

Changes to Landlords Tax Allowance

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The new Revenue Laws Amendment Bill, issued 1 August 2008, proposes a number of interesting, but fairly complicated amendments to our Income Tax Act. Among them is a proposal to revamp the current section 13ter allowance which applies to residential housing units let out by the taxpayer, or occupied by full-time employees of the taxpayer. Tax Partner at Cameron & Prentice Chartered Accountants, David Warneke, examines the proposal.

The proposal is that, in place of the current write off 12% of the cost in the first year and 2% for the following 44 years i.e. a total write off period of 45 years with an upfront loading of deductions, the write off will be at the uniform rate of 5% over 20 years. However, where the unit consists of only part of a building, for example one flat in a sectional title scheme and the flat was not developed by the taxpayer, the cost on which the write off is based is deemed to be only 55% of the taxpayer's actual cost. For example, if the flat cost R 1.5 million, the write off will be 5% of 55% of R 1.5 million, or R 41 250 per annum. Where the unit consists of a stand – alone property such as a house or if the taxpayer built the flat, the 55% reduction does not apply and the full 5% per annum of actual cost may be claimed.

The new dispensation will only apply to new and unused "residential units" or improvements thereto. "Residential units" are defined as a residential building or apartment, other than guesthouses, hotels or holiday accommodation. It is a requirement of the section that the taxpayer must own at least 5 residential units within the same geographical vicinity to qualify for any deduction. Further, the residential unit or improvements thereto must be wholly or mainly used for producing rental income in the course of a trade carried on by the taxpayer. It is also permitted for the unit to be occupied by employees of the taxpayer or of another company within the same group of companies as the taxpayer (if the taxpayer is a company).

The write off is accelerated to 10% straight line where the building is a "low-income residential unit". This is defined as a residential unit where the cost does not exceed R 200 000 and, if an apartment, the cost does not exceed R 250 000. These amounts exclude the cost of land and bulk infrastructure. Another requirement is that the owner of the low-income residential unit must not charge a monthly rental of more than 1 percent of the amounts above i.e. R 2 000 per month if a building or R 2 500 per month if an apartment.