Section 12-L of the South African Income Tax Act

IEA EE Training Week for Sub-Saharan Africa

15 October 2019
The National Energy Act, 2008 (Act No. 34 of 2008), Section 7 (2) provides for SANEDI to direct, monitor and conduct energy research and development, as well as undertake measures to promote energy efficiency throughout the economy.

www.sanedi.org.za
No. 37019 GOVERNMENT GAZETTE, 8 NOVEMBER 2013

GOVERNMENT NOTICE

NATIONAL TREASURY

No. 855 8 November 2013

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SANEDI’s 12-L “Value Add”

- Must provide an ‘Assurance/ Verification Function’ on behalf of SARS.
- Must consolidate, analyse and report to DoE, National Treasury and SARS.
- Must assist wherever possible, to ‘make it happen’!
- Provide, maintain and improve the on-line database, to streamline the process & issue an ‘EE Tax Certificate’.
- Develop and constantly improve supporting Guidelines.
- Integrate current fragmented basket of activities into a ‘workable’ solution!
Some Points to Note

- This is the first-ever ‘Negawatt-based’ tax incentive globally!
- A general myth exists that 12-L was the cause of the suspension of the IDM-funding!
- This is an ENERGY incentive and NOT only an ELECTRICITY incentive.
- SANEDI does NOT charge any fees for this activity!
- The on-line database is securely protected & confidentiality of all information submitted will be maintained!
- This is in no way the ‘perfect’ EE-solution!
Background and Key Dates

2009 – then Minister of Finance announced incentives for those that can demonstrate energy efficiency savings.

2009 – Section 12-I in place for large industrial projects.

9 December 2013 – 12-L promulgated with an effective date of 1 November 2013.


2019 - Extended to 1 January 2023.
12-L in a Nutshell

- Initial tax incentive of **45 c per verified kWh**, (or equivalent kWh) – **now 95c/kWh**, (from 2015)

- Tax incentives are currently offered for **one (1) assessment year** of kWh savings.

- Only applicable to **registered businesses**.

- **No concurrent benefits** allowed.

- A **SANAS accredited** body to sign-off on the **M&V reports**.
How Does It Work?

Entire Facility

Boundary of Intervention
How Does the Assessment Cycle Work?

Assume a Plant that operates 24/7/365 and has a constant usage of 1 000 kWh per month.

The annual baseline usage will be 12 000 kWh.

Assume an intervention where there is a 50% reduction in usage to 500 kWh per month.
Scenario 1: Savings for Single Tax Cycle

Verified kWh Savings = 12 000 – 6 000 = 6 000 kWh
**Scenario 2: Savings Over 2 Tax Cycles**

Scenario 2

\[
7 \times 1000 + 5 \times 500 = 9,500 \text{ kWh}
\]

\[
12 \times 500 = 6,000 \text{ kWh}
\]

Year 1 = 12,000 – 9,500 = 2,500 kWh

Year 2 = 9,500 - 6,000 = 3,500 kWh

2,500 kWh + 3,500 kWh = 6,000 kWh
What is NOT Covered *(Regulation 6)*?

- **Renewable Sources** are ‘generally’ excluded, other than waste-heat recovery or under-utilised energy.

- **Captive Power Plants**, where the energy generated is **less than 35%** of the requirements for the facility.

- Concurrent benefits.
Captive Power Plant – an example

Must be for own use & not fed into or ‘wheeled’ through the grid.

Must be more than 35% of the kWhs or equivalent kWhs of energy input that would have been required in respect of that year of assessment.

This can be interpreted as an exception to the rule, where renewables are excluded from 12L, if all the above criteria are met.
What IS Covered?

- Greenfield Projects, *(required to construct the baseline from comparable data in the relevant sector).*

- Projects that improve the energy conversion efficiency.

- Where the project is an *energy conservation* project that does not reduce the energy conversion efficiency of the activity, but maintains the same level of activity output and boundary conditions, as determined by *SANS 50 010*.

- The project uses underutilised energy generated from an industrial process.
Guidelines
(in support of the 12-L Regulations)

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The 12L regulation sets out the process for determining the quantum of energy efficiency savings, and the requirements for claiming the proposed tax deduction.

Section 12L incentives include all energy efficiency projects that reduce energy use and is claimable until 2020. It is important to note that the tax incentive is available for savings in all energy forms and not only electricity.

The expected tax relief would be a 45 cents deduction on taxable income per kilowatt hour of energy saved – subject to all the conditions in the 12L regulations being met.

The regulation for 12L sets out the process for determining the quantum of energy efficiency savings, and requirements for claiming the proposed tax deduction.

SANEDI will be running workshops across the country on the process. Dates for the workshop will be published shortly on this website.

Here is a list of Frequently Asked Questions that have been compiled.

Please see below the attachment with the FAQs. Please read through this for more information on the process.
Eligibility Checklist and Data Gathering

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>F0</td>
<td>The tax allowance is Rand</td>
<td>R 135 000</td>
</tr>
<tr>
<td>F1</td>
<td>Estimation of the tax incentives for this project is:</td>
<td>R 37 800</td>
</tr>
<tr>
<td>F2</td>
<td>Your total M&amp;V verification cost must be lower than:</td>
<td>R 37 800</td>
</tr>
<tr>
<td>F3</td>
<td>Life time “kWh saved” tariff based on total investment, ignoring financing interest rates and other additional operating costs are:</td>
<td>R 0.20</td>
</tr>
<tr>
<td>F4</td>
<td>You are only required to hire a SANAS Accredited M&amp;V body who employ an M&amp;V professional to perform the M&amp;V according to SANS 50010 if the tax incentive will be claimed. You are not required to hire any member of an M&amp;V body for registration or any other services related to project design. However consulting an M&amp;V professional at this stage may provide you with a better understanding of the complexity or simplicity of M&amp;V of your project idea in particular with respect of drawing the project boundary and M&amp;V costs involved Estimation of kWh equivalent savings for the year of assessment</td>
<td></td>
</tr>
<tr>
<td>F5</td>
<td>Would you like to proceed with the eligibility test: Yes/No</td>
<td></td>
</tr>
</tbody>
</table>
Conclusion and the Way Forward

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Tax-based or Rate-based Incentives?

Energy vs Electricity Efficiency?

Longer & consistent planning ‘windows’?

Revenue Neutrality/ ‘Win-Win’ options?

Tax Rebate = Reduced Energy/ Operational Expenses = Higher Profits = More Taxes!
Conclusion & the Way Forward

- Continue improving the process, Regulations, database, etc., to resolve any misunderstandings relating to the interpretation of the Act and the Regulations.

- Provide National Treasury with recommendations to enhance/improve the current incentive.

- Independently commission a bi-annual review of the functionality of the system, as well as the overall energy-and-economic impacts of the 12-L Tax Incentive.
The **12-L Energy Efficiency TAX On-line System** has been developed, using the concept of (WAMP) Windows-Appache-PHP-MySQL Database and is currently hosted by Hetzner.

In order to professionally secure this website, it was decided to apply for a **SSL certificate** for the current *(to be revised)*, **saneditax.org.za** domain and this certificate has already been issued by Hetzner.
THANK YOU

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