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PwC Business School

Tax: Capital allowances

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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)
  - LESSOR: Lease premiums and improvements S17(1)(k)
    - Taxable in year received or in year in which improvements are effected

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.

New structure with a roof and walls?

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

Allowance =

Premium

÷

period of lease / 25 years

(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

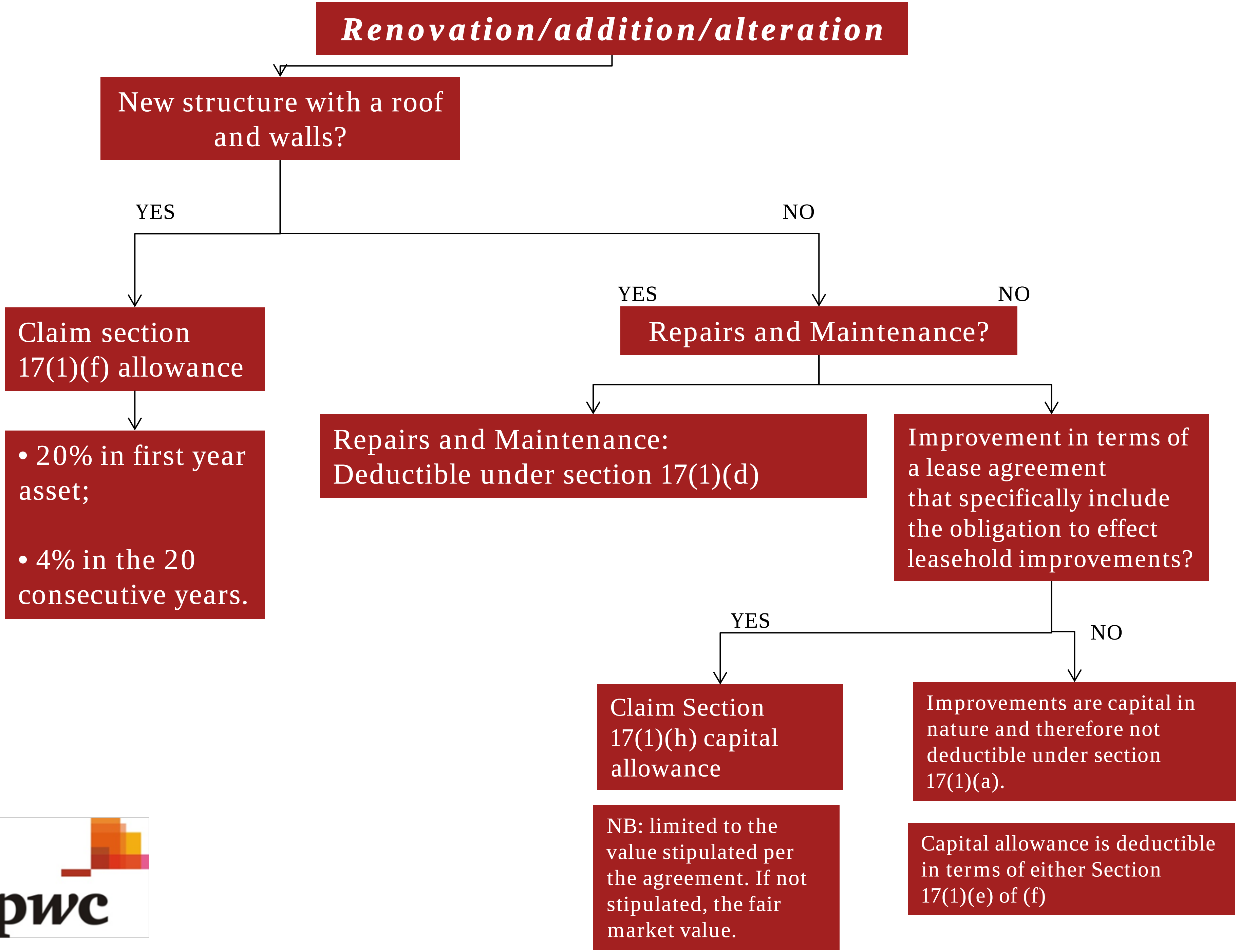
Section 17(1)(h) – Leasehold Improvements

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
NO
Claim section 17(1)(f) allowance
• 20% in first year asset;
• 4% in the 20 consecutive years.
YES
NO
Repairs and Maintenance?
Repairs and Maintenance: Deductible under section 17(1)(d)
Improvement in terms of a lease agreement that specifically include the obligation to effect leasehold improvements?
YES
NO
Claim Section 17(1)(h) capital allowance
NB: limited to the value stipulated per the agreement. If not stipulated, the fair market value.
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

Par (f) of gross income

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

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

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	
Value of property N$	
0 - 600 000	Nil
600 001 - 1 000 000	1% of value exceeding N$ 600 000
1 000 001 - 2 000 000	N$4 000 plus 5% of value exceeding N$1 000 000
2 000 000 and above	N$54 000 plus 8% of value exceeding N$2 000 000
Other Persons	
Any value	12%

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

Income Tax Amendments

Provisional tax payment

Provisionals

40% & 80%

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.

Underestimation Penalty

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.

Effective dates – years starting Jan/March 2012

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

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

N$100 per day

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