PwC Business School
Tax: Capital allowances
CAPITAL ALLOWANCES

OWNED ASSETS

- Vehicles, machinery etc (S17(1)(e))
  - ⅓ of Cost
  - In the year expense was incurred

- Buildings (S17(1)(f))
  - 20%: Brought into use + 4% p/a following year of erection (8% for registered manufacturer)

- Patent, trademarks & renewals (S17(1)(i) & (j))
  - Cost ÷ period of use (limited to 25 years)
    - T/mark – 10 yrs
    - Patent – 14 years
    - Renewals – 100%

LEASED ASSETS

- LESSEE: Lease premium & improvements (S17(1)(g) & (h))
  - Premium or improvement ÷ Period of lease (limited to 25 years)
    - Taxable in year received or in year in which improvements are effected

- LESSOR: Lease premiums and improvements (S17(1)(k))
Owned Assets
Section 17(1)(e) – Moveable Assets

Claimed over 3 years

- Expenditure incurred during the year of assessment
- in respect of the acquisition of *vehicles, aircraft, sea-going craft, machinery, implements, utensils and articles*
- used by the taxpayer for the purposes of the taxpayer's trade.
- deducted, *in 3 equal annual instalments* starting in the year in which the expenditure is incurred.
Owned Assets
Section 17(1)(f) – Building allowance

The initial 20% building allowance will only be applicable on the *cost of erection* of the building used for purpose of trade and only in the year the building is brought into use.

The 4% allowance is only claimable in the year *following the year* in which the building was *brought into use*.

The same applies with regards to the 20% and 8% building allowance in respect of buildings used solely for manufacturing.
Owned Assets
Section 17(1)(i) & (j) – Patent, trademarks and renewals

17 (1)(i)

1. An allowance in respect of any expenditure actually incurred by the taxpayer
   - in devising or developing any invention,
   - or in creating or producing any design as defined or
   - any trade mark as defined or
   - any copyright as defined

2. Obtaining any patent or the restoration of any patent or the registration of any design or any trade mark

3. If Expenditure > N$200.00;

   Deduction = amount expended / # of years of use
Owned Assets
Section 17(1)(i) & (j) – Patent, trademarks and renewals

17 (1)(j) Expenditure *actually incurred* by the taxpayer during the year of assessment in obtaining
- extension of the term of any patent
- extension of the registration period of any design
- renewal of the registration of any trade mark

*if such patent, design or trade mark is used by the taxpayer in the production of his income*

Deductible in full in the year in which expense is incurred
Owned Assets/Leased assets
Section 17 (1)(d)

**Repairs**

- expenditure actually incurred
- repairs of property occupied for the purpose of trade,
- including any expenditure for the repair of machinery, implements employed for the purposes of his trade;

No definition of a “repair” in the Act.

Court case: *CIR v African Products Manufacturing Co Ltd 1944 TPD* established some guidelines:

1. Restoration by renewal or replacement of a subsidiary part of the whole;

2. Materials used need not be exactly the same as the original material.

- Repaired = asset should be damaged or deteriorated.
- The intention of the TP (lessee) should be to *restore* the asset to its original condition.
Leased Assets: Lessee

Section 17(1)(g) – Lease premiums

An allowance in respect of any premium or consideration in the nature of a premium paid by a taxpayer for the right of use of the following for the production of income -

1. land or buildings used or occupied

2. any plant or machinery;

3. any motion picture film, any sound recording or advertising matter;

4. any patent, design, trade mark or copyright;

5. the imparting of or the undertaking to impart any knowledge directly or indirectly connected with the use of items in (3) and (4)
**Leased Assets: Lessee**

Section 17(1)(g) – Lease premiums

\[
\text{Allowance} = \frac{\text{Premium}}{\text{period of lease} / 25 \text{ years}} \quad \text{(whichever is less)}
\]
Leased Assets: Lessee
Section 17(1)(h) – Leasehold Improvements

• Expenditure actually incurred by the taxpayer,

• i.r.o obligation to effect improvements on land or to buildings,

• incurred under a lease agreement,

• where the land or buildings are used in production of income.
Leased Assets: Lessee
Section 17(1)(h) – Leasehold Improvements

Stipulated in the lease agreement

- If legal obligation to effect leasehold improvements,

  = the improvements may be claimed under section 17(1)(h) of the Act.

1. Allows for capital deduction over the remaining lease period or 25 years (shortest) year in which the improvements completed.

2. Value of leasehold lease agreement may be deducted over the above mentioned period.

3. No value stipulated
   - fair and reasonable at discretion of Minister
Renovation/addition/alteration

New structure with a roof and walls?

YES

Claim section 17(1)(f) allowance

- 20% in first year asset;
- 4% in the 20 consecutive years.

NO

Repairs and Maintenance?

YES

Repairs and Maintenance: Deductible under section 17(1)(d)

NO

Improvement in terms of a lease agreement that specifically include the obligation to effect leasehold improvements?

YES

Claim Section 17(1)(h) capital allowance

NB: limited to the value stipulated per the agreement. If not stipulated, the fair market value.

NO

Improvements are capital in nature and therefore not deductible under section 17(1)(a).

Capital allowance is deductible in terms of either Section 17(1)(e) of (f)
Leased Assets - Lessor
Specific Inclusions

Gross Income

1. for the use or occupation or the right of use or occupation of land or buildings;

Par (f) of gross income

- any amount received or accrued from another person, as premium or like consideration

2. for the use or the right of use of plant or machinery

3. for the use or the right of use of any motion picture film or any film, etc

4. for the use or the right of use of any patent or design as defined in the or any trade mark as defined or any copyright as defined.

Full amount of premium taxable in year when received
Leased Assets - Lessor
Specific Inclusions

Gross Income

Par (l) of gross income

- Any person to whom accrued in any period the right to have improvements effected on the land or buildings by any other person- in terms of any agreement lease agreement

(i) the amount stipulated in the agreement as the value of the improvements or

(ii) as the amount to be expended on the improvements; or

(ii) if no amount is so stipulated, an amount representing in the opinion of the Minister the fair and reasonable value of the improvements;

Full amount of improvement taxable in year improvement effected
Recoupment & Scrapping allowances
Section 14(4)

This discretion was removed from the legislation and therefore the taxpayer has to recoup at the market value of the assets disposed / taken out of use.

Practical implementation

Previously a taxpayer could apply to the Minister to recoup at a lower value. This could typically be used in group reorganisations where assets are sold without a change in control.

Under the revised section this option is not available.
Recoupment & Scrapping allowances
Section 14(4)

Asset Disposal

Lower of:
- Original cost
- Market value

Less: Tax Value i.e. portion of cost not yet claimed

= Recoupment / (scrapping allowance)

• disposal,
• withdrawal from trade,
• removal from Namibia
### Transfer Duty Amendment

#### Natural Persons: Non-Agricultural property

<table>
<thead>
<tr>
<th>Value of property N$</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 600 000</td>
<td>Nil</td>
</tr>
<tr>
<td>600 001 - 1 000 000</td>
<td>1% of value exceeding N$ 600 000</td>
</tr>
<tr>
<td>1 000 001 - 2 000 000</td>
<td>N$4 000 plus 5% of value exceeding N$1 000 000</td>
</tr>
<tr>
<td>2 000 000 and above</td>
<td>N$54 000 plus 8% of value exceeding N$2 000 000</td>
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</tbody>
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#### Other Persons

<table>
<thead>
<tr>
<th>Value of property</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any value</td>
<td>12%</td>
</tr>
</tbody>
</table>

*Special rates are applicable on natural persons who acquired commercial farmland through the Affirmative Action Loan Scheme.*
**Income Tax Amendments**

**Provisional tax payment**

The *first provisional payment* - 6 months prior to the financial year-end, at least **40%** payable. The *second provisional payment* - at year-end should be at least **80%** of the total actual taxable income.

**Provisionals 40% & 80%**

Should the provisional payments be less than the prescribed **80%** threshold, underestimation penalties (limited to **100% of the underpaid tax**) may be levied at the discretion of the Commissioner.

**Underestimation Penalty**

Tax amendments introduced the penalty levy on **late payment of 10% per month** (limited to tax payable).

**Effective dates – years starting Jan/March 2012**

Legislation was introduced to levy a late submission penalty on **provisional tax returns** submitted after the period prescribed:

$N100 per day
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