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South African National Energy  
Development Institute (SOCI) Ltd.



# **Section 12 L** **of** **the Income Tax Act**



**ENERGY INNOVATION FOR LIFE**

**Barry Bredenkamp**  
**SANEDI**



# mandate

The *National Energy Act, 2008* (Act No. 34 of 2008), Section 7 (2) provides for **SANEDI** to direct, monitor and conduct *energy research and development*, as well as undertake measures to promote *energy efficiency* throughout the economy.

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## **No. 37019 GOVERNMENT GAZETTE, 8 NOVEMBER 2013**

GOVERNMENT NOTICE

**NATIONAL TREASURY**

**No. 855 8 November 2013**

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**GOVERNMENT NOTICE**

**National Treasury**

Government Notice

***855. Income Tax Act, 1962: Notice of the date upon which section 12L (deduction in respect of energy efficiency savings), as inserted by Act 17 of 2009, amended by Act 7 of 2010 and substituted by Act 22 of 2012 comes into operation on 1 November 2013.***

*Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001*



# SANEDI's 12-L “Value Add”

- Must provide an **‘Assurance Function’** for SARS.
- Must consolidate, analyse and report to DoE, National Treasury and SARS.
- Must assist wherever possible, to **‘make it happen’!**
- Provide, maintain and improve the **on-line database**, to streamline the process & issue an **‘EE Tax Certificate’**.
- Develop and constantly improve the Guidelines.
- **Integrate current fragmented basket of activities into a ‘workable’ solution!**



# Some Points to Note



- 🌱 This is the first-ever '**Negawatt-based**' tax incentive globally!
- 🌱 It is a **myth** that 12-L was the cause of the suspension of the **IDM-funding**!
- 🌱 This is an **ENERGY** incentive and **NOT** only an **ELECTRICITY** incentive.
- 🌱 SANEDI does NOT charge any fees for this activity!
- 🌱 The on-line database is securely protected & confidentiality of all information submitted will be maintained!
- 🌱 This is in no way the 'perfect' **EE-solution**!



# Old Chinese Proverb

*“A journey of 1000 miles begins with  
the  
first step!”*



# Background and Key Dates



-  **2009** – then Minister of Finance announced incentives for those that can demonstrate energy efficiency savings.
-  **2009** – Section **12 I** in place for large industrial projects.
-  **9 December 2013** – 12 L promulgated with an effective date of **1 November 2013**.
-  **1 January 2020** – 12-L available for any year of assessment for trade ending before 1 January 2020.

**Today** ..... 😊





# The Spirit of the Legislation



The South African government wants to promote the efficient use of energy as a means to safeguard the ***security of supply***. This will also have the knock-on effect of combatting greenhouse gases as a large part of the South African energy mix is generated from coal, which is obviously an environmentally unfriendly fuel source.

Therefore, **the key aspect to be addressed through this legislation is efficient use of energy, more than generation of energy**. There are other regulations that are in place or in the pipeline to address this.



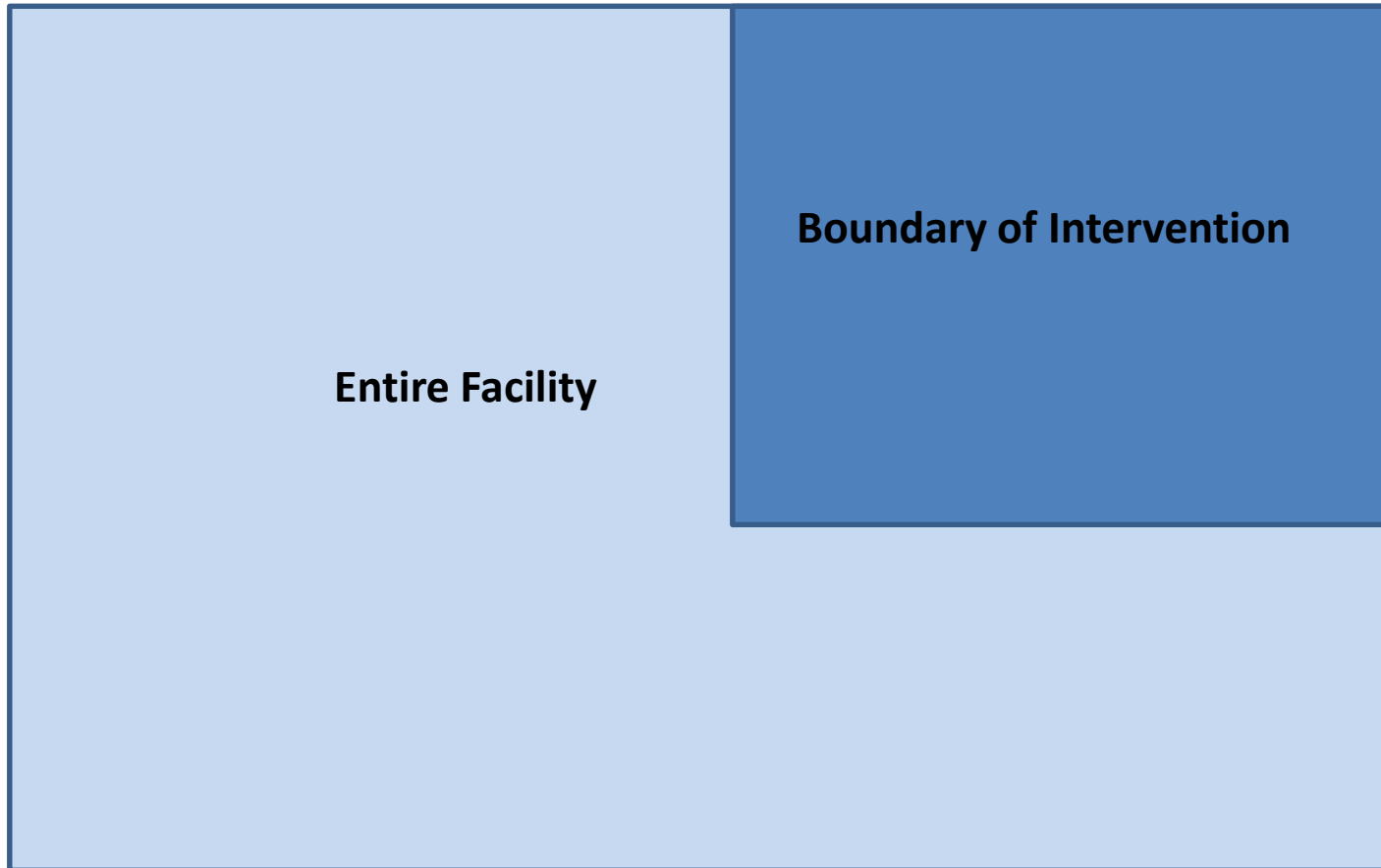


# 12 L in a Nutshell



- 🌱 Tax incentive of **45 c per verified kWh**, (or equivalent kWh).
- 🌱 Tax incentives are currently offered for **one (1) assessment year** of kWh savings.
- 🌱 Only applicable to **registered businesses**.
- 🌱 **No concurrent benefits** allowed.
- 🌱 A **SANAS accredited** body to sign-off on the **M&V** reports.

# How Does It Work ?





# How do the Numbers Work Out ?



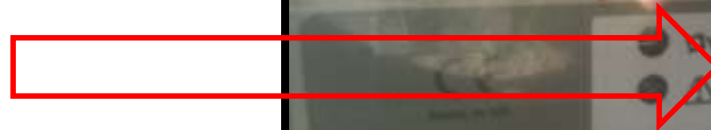
Example of 12 L	
Verified Approved Savings in kWh	1 000 000.00
Tax Incentive Rate	R 0.45
Marginal Tax Rate of Person	R 0.28
Tax Revenue Foregone	R 126 000.00
Effective Rate of kWh	R 0.126
Net Profit to be taxed	R 2 000 000.00
Tax to be Paid Over to SARS	R 560 000.00
Final Tax to Be Paid After Incentive	R 434 000.00

# How Does the Assessment Cycle Work?



- Assume a Plant that operates 24/7/365 and has a constant usage of 1 000 kWh per month.
- The annual baseline usage will be 12 000 kWh.
- Assume an intervention where there is a 50% reduction in usage to 500 kWh per month.

**kWh**



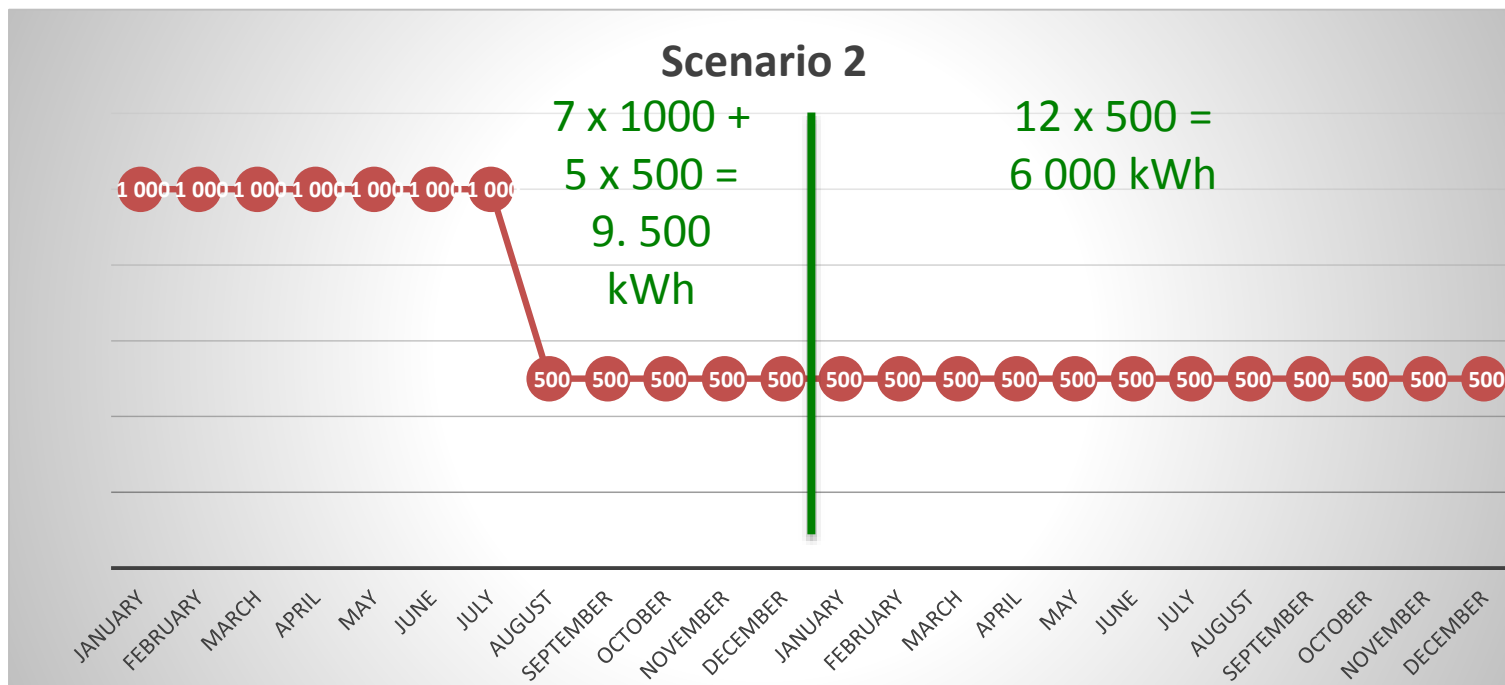
# Scenario 1: Savings for Single Tax Cycle



Verified kWh Savings = 12 000 – 6 000 = 6 000 kWh



# Scenario 2: Savings Over 2 Tax Cycles



**Year 1 = 12 000 – 9 500 = 2 500 kWh**

**Year 2 = 9 500 - 6 000 = 3 500 kWh**





**2 500 kWh + 3 500 kWh = 6 000 kWh**





# What is **NOT** Covered (*Regulation 6*)?







-  **Renewable Sources** and **Co-Generation** are ‘generally’ excluded, other than waste-heat recovery or under-utilized energy.
-  **Captive Power Plants**, where the energy generated is **less than 35%** of the requirements for the facility.
-  Concurrent benefits.
-  Projects that have been completed or are in progress.



# What IS Covered ?



-  Greenfield Projects, *(required to construct the baseline from comparable data in the relevant sector).*
-  Projects that improve the energy conversion efficiency.
-  Where the project is an **energy conservation** project that does not reduce the energy conversion efficiency of the activity, but maintains the same level of activity output and boundary conditions, as determined by **SANS 50 010.**
-  The project uses underutilised energy generated from an industrial process.




# Energy Conservation – *an example*



- 🌱 Turning off inefficient lights at night, without replacing them with efficient technology is a qualifying ‘*activity*’ and an energy efficiency saving measure eligible under 12L, if no other conditions have changed.
- 🌱 Turning off inefficient lights because of the cancellation of a shift, for example, would not require any form of lighting during night hours and is not eligible, *ie.* the level of production has changed.

# Captive Power Plant – an example



-  Must be for own use & not fed into or ‘wheeled’ through the grid.
-  Must be more than 35% of the kWhs or equivalent kWhs of energy input that would have been required in respect of that year of assessment.
-  This can be interpreted as an **exception to the rule**, where **renewables** are excluded from 12L, if all the above criteria are met.



# Guidelines

*(in support of the 12-L Regulations)*



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# Eligibility Checklist and Data Gathering



F0	The tax allowance is Rand	R	135 000
F1	Estimation of the tax incentives for this project is:	R	37 800
F2	Your total M&V verification cost must be lower than:	R	37 800
F3	Life time “kWh saved” tariff based on total investment, ignoring financing interest rates and other additional operating costs are:	R	0.20
F4	You are only required to hire a SANAS Accredited M&V body who employ an M&V professional to perform the M&V according to SANS 50010 if the tax incentive will be claimed. You are not required to hire any member of an M&V body for registration or any other services related to project design. However consulting an M&V professional at this stage may provide you with a better understanding of the complexity or simplicity of M&V of your project idea in particular with respect of drawing the project boundary and M&V costs involved Estimation of kWh equivalent savings for the year of assessment		
F5	Would you like to proceed with the eligibility test: Yes/No ?		

# Eligibility Checklist and Data Gathering



## Select the options that best fits your project:

1	The project is improving the <b>energy conversion efficiency</b> of the activity
2	The project is a greenfield project with a better energy conversion efficiency as compared to the relevant sector or technology usually used
3	The project is an energy <b>conservation</b> project that does not improve the energy conversion efficiency of the activity at the same level of activity output and boundary conditions as determined by SANS 50010
4	The project uses underutilized energy generated during an industrial process
5	Supplied by a captive power plant (CPP) as defined under 12L



# I have a project – What do I Do ?



- 🌱 A project owner wishing to claim 12L should **submit a baseline** established in accordance with the regulation and SANS 50010, compiled by an M&V professional and signed by an accredited M&V body.
- 🌱 The baseline needs to be evaluated, approved or rejected by SANEDI.
- 🌱 After approval of the baseline, the project owner needs to **submit the performance assessment** compiled by the M&V professional and signed by the accredited M&V body.
- 🌱 SANEDI will evaluate, approve or reject the performance assessment.
- 🌱 After the approval of the performance assessment, an energy **efficiency performance certificate will be issued.**

# Conclusion and the Way Forward



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# Conclusion & the Way Forward



- 🌱 Continue the ‘walk’, to resolve any misunderstandings, relating to the interpretation of the Act and Regulations, by implementing and refining/ improving the system and all supporting documentation.
- 🌱 Independently commission a bi-annual review of the functionality of the system, as well as the overall ***energy-and-economic impacts*** of the ***12-L Tax Incentive***.
- 🌱 However, unlike most other incentive schemes, ***severe penalties DO apply*** in the case of the Income ***Tax Act!***



There is a 'Pot of Gold' at the end of the Rainbow !





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**THANK  
YOU**

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