



FREQUENTLY ASKED QUESTIONS

ENHANCED RENEWABLE ENERGY INCENTIVE FOR BUSINESSES



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA



This note sets out the basic features and requirements for the temporarily enhanced renewable energy tax incentive proposed to be inserted as section 12BA in the Income Tax Act. The incentive is an enhancement of the existing renewable energy tax incentive found in section 12B of the Income Tax Act. This note is meant to enhance certainty for taxpayers by clarifying some of the issues that have been raised in public comments, the public workshops and Parliament.

WHAT IS THE OBJECTIVE OF THE INCENTIVE?

Government has introduced this programme to encourage rapid private investment in electricity generation from renewable energy sources to assist in alleviating the current energy crisis. The incentive will only be available for two years to encourage investment as soon as possible, and aims to assist those business that would not have been in a position to invest in renewable energy if it were not for the incentive being in place.

WHO CAN CLAIM THE INCENTIVE?

Businesses that are registered for corporate income tax and sole proprietors and other taxpayers who are conducting business activities.

WHAT CAN BE CLAIMED?

Businesses can claim an upfront deduction of 125 per cent of the cost incurred to acquire qualifying assets used in the generation of electricity (including supporting structures) against their taxable income.

WHAT ARE THE REQUIREMENTS?

- The business must own the asset.
- The asset must be used in the production of income.
- Only new and unused assets qualify, to ensure that the capacity is in addition to what the business was already producing.
- The assets must be brought into use for the first time on or after 1 March 2023 and before 1 March 2025.
- Assets must be used to generate electricity from any of the following renewable energy sources:
 - Photovoltaic solar energy
 - Concentrated solar energy
 - Wind power
 - Hydropower
 - Biomass comprising organic wastes, landfill gas or plant material
- No electricity generation limits are in place for the duration of this temporary incentive.

WHICH ASSETS ARE ELIGIBLE FOR THE ENHANCED RENEWABLE ENERGY TAX INCENTIVE?

Assets that are used in the generation of electricity will qualify for the incentive. This includes supporting structures on which these assets are mounted or affixed to. It is important that the foundation or supporting structure is designed specifically for that asset and constructed in such a manner that it is or should be regarded as being integrated with that asset; and the useful life of the foundation or supporting structure is or will be limited to the useful life of the asset mounted thereon or affixed thereto.

There has been uncertainty with respect to whether assets used for storage (e.g. batteries) and conversion (inverters) are eligible for this incentive. Some of this has stemmed from the requirements for the solar rebate incentive for individuals, which specifically excludes batteries and inverters.

If storage and conversion assets form part of a system of assets that together produce electricity (which is aligned to the objective of the incentive), it is likely that they will qualify for this renewable incentive. If a taxpayer is simply drawing power from the grid and storing it to reduce the impact of load shedding, such storage assets will likely not qualify. The latter example is not aligned to the policy objective of encouraging more generation capacity and should not be claimable under the proposed section 12BA. This is why it is important that SARS retains the ability to apply a facts and circumstances approach to each case.

With respect to eligibility for the solar rebate available to individuals, it is important to highlight that the personal income tax and corporate income tax systems operate differently. It is not common for an individual to deduct the cost of an expense or investment from their taxable income. The solar rebate is an exception to this rule and targets solar panels exclusively given that they are directly linked to additional generation capacity. While batteries and inverters can be used on their own to provide a private benefit to a particular household, the addition of solar panels enhances generation supply, which provides a public benefit. In contrast, it is common for a business to deduct costs in relation to assets used in the production of income and there is no reason to specifically exclude assets such as batteries and inverters, unless they are being used in isolation to draw and store power from the grid (as this detracts from the primary objective of the temporarily enhanced renewable energy incentive – to encourage investment in additional generation capacity).

HOW LONG WILL THE ENHANCED RENEWABLE ENERGY TAX INCENTIVE BE AVAILABLE?

This is a temporary incentive that enhances the current renewable energy tax incentive available in section 12B of the Income Tax Act. The incentive is only available for two years from 1 March 2023 until and including 28 February 2025. The incentive's temporary nature aims to encourage businesses to respond sooner by investing into assets used for renewable energy production.

CAN MY BUSINESS BORROW THE FUNDS TO MAKE USE OF THE INCENTIVE?

Government recognises that many businesses may not have adequate cash flow to invest in renewable energy assets and may therefore need to borrow funds. For this reason, the tax incentive is complemented by the Energy Bounce-Back (EBB) Loan Guarantee Scheme, where EBB loans will be accessible through participating banks (banks that have opted to use the EBB for their customers), Development Finance Institutions (DFIs) and non-bank SME finance providers. The scheme aims to support the resilience of small businesses and households to the continual difficulties resulting from unreliable power supply and / or loadshedding. The EBB Scheme aims to incentivise the generation of an additional 1 000MW of power through rooftop photovoltaic solar over the 12 months period ending (on 30 August 2024), whilst helping small business and households mitigate the effects of loadshedding. Businesses can find more information in the [EBB FAQ document](#).

WHAT ABOUT LEASE ARRANGEMENTS?

Because one of the eligibility criteria for this incentive is ownership of the qualifying assets, lessors that invest in qualifying assets that are leased to lessees under operating or finance lease arrangements will be able to benefit from the incentive, subject to other qualifying criteria. While the ownership may transfer from lessor to lessee in finance leases, this only happens at the end of the lease period, so the lessor would own the generation assets for the duration of this incentive.

HOW CAN MY BUSINESS BENEFIT FROM THE INCENTIVE?

Businesses that are registered for corporate income tax will be able to benefit from the enhanced renewable energy tax incentive in the ITR14 return when filing their tax return. Sole proprietors registered for personal income tax will be able to benefit from this incentive when completing their ITR12 return. Trusts conducting business and registered for income tax will be able to benefit from this incentive when completing their ITR12T return.

CAN MY BUSINESS BENEFIT FROM THIS INCENTIVE IN RESPECT OF ASSETS GRANTED AN ALLOWANCE IN TERMS OF SECTION 12B OF THE ACT?

No. To ensure that there is no duplication of incentives, businesses can only deduct expenses incurred either in respect of section 12B or the proposed section 12BA, but not both – in respect of assets brought into use during the two-year period.

CAN A SMALL BUSINESS CORPORATION THAT BENEFITS FROM A DEDUCTION UNDER SECTION 12E OF THE ACT ALSO BENEFIT FROM THE ENHANCED RENEWABLE ENERGY TAX INCENTIVE?

No. Small business corporations can either benefit from section 12E or the proposed section 12BA, not both.

WHAT IF A COMPANY RECEIVED A GOVERNMENT GRANT, CAN IT BENEFIT FROM THE ENHANCED RENEWABLE ENERGY TAX INCENTIVE?

Businesses that purchase qualifying assets using a combination of their own funds and funding received from government in the form of a grant, can only benefit from the portion of expenditure incurred using the taxpayer's own funds as an allowance under the proposed section 12BA. For example, if qualifying assets cost R1,000 and R500 was paid for using the business' own funds, the proposed section 12BA allowance will equal R500 multiplied by 1.25, which is R625.

WILL THERE BE A RECOUPMENT IF THE COMPANY DISPOSES OF THE ASSETS BEFORE 1 MARCH 2026?

Yes, there will be a recoupment should the company decide to dispose of the asset(s) where an enhanced renewable energy tax allowance was granted. If disposal occurs from 1 March 2026 onwards, the standard recoupment provisions apply. If the recoupment occurs prior to 1 March 2026, there will be an additional recoupment limited to 25 per cent of the cost of the asset(s) being disposed. An example is provided in the response document to public comments raised.

Disclaimer: *the content herein is based on the responses provided to the Standing Committee on Finance on 25 October 2023. It should be noted that the legislation is still subject to potential changes from Parliament.*