



Section 12BA: 125% deduction on renewable energy assets

Section 12BA introduces a temporary enhanced renewable energy incentive. The enhancement aims to encourage rapid private sector investment to alleviate the country's energy crisis. This article provides an overview of this incentive in section 12BA.

Section 12B provides a 100% deduction for assets that a taxpayer uses in the generation of electricity from PV solar energy not exceeding 1 MW. It has allowed this since 2015. In the 2023 Budget Review, the National Treasury announced a temporary expansion of the incentive. This aims to accelerate private investment to alleviate South Africa's energy crisis. Section 12BA, introduced by the Taxation Laws Amendment Bill (TLAB) published on 1 November 2023, contains this enhancement.

This article provides an overview of some critical aspects of the incentive.

Scope of section 12BA

The enhanced incentive applies to machinery, plant, implements, utensils, or articles, including foundations or supporting structures, that a taxpayer owns or purchases in terms of an instalment credit agreement. The taxpayer must use these assets in the generation of electricity from wind power, PV solar energy, concentrated solar energy, hydropower or biomass, comprising organic wastes, landfill gas or plant material.

There are some important differences between the assets that qualify for s 12BA and those that qualify for s 12B:

- Unlike s 12B, there is no restriction on the generation capacity under the enhanced incentive.
- The incentive only applies to assets used in the generation of electricity in South Africa.
- The taxpayer must bring the assets into use for the first time for purposes of its trade. The

assets must be used by the taxpayer or the taxpayer's lessee in the generation of electricity. (If the taxpayer lets the asset, its deductions, as the lessor, section 23A could limit the deduction).

- The enhanced incentive applies to assets so brought into use between 1 March 2023 and before 1 March 2025.

Like s 12B, s 12BA describes eligible assets broadly as those used in the generation of electricity. This leaves the same uncertainty around storage and conversion assets as under s 12B. The National Treasury indicates that assets used *in the generation of electricity* imply that the incentive is not solely for assets that produce electricity. Assets that form part of the system of assets that produce electricity together are likely to qualify. The government intends to issue a FAQ document to provide clarity on the incentive.

Section 12BA allowance

The allowance is 125% of the cost of a qualifying asset(s). The determination of cost is subject to similar measurement rules to those found in many other asset allowances.

Whether the additional 25% allowance is recouped depends on when the asset is disposed of. For assets disposed of before 1 March 2026, the taxpayer must recoup an additional amount of 25% of the cost recouped on disposal. For disposals after 1 March 2026, there is no adjustment to the recoupment. This means that the additional 25% allowance becomes a permanent deduction at that point.

