

SECTION 37C

INCOME TAX ACT NO. 58 OF 1962

Deduction in respect of environmental conservation and maintenance

The following shows the individual requirements of sec 37C. Each requirement must be met in order to access the incentive:

PRIMARY QUESTION: What type of agreement is entered into?

37C(1) BIODIVERSITY MANAGEMENT AGREEMENT

Biodiversity management agreement concluded in terms of sec 44 of NEMBA?

↓ Yes

Agreement concluded for a minimum of 5 years?

↓ Yes

Land utilised in production of income and for purpose of trade and consists of, includes, or is in immediate proximity* to declared land?

↓ Yes

Deduction of expenditure actually incurred to conserve or maintain declared land?

↓ Yes

EFFECT: Deduction of expenditure deemed in the production of income.

*Immediate proximity is not defined but the ordinary interpretation should be followed: not necessarily adjoining or contiguous land but easily accessible within a short period of time (e.g.natural corridors).

Deduction may not exceed income in any given year of assessment = creates rollover effect.

PROTECTED AREA: National Park, Nature Reserve, Protected Environment 37C(3)

Conservation declaration in terms of sec 20, 23 or 28 of NEMPAA?

↓ Yes

Agreement concluded for a minimum of 30 years?

↓ Yes

Is the land owned by the taxpayer?

↓ Yes

Is the expenditure actually incurred by the taxpayer to conserve or maintain the land?

↓ Yes

EFFECT: incurred expenditure deemed a donation in terms of sec 18A with deemed receipt in terms of sec 18A(2) and deductible from taxable income.

NB: Where the answer to a requirement is NO, the section is no longer applicable and no incentive may be appropriated.