items

The cost of "small" items such as loose tools may be written off in full in the year of assessment in which they are acquired and brought into use. A "small" item in this context is one which normally functions in its own right, does not form part of a set and is acquired at a cost of less than R7 000 per item. The amount of R7 000 applies to any qualifying asset acquired on or after 1 March 2009.

A table and six chairs which plainly form part of a set can, for example, not be divided into individual independent items costing less than the specified amount. The cost of such a set amounting to R7 000 or more cannot be written off in full during the year of assessment in which the set was acquired and brought into use.

Furthermore, the "small items" write-off does not apply to assets acquired by lessors for the purpose of letting.[14] Thus lessors that let small items such as DVDs, clothing, machinery, pallets or gas cylinders must depreciate these assets over their useful lives.

4.3.6 Qualifying assets previously used to produce amounts that were not included in the taxpayer's income

Paragraph (ix) of the proviso to section 11(*e*) applies if –

- a qualifying asset was used by the taxpayer during any previous year of assessment or years of assessment for the purposes of any trade carried on by that taxpayer, and
- the receipts and accruals of that trade were not included in the taxpayer's income during that year or years.

This could occur, for example, when –

- an asset was used by a public benefit organisation (PBO) in a previous year of assessment during which its receipts and accruals were fully exempt from income tax, and the PBO becomes taxable on its trading activities in the current year of assessment because its income from such activities exceeds the threshold in section 10(1)(*c*N);
- an asset was used before the introduction of the residence basis of taxation for purposes of a foreign trade; or

[14] Interpretation Note No. 47 (Issue 1) dated 28 July 2009 did not prevent lessors from claiming the small items write-off of R7 000 for years of assessment commencing on or after 1 January 2009. Interpretation Note No. 47 (Issue 2) confirms that the small items write-off no longer applies to lessors and this modification takes effect on the date of issue of that Note, namely, 11 November 2009 and applies to any asset acquired on or after that date.

- an asset was used in a “micro business” contemplated in the Sixth Schedule to the Act and the taxpayer becomes subject to normal tax because the turnover of the micro business has exceeded the maximum threshold for such a business.

In these circumstances the Commissioner must take into account the period of use of the relevant qualifying asset during that previous year or years in determining the amount by which its value has been diminished.

Example 3 – Asset used to produce exempt income in previous years of assessment

Facts:

A taxpayer acquires a motor vehicle with an expected useful life of five years at a cost of R100 000. During the first three years, the vehicle was used by the taxpayer for trade purposes to generate exempt income. As from the commencement of year 4 the taxpayer’s trade generated taxable income.

Result:

The allowance will only be allowed during the remaining two years of assessment (years 4 and 5) in which the asset was used for purposes of generating taxable income. The taxpayer will therefore only be entitled to claim an allowance of R100 000/5 = R20 000 per year during years 4 and 5.

4.3.7 Qualifying assets used for both private and business purposes

The allowance must be apportioned if an asset is used for private and business purposes, since the deduction is only allowable to the extent that the asset was used for the purposes of trade.

4.3.8 Qualifying asset not used for the whole year of assessment

The allowance must be apportioned for an asset that has not been used for the purposes of trade throughout the year of assessment. This could occur, for example, if the asset is –

- acquired and brought into use during a year of assessment;
- disposed of during the year of assessment; or
- used by a natural person in carrying on a trade in his or her own name and that person becomes insolvent or dies during the year of assessment.

The allowance must be apportioned regardless of whether the straight-line method or diminishing-value method is used.

Sequestration

Before sequestration

Under section 25C the estate of a person before sequestration and that person's insolvent estate are deemed to be one and the same person for purposes of determining the amount of any allowance or deduction to which the insolvent estate may be entitled. The natural person before sequestration will therefore only be entitled to a *pro rata* share of the allowance, that is, the allowance calculated from the commencement of the year of assessment or date of commencement during the year of assessment up to and including the day before the date of sequestration.

On or after sequestration

An insolvent estate that continues to trade in the year of assessment in which sequestration commences will be entitled to a *pro rata* share of the allowance, that is, the allowance calculated from the date of sequestration until the end of the year of assessment or until the date of disposal of the asset if earlier. For further information, refer to Interpretation Note No. 8 "Insolvent Estates" (22 March 2006).

Death

Up to and including date of death

A taxpayer will be entitled to a *pro rata* portion of the allowance, that is, the allowance calculated from the commencement of the year of assessment or date of commencement during the year of assessment up to and including the date of death.[15] Unlike an insolvent estate, section 25 does not deem the deceased person and the deceased estate to be "one and the same person".

After date of death

If there is no ascertainable heir or legatee and the estate continues to use the asset in a trade, the allowance will be based on the market value of the asset on the day following the date of death and must be calculated from that date until the end of the estate's first year of assessment (or up to the date of disposal of the asset to a third party if earlier). An heir who continues to use the asset in a trade will be entitled to a *pro rata* portion of the allowance in the year of acquisition based on its market value calculated from the date of death or, if later, the date on which the asset is first used by the heir for the purposes of trade. If the executor carries on the trade for the benefit of the heir, the heir will claim the allowance [section 25(2)]. See also Interpretation Note No.12 "Recoupments: Assets in a Deceased Estate" (27 March 2003).

4.3.9 Qualifying assets not yet brought into use for purposes of trade

A taxpayer that acquires an asset in one year of assessment and only brings it into use for the purposes of trade in a subsequent year of assessment will only be entitled to claim the wear-and-tear allowance from the date on which the asset is brought into use in that subsequent year of assessment.

[15] Under section 66(13)(*a*) a person who dies is required to submit a return of income for the period commencing on the first day of the relevant year of assessment and ending on the date of death.

5. Record-keeping

Section 29(1) of the Tax Administration Act provides that a person must keep the records, books of account or documents that –

- enable the person to observe the requirements of a tax Act;
- are specifically required under a tax Act; and
- enable SARS to be satisfied that the person has observed these requirements.

The records should be retained by the person for a period of five years from the date of submission of the return.[16] Section 30(1) of the Tax Administration Act provides that the records referred to in section 29 must be kept or retained in –

- their original form in an orderly fashion and in a safe place;
- the form, including electronic form, as may be prescribed by the Commissioner in a public notice;[17] or
- a form specifically authorised by a senior SARS official.

These records should be available for inspection purposes by a SARS official to verify compliance with the requirements as explained above, or for purposes of an inspection, audit or investigation.[18]

Records which are relevant to an audit or investigation or an objection or appeal must be retained until the audit or investigation is concluded or until the assessment or the decision becomes final in the case of an objection or appeal (in case the five year retention period is exceeded).[19]

The following information and documentation for any qualifying asset on which an allowance was claimed, must be available:

- The date of acquisition, the date on which it was brought into use and if disposed of, the date on which it was disposed of.
- The value of the asset as discussed in **4.2**.
- The write-off period of the asset and any information or documentation used in determining its write-off period (see **4.3.3**).
- The income tax value of the asset at the end of the immediately preceding year of assessment (any asset written off in full must be brought into account at a residual value of R1 for record purposes).
- If the asset is disposed of or scrapped, the price realised on disposal or scrapping of the asset, as well as the income tax value at the end of the immediately preceding year of assessment.

[16] Section 29(3)(*a*) of the Tax Administration Act.
[17] See GN 787 in *GG* 35733 of 1 October 2012.
[18] Section 31 of the Tax Administration Act.
[19] Section 32 of the Tax Administration Act.

6. Objection and appeal

A person claiming an allowance in a return of income and who is not satisfied with an adjustment to the allowance made by the Commissioner, may object to the assessment.[20]

A person entitled to object to an assessment must lodge an objection in the manner, under the terms, and within the period prescribed in the rules made by the Minister of Finance. The rules include the following:

- The prescribed ADR 1 form must be completed.
- The objection must be in writing, specifying in detail the grounds on which it is made.
- The objection must reach the Commissioner within a period of 30 business days after the date of the assessment.

Further information on the objection and appeal procedure is available in the *Guide on Tax Dispute Resolution* which can be found on the SARS website **www.sars.gov.za**. Information can also be obtained from SARS branches.

Legal and Policy Division
SOUTH AFRICAN REVENUE SERVICE

Date of first issue: 28 July 2009
Date of second issue: 11 November 2009

[20] Section 104(3) of the Tax Administration Act.

Annexure A – Schedule of write-off periods acceptable to SARS

Asset	Proposed write-off period (in years)
Adding machines	6
Air conditioners:	
Window type	6
Mobile	5
Room unit	10
Air conditioning assets (excluding pipes, ducting and vents):	
Air handling units	20
Cooling towers	15
Condensing sets	15
Chillers:	
Absorption type	25
Centrifugal	20
Aircraft: Light passenger or commercial helicopters	4
Arc welding equipment	6
Artefacts	25
Balers	6
Battery chargers	5
Bicycles	4
Boilers	4
Bulldozers	3
Bumping flaking	4
Carports	5
Cash registers	5
Cell phone antennae	6
Cell phone masts	10
Cellular telephones	2
Cheque writing machines	6
Cinema equipment	5
Cold drink dispensers	6
Communication systems	5
Compressors	4
Computers	
Main frame / servers[21]	5
Personal	3
Computer software (main frames)	
Purchased	3
Self-developed	1
Computer software (personal computers)	2
Concrete mixers (portable)	4
Concrete transit mixers	3
Containers (large metal type used for transporting freight)	10
Crop sprayers	6
Curtains	5
Debarking equipment	4
Delivery vehicles	4

[21] The word “servers” was added in Interpretation Note No. 47 (Issue 2) and comes into operation on the date of issue thereof, namely, 11 November 2009 and applies to any server acquired on or after that date.

Asset	Proposed write-off period (in years)
Demountable partitions	6
Dental and doctors equipment	5
Dictaphones	3
Drilling equipment (water)	5
Drills	6
Electric saws	6
Electrostatic copiers	6
Engraving equipment	5
Escalators	20
Excavators	4
Fax machines	3
Fertiliser spreaders	6
Firearms	6
Fire extinguishers (loose units)	5
Fire detection systems	3
Fishing vessels	12
Fitted carpets	6
Food bins	4
Food-conveying systems	4
Fork-lift trucks	4
Front-end loaders	4
Furniture and fittings	6
Gantry cranes	6
Garden irrigation equipment (movable)	5
Gas cutting equipment	6
Gas heaters and cookers	6
Gearboxes	4
Gear shapers	6
Generators (portable)	5
Generators (standby)	15
Graders	4
Grinding machines	6
Guillotines	6
Gymnasium equipment:	
Cardiovascular equipment	2
Health testing equipment	5
Weights and strength equipment	4
Spinning equipment	1
Other	10
Hairdressers' equipment	5
Harvesters	6
Heat dryers	6
Heating equipment	6
Hot water systems	5
Incubators	6
Ironing and pressing equipment	6
Kitchen equipment	6
Knitting machines	6
Laboratory research equipment	5
Lathes	6
Laundromat equipment	5
Law reports: Sets (Legal practitioners)	5
Lift installations (goods/passengers)	12
Medical theatre equipment	6

Asset	Proposed write-off period (in years)
Milling machines	6
Mobile caravans	5
Mobile cranes	4
Mobile refrigeration units	4
Motors	4
Motorcycles	4
Motorised chainsaws	4
Motorised concrete mixers	3
Motor mowers	5
Musical instruments	5
Navigation systems	10
Neon signs and advertising boards	10
Office equipment – electronic	3
Office equipment – mechanical	5
Oxygen concentrators	3
Ovens and heating devices	6
Ovens for heating food	6
Packaging and related equipment	4
Paintings (valuable)	25
Pallets	4
Passenger cars	5
Patterns, tooling and dies	3
Pellet mills	4
Perforating equipment	6
Photocopying equipment	5
Photographic equipment	6
Planers	6
Pleasure craft etc.	12
Ploughs	6
Portable safes	25
Power tools (hand-operated)	5
Power supply	5
Public address systems	5
Pumps	4
Race horses	4
Radar systems	5
Radio communication equipment	5
Refrigerated milk-tankers	4
Refrigeration equipment	6
Refrigerators	6
Runway lights	5
Sanders	6
Scales	5
Security systems (removable)	5
Seed separators	6
Sewing machines	6
Shakers	4
Shop fittings	6
Solar energy units	5
Special patterns and tooling	2
Spin dryers	6
Spot welding equipment	6
Staff training equipment	5
Surge bins	4

Asset	Proposed write-off period (in years)
Surveyors:	
Instruments	10
Field equipment	5
Tape-recorders	5
Telephone equipment	5
Television and advertising films	4
Television sets, video machines and decoders	6
Textbooks	3
Tractors	4
Trailers	5
Traxcavators	4
Trolleys	3
Trucks (heavy duty)	3
Trucks (other)	4
Truck-mounted cranes	4
Typewriters	6
Vending machines (including video game machines)	6
Video cassettes	2
Warehouse racking	10
Washing machines	5
Water distillation and purification plant	12
Water tankers	4
Water tanks	6
Weighbridges (movable parts)	10
Wire line rods	1
Workshop equipment	5
X-ray equipment	5