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MoneyTalk

Tax Relief for Commercial Property

Investors in commercial property have finally been granted some tax relief.

INVESTORS IN commercial property have finally been granted some tax relief.

According to Richard Pickup, senior tax advisor for KPMG in KwaZulu-Natal, tax allowances were previously only granted in respect of industrial buildings used in a process of manufacture. "The South African Revenue Service (SARS) has now recognised the 'mortality' of commercial buildings and has introduced section 13quin which provides for a 5% allowance on the cost of any new and unused commercial building", adds Pickup.

Section 13quin applies to any new and unused commercial building owned by the taxpayer, as well as any new and unused improvements to any existing commercial building owned by the taxpayer, provided that the commercial building is wholly or mainly used by the taxpayer for purposes of producing income, other than the provision of residential accommodation.

The allowance is not granted on the cost of the land

The allowance is based on the lesser of the actual cost or market value of the commercial building or improvement, excluding the cost of the underlying land. "Therefore, when purchasing a commercial building one would need to split the total cost between the actual building and the land, for purposes of claiming the section 13quin allowance. It must also be noted that SARS does not include the cost of clearing and levelling the site in preparation for construction, the costs of excavation, and the cost of external paving and fencing as part of the cost of the building," says Pickup.

No apportionment required in Year 1

Pickup adds that "it is worth remembering that this allowance is not apportioned for part of a year, and therefore if a qualifying commercial building is purchased in month 11 of a tax year, the full allowance can still be claimed in that year".

Therefore if an investor purchased a new and unused commercial building for R5 000 000 (excl VAT) post 1 April 2007, he would be entitled to a R250 000 (R5 000 000 x 5%) allowance per year. This would have the effect of writing off the cost of the commercial building over 20 years.

Deemed effective date 1 April 2007

Pickup adds that an important aspect to section 13quin is that it is deemed to have come into operation on 1 April 2007, and is applicable in respect of any commercial building or improvement that was contracted for on or after that date, and the construction, erection or installation of which commenced on or after that date.

Commencement date of erection is when foundations are laid, not when excavations start

"Importantly, SARS considers that the erection of a building commences when the laying of its foundations commences, and this was supported by a judgment which held that the date when the erection of a building commenced was to be taken as the date on which the foundation started, and not the date when the excavations were made, in preparation for the laying of the foundations".

13quin also applicable to improvements to existing buildings

Lastly, he comments that all is not lost if an investor already owns an existing commercial building erected prior to 1 April 2007. The cost of any improvements commenced post 1 April 2007 on this existing commercial building, can also be written off in terms of section 13quin at 5% per annum.

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