

PwC Business School Tax : Ring-fencing

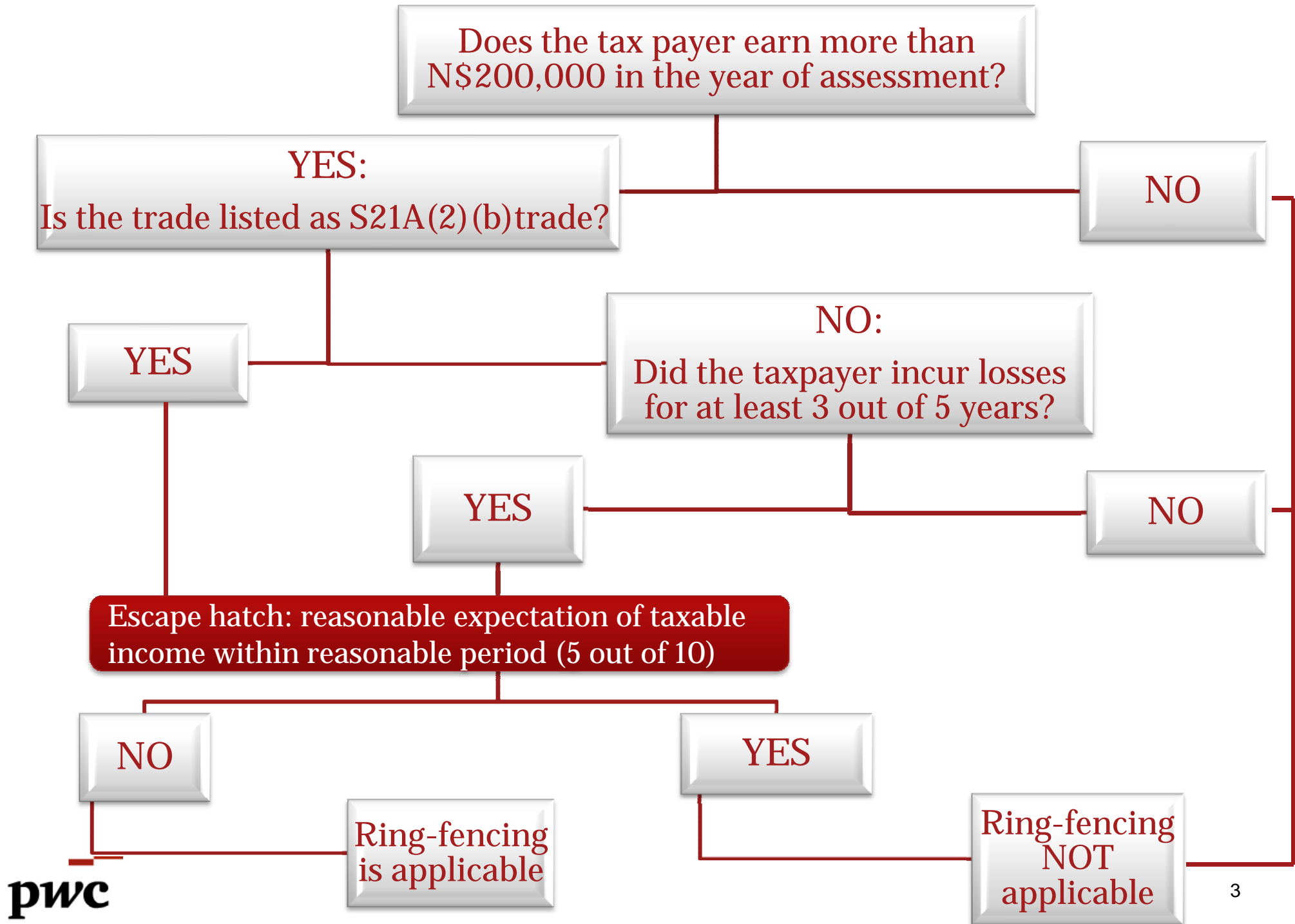


Ring fencing entails that a taxpayer may not offset losses from certain trades against income from other trades in future years.

Only applies to natural persons with taxable income of more than N\$200k per annum (excl losses)



Ring-fencing flow diagram



Ring-fencing

Trades targeted

Section 21A introduces ring fencing of the following types of loss making trades:

S 21A (2)(a) trades

trades incurring losses for at least 3 of 5 years from 1 March 2011 onwards

OR

S 21A(2)(b) trades

- sporting activities;
- dealing in collectibles;
- rental of residential accommodation, (80% and six month rule)
- rental of vehicles, aircraft and boats, (80% and six month rule)
- animal showing;
- farming or animal breeding unless carried on full time basis;
- carrying on of creative arts;
- gambling or betting.

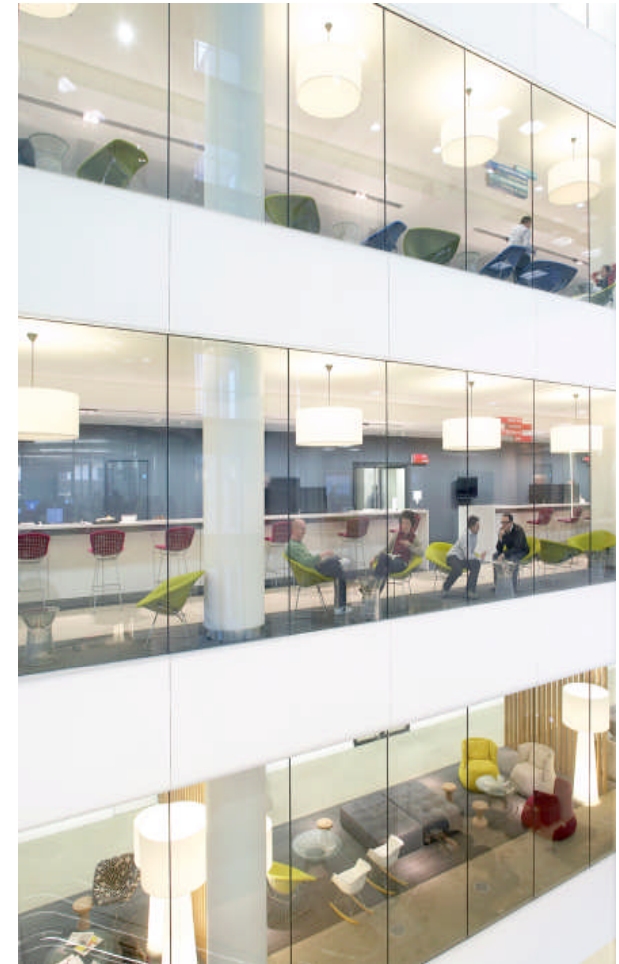
Ring-fencing *Escape hatch*

Ring fencing of trades could be avoided where a taxpayer can prove that:

- his/her trade constitutes a business with a reasonable prospect of being profitable within a reasonable time (conditions described in s21A(3))

AND

- the trade generated taxable profits for at least 5 years out of 10 years from 1 March 2011.



Ring-fencing

Escape hatch

Section 21A(3) special pre-requisite considerations

1. the proportion of the gross income in relation to the amount of the allowable deductions incurred;
2. the level of activities carried on by the person or the amount of expenses incurred by the person in respect of advertising, promoting or selling in carrying on the trade;
3. whether the trade is carried on in a commercial manner, taking into account number of employees, trade premises, equipment used, time spent on premises of business;

Ring-fencing

Escape hatch

Section 21A(3) special pre-requisites (cont...)

4. number of years of assessment during which assessed losses were incurred in carrying on the trade in relation to the period from the date when the person commenced carrying on the trade taking into account -
- any unexpected events giving rise to any of those assessed losses; and
 - the nature of the business involved;
5. the business plans of the person and any changes thereto to ensure that taxable income is derived in future trade;
6. the extent to which any asset attributable to the trade is used, or is available for use, by the person or any relative of the person for recreational purposes or personal consumption

Thank you

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