

URBAN RENEWAL TAX INCENTIVE ABOUT THIS GUIDE

This guide contains a summary of the main features of the Urban Renewal Tax Incentive (section 13*quat* of the Income Tax Act (Act No. 58 of 1962)). Although fairly comprehensive, it is not intended as a substitute legal interpretation but merely as a guide for potential investors. The relevant portions of the legislation are attached as an annexure. For a more in-depth review of the legislation, we suggest that you consult the actual legislation attached and the tax memorandum in the 2003 Revenue Laws Amendment Act (Act No. 45 of 2003) as amended by the Revenue Laws Amendment Act, (Act No. 31 of 2005). These items are available under the Local Government icon of the National Treasury website at “www.treasury.gov.za”. Should you require additional information, contact:

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INTRODUCTION: UNDERSTANDING THE BASICS

WHY HAVE A TAX INCENTIVE?

In 2003, the Minister of Finance, Mr. Trevor Manuel, announced the introduction of a tax incentive that will encourage investment for certain specified urban development zones. The core objectives of this incentive are:

- to respond to the problem of dereliction and dilapidation in South Africa's large cities; and
- to promote urban renewal and development through private sector investment in the construction and improvement of buildings.

This incentive, falling under section 13*quat* of the Income Tax Act (Act No. 58 of 1962), comes in the form of an accelerated depreciation allowance for the construction of new buildings and improvements in specified urban development zones. Without this incentive, these costs may not be depreciated or are entitled to depreciation of only 2 or 5 per cent per annum (depending on the nature of the buildings and the improvements involved).

WHO IS ELIGIBLE FOR THE INCENTIVE?

Any owner-builder or owner-first purchaser is eligible for the incentive once certain preliminary conditions are met. It makes no difference whether the party is an individual, company, close corporation, trust or partner in a partnership.

PRELIMINARY CONDITIONS

(i) OWNER - BUILDER

Owner-builders must satisfy four preliminary criteria to be eligible for the incentive. These criteria are listed below:

- (1) The owner-builder must improve an existing building or construct a new building (or part thereof) within the urban development zone. Hence, an owner-builder purchasing a pre-constructed building or improvement is ineligible for the incentive. In other words, the owner-builder must add value to the zone.
- (2) The owner-builder must improve or construct an entire building or at least (if not the entire building) a 1000sq meter area.
- (3) The owner-builder must use the improved or new building solely for purposes of the owner-builder's trade. The trade can be of any kind, either commercial, industrial or even as rental of a residential apartment. For instance, an owner-builder constructing a building (or part thereof) for lease would qualify for the incentive as well as an owner-builder constructing premises to conduct a retail business. These requirements ensure that the added value is meaningful. If an owner-builder has two separate buildings on the same parcel of land, personal use of one building will generally not prevent the incentive from applying to the second building if that second building is used solely for trade. Similarly, if an

owner builder owns two units in a sectional title block of apartments, personal use of one unit will generally not prevent the incentive from applying to a second unit if that second unit is used solely for trade. However, the personal use portion will never qualify for the incentive.

- (4) The owner-builder must receive a certificate of occupancy for that building along with a certificate from the relevant municipality confirming the building is located within its urban development zone. These items must be attached to the owner-builder's return when claiming the urban development allowance.

(ii) OWNER - FIRST PURCHASER

- (1) A bona fide developer must improve or construct an entire building or at least (if not the entire building) a 1000sq meter area. For instance, assume a bona fide developer can purchase ten flats of 100sq meters each in the same block of flats, refurbish them, and then sell them off individually to owner-first purchasers. In this circumstance, the individual owner-first purchasers will be able to claim the allowance. In addition, if a developer has improved a building (or part thereof) the developer must incur an expenditure equal to at least 20% of the purchase price paid by the taxpayer.
- (2) The developer must not have claimed any UDZ allowance in respect of that building (or part thereof).
- (3) Any owner-first purchaser must purchase the building (or part thereof) directly from a bona fide developer that has built the building. The agreement to purchase must have been concluded on after 8 November 2005.
- (4) The bona fide developer must not use the building (or part thereof) for purposes of his/her trade. This requirement stands in contrast to the owner-first purchaser who must use the purchased building(s) for purposes of his/her trade.

PURPOSE OF EXTENDING INCENTIVE

When the incentive was initially introduced, only the person who undertook the construction or refurbishment could claim the UDZ allowance. Hence, the incentive was of no value if a developer constructed or refurbished a building and later sold that building to a purchaser. However, this rule was changed in 2005 to account for the fact that most construction is performed by developers, not by the owner-builder.

WHERE MUST THE NEW BUILDING OR IMPROVEMENT BE MADE?

The urban development allowance applies only to buildings or improvements within an urban development zone selected by certain municipalities. In terms of the 2003 Budget proposals, 16 municipal areas were identified as follows:

1. Buffalo City Municipality – Eastern Cape Municipality
2. Cape Town Municipality – Western Cape Province

3. Ekurhuleni Municipality (East Rand) – Gauteng Province
4. Emalahleni Municipality (Witbank) – Mpumalanga Province
5. Emfuleni Municipality (Vaal Triangle) – Gauteng Province
6. eThekweni Municipality (Durban) - Kwa Zulu Natal Province
7. Johannesburg Municipality – Gauteng Province
8. Mafikeng Municipality – North West Province
9. Mangaung Municipality (Bloemfontein) – Free State Province
10. Matjhabeng Municipality (Welkom) – Free State Province
11. Mbombela Municipality - (Nelspruit) – Mpumalanga Province
12. Msunduzi Municipality (Pietermaritzburg) – Kwa Zulu Natal Province
13. Nelson Mandela Municipality (Port Elizabeth) – Eastern Cape Province
14. Polokwane Municipality - Limpopo Province
15. Sol Plaatje Municipality – (Kimberley) – Northern Cape
16. Tshwane Municipality – Gauteng Province

In terms of the legislation, each of the above municipalities had the task of selecting their urban renewal zones based on certain qualifying criteria. At this stage almost all municipalities qualify for incentive. The UDZ areas of the Matjhabeng and Mafikeng Municipalities are still undergoing the approval and gazetting processes.

WHAT IS THE NATURE OF THE INCENTIVE?

The incentive provides investors with a tax write-off for the cost of the improvement or building over time before actual sale (and without regard to the write off for accounting purposes). The tax write-off period depends on whether the construction relates to an improvement of an existing building (or part thereof) versus a new building (or extension or addition to a new building). As illustrated below, the incentive for improvements is more generous than for new buildings.

The purpose of this enhanced incentive (beyond the 17-year write-off above) is to maintain structures considered worthy of retention and to maximise the use of all the sunken capital of existing buildings. In order to qualify for the 5-year write-off, investors must preserve a substantial part of the building's existing structural or exterior framework (i.e., all the 4 walls or all the steel frameworks of the existing building). In addition, extensions or additions to an existing building may fall within the 5-year write-off (as opposed to the 17-year write-off) if merely incidental to the improvement.

Improvements (owner-builder)

An owner-builder who refurbishes or improves an existing building will receive a 20 percent straight-line depreciation write-off over a 5-year period once the building is brought into use.

Example 1(a). Facts. An owner-builder acquires a run-down shop for R8 million. The investor then refurbishes the shop in order to conduct a viable retail business. The refurbishment costs R100 million.

Result. An owner-builder can deduct 20 percent of the refurbishment cost over 5 years (i.e., R20 million over 5 years) once the building is brought into use. The R8 million falls outside of the UDZ incentive.

Improvements (owner-first purchaser)

An owner-first purchaser who purchases a refurbished or improved building (or part thereof) from a bona fide developer is deemed to have incurred 30 percent of the purchase price of the refurbished or improved portion. Of this 30 percent amount, the owner-first purchaser will receive a 20 percent straight-line depreciation write-off over a 5-year period once the building is brought into use.

Example 1(b). Facts. A bona fide developer acquires a run-down block of flats for R5 million. The developer refurbishes the block of flats and disposes of the building on completion of the refurbishment. The refurbishment costs R5 million. The first purchaser buys the building for R100 million from the developer.

Result. 30 percent of R100 million is deemed to be incurred by the owner-first purchaser for purposes of the incentive. The first purchaser can accordingly deduct R30 million over 5 years (R6 million a year) once the building is brought into use.

New Buildings (owner-builder)

Owner-builders erecting a new building (or part thereof), including extensions or additions, receive a 17-year write-off period. This write-off allows for deduction of 20 percent for the first year in which the building is brought into use and an annual deduction of 5 percent for each of the following 16 years.

Example 2(a). Facts. An owner-builder constructs a new commercial building in order to conduct a retail business after having purchased vacant land for R5 million. The new construction costs amount to R100 million.

Result. The owner-builder can deduct a maximum of 20 percent of the construction costs in the 1st year (i.e., R 20 million) the building is brought into use. Thereafter, the investor can deduct 5 percent of the balance of the deemed costs for each of the next 16 years (i.e., the remaining R80 million over a 16 year-period). The land may never be depreciated.

New Buildings (owner-first purchaser)

An owner-first purchaser who purchases a newly constructed building (or part thereof), including extensions or additions from a bona fide developer is deemed to have incurred 55 percent of the purchase price. The owner-first purchaser will receive a 17-year write-off for the 55 percent portion once the building is brought into use. This write-off allows for a deduction of 20 percent for the first year in which the building is brought into use and an annual deduction of 5 percent for each of the following 16 years.

Example 2(b). Facts. A developer purchases vacant land for R5 million and constructs a new office block on the land. The new construction costs R100 million. The developer sells the building for R200 million.

Result. The owner-first purchaser can deduct 55 percent of (i.e., R110 million) in the first year that the building is brought into use. Thereafter, the owner-first

purchaser can deduct 5 percent of the balance of the deemed costs for each of the next 16 years (i.e., the remaining R90 million over a 16-year period). The land may never be depreciated.

HOW DOES THE INCENTIVE REDUCE MY TAX?

If an owner-builder or owner-first purchaser qualifies for the tax incentive, any 5-year or 17-year write-off of costs incurred by the owner-builder or owner-first purchaser are deductible against the entire taxable income of the owner builder or owner-first purchaser. No ring fencing applies. In other words, write-offs for one building can be set-off against any other income of the owner-builder or owner-first purchaser, regardless of whether that income relates to the building or the line of business to which that building relates. Any excess losses that cannot be fully set-off within a year are carried forward indefinitely. These excess losses can be setoff in later years until fully absorbed.

Example 3.

Facts. An owner-builder who is a doctor refurbishes a townhouse several kilometres from her home. The owner-builder rents out the townhouse on a permanent basis. In 2005, the owner-builder generates R530 000 of income as a doctor. In terms of the townhouse, the owner-builder also generates R36 000 of rental income, R34 000 of associated ongoing expenses, and a R50 000 urban development write-off.

Result: The R50 000 urban development write-off from the townhouse is fully deductible against the owner-builder's entire income, not just the net R2 000 annual profits of the townhouse.

Example 4.

Facts: Company X is involved in a number of trades, including an IT business. Company X erects a building for R300 million for purposes of its IT trade. Company X is eligible for a R60 million urban development zone write-off during the first year of use. In that same year, no income is generated from the building, but R35 million of net income is generated from the overall IT business plus another R50 million from the other businesses.

Result: Company X can fully set-off the R60 million of urban development zone write-offs against its other income. It makes no difference that the other income does not relate to the building constructed nor falls within the same line of business.

Example 5.

Facts: The facts are the same as *Example 4*, except that Company X erects the same building for R600 million, thereby generating a R120 million capital allowance.

Results: Company X can fully utilise R85 million of the capital allowance in the current year to eliminate all of Company X's R85 million of net income (R35 million income + R50 income). The remaining R35 million capital allowance (R120 mil – R85 mil) can be used as a set-off against income arising in later years.

WHAT HAPPENS WHEN THE BUILDING IS SOLD?

An owner-builder or an owner-first purchaser receives the 5-year or 17-year write-offs only as long as the building or part of the building is owned and used for purposes of trade. In addition, any sale may trigger ordinary revenue to the extent that any gain on the sale represents a recoupment of the prior write-off (with all excess gain being capital).

Example 6.

Facts. An owner-builder constructs a new commercial building in order to conduct a retail business. This new construction costs R100 million. The owner-builder writes off 30 per cent of the building over 3 years (receiving a R20 million deduction in the first year and a R5 million deduction in each of the two following years). The investor then sells the building for R108 million.

Result. The owner-builder has R38 million of gain on the sale (R108 million less the written down cost of R70 million). Of this amount, R30 million represents a recoupment of the prior write off. The net result is 30 million of ordinary revenue and R8 million of capital gain.

WHAT COSTS DOES THE ALLOWANCE COVER?

The urban development zone allowance covers all construction costs related to the erection, extension, addition or improvement of buildings. Finance and property acquisition costs do not fall within the incentive. These deductible costs include the following:

- Costs incurred in demolishing or destroying any existing building (or any part of a building)
- Costs incurred with respect to permanent fixtures lying near the site.

These costs include provision for the following amenities:

- water;
- power;
- sewage;
- access or parking for the building;
- drainage;
- security for the building (including fences, cameras and surveillance equipment);
- means of waste disposal;
- sidewalks; and
- landscaping (including earthworks, greenery and irrigation).

MUNICIPAL REGISTRATION

As part of the process of applying for the incentive, some municipalities will be creating a registration process at their respective municipal offices to facilitate interaction with the municipality and to provide early confirmation that the site is within the urban development zone. This registration will be voluntarily available during the preliminary

planning stage. It is recommended that owner-builders and developers register to ensure they receive support from their municipalities in tracking their various applications and approvals. Owner-builders and developers will then receive an official certificate (which is not conditional on registration) that the building is located within the demarcated zone when the municipality grants a certificate of occupancy. This certificate of location must be attached to the owner-builder's and the owner-first purchaser's annual return when claiming the urban development incentive along with a certificate of occupancy.

HOW DO I CLAIM THE INCENTIVE ON MY TAX RETURN?

Owner-builders and owner-first purchaser's seeking a 5-year or 17-year write-off for a building (or part thereof) within an urban development zone are subject to special tax reporting obligations. More specifically, owner-builders and owner-first purchasers must provide certain additional information when filing their income tax returns. This information must be filed yearly when claiming the allowance. Failure to submit the required information results in the allowance not being available for that specific year. To satisfy this requirement the owner-builder must submit:

(i) OWNER – BUILDERS MUST SUBMIT:

- (1) a certificate issued by the municipality to the owner-builder confirming that the building is located within the UDZ zone of that municipality;
- (2) the total costs to the owner-builder of the construction or refurbishment, and the extent that those costs relate to any portion of the building for which a certificate has been issued; and

(ii) OWNER-FIRST PURCHASERS MUST SUBMIT:

- (1) the purchase price of the building (or part thereof)
- (2) the amount of the purchase price deemed to be the cost incurred by the owner-first purchaser; and
- (3) a certificate from the developer confirming that:
 - the construction or refurbishment by the developer covers an entire building or at least 1000 sq meters;
 - the developer has incurred expenditure equal to 20% of the purchase price paid by the owner-first purchaser on construction or improvement;
 - the agreement to purchase was concluded on or after 8 November 2005;
 - the developer has not claimed the UDZ incentive in respect of that building; and
 - construction or refurbishment was commenced by the developer on or after the date of Gazetting.

SPECIAL REPORTING FOR BUILDINGS IN EXCESS OF R5 MILLION

Every developer with estimated construction or refurbishment costs in excess of R5 million must:

- (i) notify SARS within 30 days after commencement of the construction or refurbishment, the projected qualifying costs in respect of construction or refurbishment and the estimated selling price; and
- (ii) notify SARS within 30 days after sale of the building of the actual costs incurred in respect of that building and the actual selling price of that building.

EFFECTIVE DATES & TERMINATION DATES

The incentive takes effect as each urban development zone is published. This means that for each municipality, the incentive will only be effective once the selected urban development zone is published in the Government Gazette. The Johannesburg and Cape Town UDZ's took effect on Thursday 14th October 2004 (Government Gazette No. 26866). The eThekweni, Tshwane, Emfuleni, Sol Plaatje, Mangaung, Buffalo City and Mbombela UDZ's took effect on Friday 10th December 2004 (Government Gazette No. 27077). The Ekurhuleni, Msunduzi, Nelson Mandela and Polokwane UDZ's took effect on Monday 6th June 2005 (Government Gazette No. 27656). The Emalaheni Municipality UDZ took effect on Friday 12 May 2006 (Government Gazette No. 28795).

In more specific terms, the effective date is linked to the contract and to the construction. First, all the relevant parties must sign the construction contract on or after the date of Gazetting. Second, the construction must also commence on or after that date. An additional requirement with respect to owner-first purchasers is that the agreement to purchase must have been concluded on or after 8 November 2005.

The cut-off date for bringing buildings into use (either as an owner-builder or as an owner-first purchaser) for the incentive is 31st March 2009.

ANNEXURES

ANNEXURE "A" – List of approved municipal zones.

ANNEXURE "B" – List of applicable legislation.

CURRENTLY APPROVED ZONES

The currently approved zones are set out in the attachment marked Annexure “A”.

ANNEXURE “A”

CURRENTLY APPROVED ZONES

Johannesburg Municipality: www.joburg.org.za

- Johannesburg has selected one zone that forms the inner city totaling 1786 hectares. The Johannesburg UDZ includes the central business district, and also Newtown and Braamfontein, as well as the high density and high-rise residential areas of Hillbrow, and Berea.
- Other lower-density residential areas surrounding the general Ellis Park area such as Bertrams Judith's Paarl, Doornfontein, and Troyeville, as well as Bellevue; Bellevue East and Yeoville form part of the approved UDZ.
- The manufacturing and industrial strip to the north of the M2 E/W from Benrose in the east to City West in the west is also included.

(Refer to the enclosed map or the municipality's website for more details).

Cape Town Municipality: www.capetown.gov.za

- Cape Town has selected two zones totalling 629 hectares, capturing part of the Cape Town CBD and the Bellville CBD.
- Most of the historic Cape Town CBD is included and properties adjacent to the Main Road and Klipfontein Road Corridors are included. This includes portions of the suburbs of Salt River, Woodstock, Observatoy, Maitland, Mowbray, Athlone and Gatesville.
- The second Cape Town UDZ includes the older part of the Bellville CBD, focusing on land adjacent to the Voortrekker Road Corridor and around Bellville Station. Some properties along Modderdam Road and Kasselsvlei Road are also included.

(Refer to the enclosed map or the municipality's website for details).

eThekwini Municipality:

- The eThekwini UDZ boundary incorporates approximately 668.77 hectares.
- The eThekwini UDZ boundary begins in the east, with the Indian Ocean, which from the north runs from the Walter Gilbert Road through Bell Road until Shepstone Road.

- On reaching Bay Terrace the boundary runs along Victoria Embankment, and at the end of the embankment turns along Alexandra, and then Brook Streets, until West street.
- At West street, the boundary turns left into West street and then into Berea Road until Carters Avenue. The boundary then follows Canongate Road until Warwick Avenue, turning into Centenary Road and then into Carlisle Road.
- The boundary runs through Carlisle Road until First Avenue, turning into Stamford Hill Road, until Croydon Road.
- On reaching Croydon, the boundary turns into Walter Gilbert Road before following Cobham Road and continuing along the edge of the railway yards until reaching Old Fort Road where the boundary continues into NMR Avenue, then turns into Somtseu Avenue before turning into Stanger street.
- On reaching Argyle Road, the boundary turns into NMR Avenue until the starting point of the boundary at Walter Gilbert.

(Refer to the enclosed map or the municipality's website for details).

Tshwane Municipality:

- The Tshwane UDZ boundary incorporates approximately 582 hectares.
- The Tshwane UDZ boundary comprises predominantly part of the following townships and farm portions: Asiatic Bazaar and its extensions, Pretoria, Arcadia, Daspoort 319 J.R., Elandspoort 357 J.R. and Pretoria Town and Townlands 351 J.R.
- The Tshwane boundary commences in the northern-western corner and continues as follows:

Northern boundary

- Commences at the NW corner of the Asiatic Bazaar township through northern part of the Bazaar, but excludes Erven 20/551, 705, 1/691, 692, 704, 695, Asiatic Bazaar and including a portion of the remainder of portion 12 of the farm Daspoort 319 J.R. directly adjacent to Erf R/668, Asiatic Bazaar up to the intersection of Potgieter and Boom streets.
- From the intersection of Potgieter and Boom streets, along Boom street, including a portion of the remainder of the farm Daspoort 319 J.R. on the NW corner of Boom and Paul Kruger streets, up to Du Toit street.
- From the intersection of Boom and Du Toit streets along Du Toit street up to the intersection of Du Toit and Edmond/ Edward streets.

- Along Edward street up to the intersection with Edward and Nelson Mandela Drive and the Apies River.

Eastern boundary

- From the intersection with Edward street and Apies River in a southerly direction towards Pretorius street.
- From Pretorius street along Nelson Mandela Drive up to the railway line.

Southern boundary

- From Nelson Mandela Drive up to Carl street, along Carl street and up to Schutte street and the railway line.

Western boundary

- From Schutte street and railway line, up to Soutter street.
- From Soutter street up to Schoeman street, along Schoeman street up to the intersection of Schoeman and Steenhoven Spruit.
- Along Steenhoven Spruit up Cowi street up to Vermeulen street.
- From the intersection of Vermeulen and Cowie streets westwards along the northern boundary of Hero's Acre Cemetery up to Lorentz street.
- From Lorentz street, along Lorentz street up to Church street and west to Retief street.
- From Retief street, along Retief street up to the boundary of the Fresh Produce Market (excluding the Fresh Produce Market), up to the corner of Efr 1185, Pretoria. From here, East across D.F. Malan Drive up to Lorentz Drive, then up to NW corner of the Asiatic Bazaar.

(Refer to the enclosed map or the municipality's website for details).

Emfuleni Municipality:

- The Emfuleni UDZ area comprises two strips running in an east-west and north-south direction respectively. The urban development zone boundary incorporates approximately 190 hectares. The boundary commences in the north and continues as follows:
- Elwalk Street in the North running along De Villiers in a westerly direction up to Edward Street turning left in a southerly direction along Edward Street up to Market Avenue turning right in a westerly direction along Market Avenue up to Botha Street, turning in a southerly direction along Botha Street up to Beaconsfield turning right in a westerly direction into Beaconsfield up to George Street, turning back north into George Street, up to Market Avenue then turning left in a westerly direction into Market Avenue up to Van Riebeeck Road.

- Turning left into Van Riebeeck in a southerly direction up to stand 595 then traveling mid-block along the southern boundaries of stands 595 to 618 in an easterly direction up to Joubert Street.
- Turning right in a southerly direction into Joubert Street up to erf 707, then turning left in an easterly direction along the southern boundaries of erven 707 to 711, then turning in a southerly direction traveling mid-block along the western boundaries of erven 741 to 971 up to Lewis Avenue.
- Turning west into Lewis up to erf 1311, turning left in a southerly direction along the back boundaries of erven 1300, 1301, 1333, up to erf 1338.
- Then turning left in a southerly direction up to the southern boundary of erf 187 turning in a north-easterly direction up to the northern boundary of erf 596. Then traveling in a northerly direction along the railway line up to De Villiers then turning left traveling in a westerly direction up to Elwalk Street again.

The above-mentioned area excludes the following properties:

- Erven 547 to 558 situated between Voortrekker Street and Union Street.
- Erven 535 to 540 and the adjacent municipal offices.
- All government and institutional properties have been excluded.

(Refer to the enclosed map or the municipality's website for details).

Sol Plaatje Municipality:

The Kimberley UDZ area comprises broadly of four sides, a northern, eastern, southern and western and southern edge. The Sol Plaatje UDZ boundary incorporate approximately 140.85 hectares. The boundary commences on the NW corner and continues as follows:

Northern edge

- From the intersection of Waterloo St and St Augustines St, following St Augustines St through to Tucker St.
- North along Tucker St into Old Barkly Rd.
- Turning East on the Northern Boundary of Erf 7319 (Star Of The West) and South along Eastern boundary of Erven 7319 and 7320.
- East along North Circular
- NortherWest along the Northern Boundaries of Erven 24965, 7325, 7326, RE 7335, 338, 7339, 7340, 7341, 7342, 7343, 7344, 7345, 7346, 7348, 7350,
- South along Pniel Rd.
- East along compound Rd to Quinn St.

Eastern edge

South along Quinn street to the intersection of Lennox street

Southern edge

- West along Lennox street to the intersection of Bultfontein Road.
- Northerly along Bultfontein Road to the intersection of South Circular Road.
- East along South Circular Road to Graham street.
- East along Graham street and south along Graham street to the intersection with George street.
- West along George street to the intersection with Waterloo Road.

Western edge

- From the intersection of George street and Waterloo Road, along Waterloo Road to the intersection with St Augustines street.

(Refer to the enclosed map or the municipality's website for details).

Mangaung Municipality:

From the corner of Aliwal Street and Alexandra Ave, follow Alexandra Ave to the Railway line.

- Follow the railway line west and around to Fort Street.
- Follow Fort Street west to Harvey Road.
- Follow Harvey Road south to Rhodes Ave.
- Follow Rhodes Ave west to Watkeys Street.
- Follow Watkeys Street south to Francken Street.
- Follow Francken Street west to Krause Street.
- Follow Krause Street north to the southern boundary of erf 4885.
- Follow the southern boundary of erf 4885 to the eastern boundary of the Oranje Hospital.
- Follow the eastern boundary of the Oranje Hospital north to President Ave.
- Follow President Ave east to Church Street.
- Follow Church Street north to the southern boundary of subdivision 5 of erf 1918.
- Follow the southern boundary and then the western boundary north to Kazerne Street.
- Follow Kazerne Street west to Salzmann Street.
- Follow Salzmann Street north to St George Street.

- Follow St George Street west to President Brand Street.
- Follow President brand Street north to the southern boundary of the Bloemspruit canal, erf 24798.
- Follow the Bloemspruit canal west to First Ave.
- Follow First Ave north to Elizabeth Street.
- Follow Elizabeth Street east to Markgraaff Street.
- Follow Markgraaff Street north to Zastron Street.
- Follow Zastron Street east to the western boundary of erf 602.
- Follow the western boundary of erf 602 north to the northern bounday of erf 602.
- Follow the northern boundary east to Kloof Street.
- Follow Kloof Street north to Barnes Street.
- Follow Barnes Street east to Aliwal Street.
- Follow Aliwal Street north to Alexandra Ave to complete the circumference of the area.

(Refer to the enclosed map or the municipality's website for details).

Buffalo City Municipality:

The Urban Development Zone of East London comprises broadly of three 'sides' - a northern, western and coastal edge). The UDZ boundary incorporates approximately 189.47 hectares, and consists mainly of the Suburbs commonly known as Quigney and Beach. The boundary commences at the north-eastern corner and continues in as follows:

Coastal Edge

- Starting at the intersection of the street named Esplanade and John Bailie Road, proceeding along the Esplanade on the southeastern side of the area known as the 'Marina Glen' following the Esplanade (along the Indian Ocean coastline), including the Aquarium Complex and the Orient Beach Complex (including Wimpy Building).
- The boundary line then includes the area known as Signal Hill.

Western Edge

- From Signal Hill the boundary line joins up with South Street and excludes the Harbour area.
- The boundary line follows South Street in a westerly direction and joins Church Street.
- Northwards along Church Street joining up with Fleet Street.
- Eastwards along Fleet Street up to Signal Street.
- Northwards along Signal Street cutting across the area known as the 'Sleeper Site' excluding the Southwestern corner of the 'Sleeper Site' joining up with Commercial Road.
- Southwestwards along Commercial Road joining up with Cambridge Street.
- Northwards along Cambridge Street joining up with Stephenson Street.
- Westwards along Stephenson Street and cutting northwards along the western boundary of the portion of erf 15889 known as the 'Triangle' (which forms part of the Sleeper Site) joining up with Avenue Street.

Northern Edge

- Southeastwards along Avenue Street joining up with Commercial Road.
- Northeastwards along Commercial Road joining up with Quigney Road.
- Southwards along Quigney Road and cutting eastwards across the Sleeper Site excluding the SBDC area.
- Across Fitzpatrick Road along the northern boundary of erf 16249 (BKB Building site).
- Southwards along the eastern boundary of erf 16249 cutting eastwards and northwards around the area known as 'Ocean Terraces Office Park', excluding this area.
- Northeastwards along the eastern boundary of the cemetery (erven 16224 and 16225).
- Cutting across Buffalo Park Drive and following the eastern boundary of the Buffalo Park Cricket Stadium and then cutting eastwards through erf 16226 including the 'B' field to the east of Buffalo Park Cricket Stadium.
- Following John Bailie Road northeastwards to the intersection with the Esplanade.

(Refer to the enclosed map or the municipality's website for details).

Mbombela Municipality:

The urban development zone of Mbombela, incorporates approximately 127 hectares. The boundary commences at the northwest corner, and continues in a clockwise direction, as follows:

- East along northern boundary of Erf 2172 and Erf Re/1354, proceeding south along the eastern boundary of Erf Re/1354 and Erf 1325.
- Northeast along Andrew Street (until intersection with Henshall Street)
- Southeast along Henshall Street (until intersection with Bester Street)

- Northeast along Bester Street (until intersection with Currie Street)
- Southeast along Currie Street (until intersection with Erf 2987), continuing along the northern boundary.
- South from the eastern corner of Erf 2987 to the northern corner of Erf 2989, continuing along the northern boundary of Erf 2989 to the northeastern corner of Erf Re/1456.
- South from the northeastern corner of Erf Re/1456 to the southeast corner of Erf 2993 (Park).
- South along the eastern boundary of Ptn. 110 of the Farm Nelspruit 312 JT to the northeastern corner of Erf 1/2994 (Park).
- Southeast along Henshall Street (until northeastern corner of Erf 3393), continuing along eastern boundary of Erf 3393 until intersection with Ferreira Street.
- Northwest along Ferreira Street (until intersection with Russel Street).
- South along Russel Street (until intersection with Nel Street).
- Along Nel Street until intersection with Brenda Street.
- North to southeastern corner of Erf 1507.
- East along Rocher Street (until intersection with Citrus Crescent).
- North along Citrus Crescent and western boundary's of Erf 1665, 2055 and 2056 (until intersection with Andrew Street).
- North from the northwest corner of Erf 2056 to the southwest corner of Erf 1/2241.
- North along the western boundary of Erf 1/2241 to the northwest corner of ERF 2172.

The following townships, suburbs, farms and erven (or portions thereof), are included within the UDZ area: Nelspruit Town, Nelspruit Extension, Nelspruit Extension 7, Nelspruit Extension 18, Nelspruit Extension 19, Nelspruit Extension 31, Nelspruit 312 JT.

(Refer to the enclosed map or the municipality's website for details).

Ekurhuleni Municipality:

Kempton Park UDZ area

- From the corner of Kempton Road and Gottfried Avenue, along Kempton Road to Monument Road.
- Along Monument Road up to CR Swart Drive, and along CR Swart Drive up to Kelvin Street for approximately 450m.
- Up the railway line until Albatross Street, along Albatross Street and Gottfried Avenue up to Kempton Road.

Germiston UDZ area

- From the corner of Power and End Streets, along Power Street up to Railway Street. Along Railway Street and Labassee Road up to Van Lingen Street.
- Along the western boundary of South Germiston X4 up to Ostend Road, and along Ostend Road up to the railway line.
- Along the railway line, turning west along the railway line, and northwest along Hardach Street up to Keswick Road.
- Along Keswick Road turning along the boundary of Germiston X4. Across Hardach Street following the boundary of North Germiston and Germiston X8.
- Along the boundary of Germiston X6 up to Rose Innes Road, and along Flag Street turning up to President Street.
- Along President Street up to the railway line, and along the railway line up to Jack Street, south along End Street up to Power Street.

(Refer to the enclosed map or the municipality's website for details)

Msunduzi Municipality:

The Urban Development Zone for Msunduzi commences at the intersection of Burger Street and Commercial Road and continues as follows.

- Burger Street (at the intersection of Burger Street and Commercial Road), proceeding south west along Burger Street to erf PMB/2724/1/4, proceeding north west along the south western boundary of erf PMB/2724/1/4 and PMB/2724/1/Rem.
- Proceeding south west along Loop Street, until Chapel Street, then proceeding north west along Chapel Street to mid-block, then proceeding south west mid-block between Loop and Longmarket Streets, to Pine Street.

- Pine Street, proceeding north west along Pine Street to Longmarket Street. Proceeding north east along Longmarket Street to erf PMB/2603/3.
- At this point proceeding north west along the south western boundary of erf PMB/2503/2/3 until Church Street.
- Church Street, proceeding south west to the intersection of Pine, Church and Railway Streets. Proceeding along Railway Street to erf PMB/534/Rem. Proceeding north west along the south western boundary of erf PMB/534/Rem to Havelock Road.
- Havelock Road, proceeding north east along Havelock Road to the intersection of Havelock Road and Pine Street. On entering Pietermaritz Street, proceeding north east along Pietermaritz Street to erf PMB/2460/Rem.
- Proceeding north west along the north eastern boundary of erven PMB/2314/1/6 and PMB/2314/1/3 to Berg Street.
- Berg Street, proceeding north east along Berg Street to the intersection of Berg and Chapel Street.
- Chapel Street, proceeding north west along Chapel Street to Greyling Street.
- At the intersection of Chapel and Greyling Streets, proceeding north east along Greyling Street to erf PMB/2117/16. Proceeding south east along the south western boundaries of erven PMB/2117/16, PMB/2117/Rem, PMB/2217/Rem, PMB/2217/3/5, PMB/2317/2/4, PMB/2317/1/2 to the intersection of the north western and north eastern boundary of erf PMB/2316/2/6.
- At this point, proceeding north east along the mid-block boundary between Pietermaritz and Berg Streets to erf PMB/2325/Rem. Proceeding north west along the south western boundary of erf PMB/2325/5/8 to Berg Street, proceeding further in a straight line to Boom Street.
- Boom Street, at the western corner of erf PMB/2225/7/13, proceeding north east along Boom Street to northern corner of erf PMB/2226/4. Proceeding south east along the north eastern boundary of erf PMB/2226/4 to the western corner of erf PMB/2227/11.
- Proceeding north east along the mid-block boundary between Boom and Berg Streets to Retief Street.
- Retief Street, proceeding north west along Retief Street to the western corner of erf PMB/2136/16/18. At which point, proceeding north east along the mid-block boundary between Greyling and Boom Streets to south western boundary of erf PMB/2145/8. Then proceeding north west along north eastern boundary of erf PMB/2144/1/2, up to Greyling Street. Then proceeding North East along Greyling Street to the northern corner of erf PMB/2146/1.

- Proceeding south east along the north eastern boundary of erven PMB/2146/1, PMB/2146/1/7, PMB/2146/2, PMB/2146/3, PMB/2146/4 and PMB/2146/5 to Boom Street.
- Boom Street, proceeding south west along Boom Street to the western corner of erf PMB/2145/4, then proceeding south east along the south western boundary of erf PMB/2245 to Berg Street.
- Berg Street, proceeding north east along Berg Street to the northern corner of erf PMB/2346/2. Proceeding north west along the south western boundary of erf PMB/2247/2/Rem to the southern corner of erf PMB/2247/1/Rem. Then proceeding north east along the mid-block boundary between Boom and Berg Streets to the northern corner of erf PMB/2253/Rem.
- Proceeding south east along the north eastern boundary of erf PMB/2253/Rem to Berg Street.
- Berg Street, proceeding north east along Berg Street to the eastern corner of erf PMB/2264. Then proceeding north west along the south western boundaries of erven PMB/2256/1/Rem, PMB/2256/Rem, PMB/2256/5, PMB/2256/6, PMB/2256/7, PMB/2256/8 and PMB/2256/9.
- At the western corner of erf PMB/2256/9, proceeding along north east along Boom Street to the northern corner of erf PMB/304/4. Then proceeding south east along the north western boundaries of erven PMB/304/4, PMB/304/1, PMB/304/2, PMB/304/9, PMB/304/Rem, PMB/304/6/8, PMB/304/6/Rem and PMB/304/5 in Berg Street.
- At the eastern corner of erf PMB/304/5, proceeding south west along Berg Street to East Street. East Street proceeding south east along East Street to Pietermaritz Street, where Pietermaritz Street extends into Calcutta Road.
- At the western corner of erf PMB/242/18, proceeding north east along Calcutta Road to the northern corner of erf PMB/242/15/Rem (at the intersection of Calcutta and Chutney Roads).
- Chutney Road, proceeding south east along Chutney Road to Church Street. Church Street, proceeding north east along Church Street to the N3 National Road (off Ramp onto Church Street).
- Fitzsimmons Road, proceeding south east along Fitzsimmons Road to the eastern corner of erf PMB/3683, then proceeding south west along the south eastern boundary of erf PMB/3683 for 170 metres at this point proceeding south east along the north eastern boundary of erf PMB/368/Rem to the eastern corner of erf PMB/368/Rem.
- Proceeding south west along the south eastern boundary of erf PMB/368/Rem for 37.4 metres, then proceeding north west in a straight line to the western corner of erf PMB/3683. Then proceeding to the southern corner of erf

PMB/510/4 continuing along the south western boundary of erf PMB/510/4 to the western corner of the same erf.

- Proceeding south east across the Dorpspruit River to the south western boundary of erf PMB/1241 and PMB/253/Rem to East Street.
- East Street, proceeding south east along East Street to Longmarket Street, then proceeding south west along Longmarket Street to the southern corner of erf PMB/2547/Rem.
- Proceeding south east along the north eastern boundary of erven PMB/2646/2/Rem, PMB/2646/2/4 and PMB/2646/10. Then proceeding south west along the south eastern boundary of erf PMB/2646/10 crossing over Retief Street and continuing along the south eastern boundary of erf PMB/2645/3/Rem to the southern corner of the same erf, proceeding north west along the south western boundary of erf PMB/2645/3/Rem.
- Proceeding south west along the mid-block between Loop and Longmarket Streets to the eastern corner of erf PMB/2636/14. Then proceeding south east along the north eastern boundaries of erven PMB/2636/5, PMB/2636/6, PMB/2636/7/10 and PMB/2636/7/Rem. Then proceeding south west along the south eastern boundaries of erven PMB/2636/7/Rem and PMB/2636/9/Rem to Boshoff Street.
- Boshoff Street, proceeding north west along Boshoff Street to Pietermaritz Street.
- Pietermaritz Street, proceeding south west along Pietermaritz Street to Otto Street.
- Otto Street, proceeding south east along Otto Street to Church Street, then proceeding south west along Church Street to Gallwey Lane.
- Proceeding south east along the south western boundaries of erven PMB/2524/9, PMB/2569/Rem and PMB/2524/2/Rem to Longmarket Street.
- Longmarket Street, proceeding north east along Longmarket Street to the eastern corner of erf PMB/2526/1.
- At the eastern corner of erf PMB/2526/1, proceeding south east in a straight line to Loop Street, crossing over Loop Street to Burger Street.
- Burger Street, proceeding south west along Burger Street to Commercial Road

(Refer to the enclosed map or the municipality's website for details).

Nelson Mandela Municipality:

The proposed Urban Development Zone comprises the following property:

- The Nelson Mandela UDZ incorporates approximately 252 hectares.
- IT commences at the intersection of Govan Mbeki Avenue with Mount Road and proceeding in a westerly direction up Mount Road to where the mid-block boundary between Sebastian and Olive Streets meets Mount Road,
- then in a southerly direction along the said mid-block boundary line to Crawford Street,
- then in an easterly direction to the intersection of Crawford Street with Perkins Street,
- then in a southerly direction along Perkins Street to its intersection with Green Street,
- then in an easterly direction along Green Street to its intersection with Middle Street, thence in a southerly direction along Middle Street to a point where it crosses Albany Road, thence in a southerly direction along St. Patricks Road to a point where it meets a pedestrian lane that in turn links with Regent Street,
- then along the lane to a point where it intersects with Tulla Street, thence across Tulla Street, along Regent Street to a point where it intersects with Richmond Hill Street,
- then across Richmond Hill Street, following Dagbreek Crescent, down the pedestrian stairs to Hartman Road,
- then along Smith Street to Campbell Street, thence following the south-western boundaries of erven 1246, 1249 and 1250, Central through to Russell Road,
- then right in a westerly direction along Russell Road to a point where Russell Road intersects with Rink Street, thence left into Rink Street to its intersection with Cape Road, thence right into Cape Road to a point in Cape Road approximately opposite the Horse Memorial,
- then left following the rear boundaries of erven 4593, 4823, 3371, 3369 and 4840 (Central) through to Park Drive,
- then left along Park Drive in an easterly direction to its intersection with Rink Street,
- then right along Rink Street in a southerly direction to its intersection with Cuyler Street,
- then along Cuyler Street in an easterly direction to its intersection with Bird Street,
- then right in a southerly direction to the westernmost point of erf 4734 (Central),

- then in a easterly direction along the southern boundaries of erven 3510, 3529,4904 and 3532 (Central),
- then following the rear boundaries of those erven that front onto Cuyler Street and Gordon Terrace to a point where Gordon Terrace meets Annerley Terrace,
- then in an easterly direction along the southern boundary of those erven that front onto Fort Street, to its intersection with a line running along the eastern edge of Belmont Terrace,
- then in a northerly direction along the said eastern edge of Belmont Terrace to a point where it intersects with Twickenham Street,
- then right along Twickenham Street following the rear or southern most boundaries of those erven fronting onto Cuyler Crescent as far as Dalgleish Road, thence right down into the Baakens River Valley following the western edge of erf 6101 (Central) as far as north-western boundary of erf 3703 (Central),
- then right in a westerly direction along the rear boundaries of erven 3703 and 3702 (Central) to a point where it meets the north-eastern boundary of 3693 (Central),
- then left between erven 3693 and 3702 (Central) to Horton Street, thence across Horton Street to Dodds Street and in a southerly direction along Dodds Street to its intersection with Produce Street,
- then across Produce Street, the Baakens River and Valley Road to the westernmost point of erf 1500 (South End – the South End Cemetery) thence in a southerly direction along the western side of erf 1499 (South End) to its southernmost corner,
- then in an easterly direction along the southern boundary of erven 1499 and 1500 (South End),
- then directly over North-South freeway to a point where this extrapolated line meets the extension of North Union Street up to Humewood Road,
- then right along this extension of North Union Street to the intersection of Humewood Road with Walmer Boulevard,
- then left in a southerly direction along Humewood Road to a point where it intersects with Farie Street,
- then right in a south-westerly direction along Farie Street to a point where it meets the boundary of erf 1833 (Humewood),
- then left along the common boundary between erven 1833 and 500 (Humewood) and the common boundary between erven 1696 and 567 (Humewood)

- then right in a westerly direction along the northern boundary of erf 1041 (Humewood), thence left along the western boundary of erf 1041 (Humewood) to a point where it meets Carnarvon Place,
- then left following Inchcape Road to a point where it meets with Newcon Road,
- then left in a south-easterly direction along Newcon Road to its intersection with Perrott Avenue,
- Then left in an easterly direction along Perrott Avenue to its intersection with Pommern Street, thence right in a southerly direction along Pommern Street following the southern boundary of erf 1204 (Humewood) to most southerly point,
- then left along the southern boundary of erf 1204 (Humewood) to Humewood Road,
- then right in a south-easterly direction along Humewood Road, through the S-bend to the entrance road to the King's Beach carpark, thence along the southern boundary of erf 577 (Humewood) to the high-water mark,
- then in a northerly direction along the high water mark to a point on the northern edge of the breakwater inside the existing harbour,
- then left along the southern water's edge of the harbour to a point of the southern side of the mouth of the Baakens River,
- then along the southern bank of the Baakens River to a point where it meets North Union Street, thence in a northerly direction along North Union Street, Strand Street, Victoria Quay and Slater Street to a point where Slater Street intersects with Crawford Street,
- then left in a westerly direction along Crawford Street to its intersection with Zwartkops Street,
- then right in a northerly direction along Zwartkops Street to its intersection with Mount Road, thence left in a westerly direction along Mount Road to the starting point at the intersection of Mount Road with Govan Mbeki Avenue.

(Refer to the enclosed map or the municipality's website for details).

Polokwane Municipality:

The borders of the Polokwane UDZ are as follows:

- It starts at its most northern point at Biccard Street as eastern boundary where it crosses Excelsior Street.

- From this most northern point of the eastern boundary it runs down Biccard Street in a southern direction up to Thabo Mbeki Street, where it turns west along Thabo Mbeki Street up to Church Street.
- In Church Street it turns south along the latter where it turns in an eastern direction along the erf boundaries of Erven 85 Pietersburg and the Remainder and Portion 4 of Erf 86 Pietersburg.
- It turns south again in Genl. Joubert Street and immediately east again along the boundaries between Erf 80 and Erf 6066, both Pietersburg.
- In Landros Maré Street it turns south up to Rabé Street where it runs in an eastern direction up to Biccard Street.
- In Biccard Street it turns south up to Marshall Street as most southern boundary. From this point it runs in a western direction up to Market Street.
- From Market Street it turns north up to where it crosses the Sterkloop River. At this point it runs along the Sterkloop River and the Public Open Space where it joins Bok Street. From Bok Street it turns in an eastern direction along the boundaries of Erf 65 and Portion 1 of Erf 66, both Pietersburg, up to Dahl Street. Dahl Street forms the western boundary and runs up to Devenish Street.
- At Devenish Street it turns west up to Buite Street where it turns north again up to Excelsior Street. From this point it runs along Excelsior Street to the point where it reaches the township of Pietersburg Extension 15, also known as the Oriental Plaza.
- From here it follows the borders of the township up to where it crosses with Portion 308 of the farm Sterkloop 688 L.S. At this point it turns north, directly over Portions 257 and 291 of the same farm. From this point it follows the borders of Portion 293 of the farm Sterkloop 688 L.S., also known as the Game Shopping complex, turns south again along Market Street up to Hospitaal Street.
- At this point it turns back west up to Portion 308 of the farm Sterkloop 688 L.S. At this point it runs south along portions 318 and 117 of the same farm up to Excelsior Street. From this point it runs along Excelsior Street where it joins Biccard Street in the east again.

(Refer to the enclosed map or the municipality's website for details).

Emalahleni Municipality:

The proposed Urban Development Zone comprises the following property:

- It starts in the northwestern corner of the CBD at the intersection of Main Street & Elizabeth Avenue.

- From this intersection the boundary runs in an easterly direction along Elizabeth Avenue & Rhodes Street.
- From this intersection the boundary runs in a southerly direction along the alignment of Rhodes Street up to the point where Rhodes Street terminates into Remembrance Street.
- From here the boundary runs in a westerly direction along the alignment of Remembrance Street up to the eastern boundary of Portion 105 of the farm Joubertsrust.
- The boundary then runs in a southerly direction along the eastern boundary of Portion 105 up to where it links to the northern boundary of the Remainder of the farm Joubertsrust.
- From this point the boundary runs in a northwesterly direction along the northern boundary of the Remainder of the farm Joubertsrust, and then along the northern boundary of the golf course up to where this boundary links into Beatty Avenue.
- The boundary then follows the alignment of Beatty Avenue in a westerly direction up to where Beatty Avenue links into Burger Street.
- The boundary then follows the alignment of Burger Street in a northwesterly direction up to where Burger Street becomes Main Street.
- From here the boundary follows the alignment of Main Street in a northerly direction up to where Elizabeth Avenue links into Main Street.

(Refer to the enclosed map or the municipality's website for details).

APPLICABLE LEGISLATION

The applicable legislation is set out in the attachment marked Annexure “B”.

ANNEXURE “B”

1. Revenue Laws Amendment Act, Act No. 45 of 2003

The following section is hereby inserted in the Income Tax Act, 1962, after section 13*ter*:

“Deductions in respect of erection or improvement of buildings in urban development zones

13quat. (1) For the purposes of this section—

‘certificate of occupancy’ means a certificate contemplated in section 14(1) of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977);

‘cost’ means the costs (other than borrowing or finance costs) actually incurred in erecting or extending, adding to or improving a building and includes any costs incurred—

- (a) in demolishing any existing building or part thereof;
- (b) in excavating the land for purposes of that erection, extension, addition or improvement; and
- (c) in respect of structures or works directly adjoining the building so erected, extended, added to or improved, for purposes of providing—
 - (i) water, power or parking with respect to that building;
 - (ii) drainage or security for that building;
 - (iii) means of waste disposal for that building; or
 - (iv) access to that building, including the frontage thereof;

‘urban development zone’ means an area demarcated by a municipality in terms of subsection (6), the particulars of which were published in the *Gazette* in terms of subsection (8);

(2) There shall be allowed to be deducted from the income of the taxpayer an allowance determined in terms of subsection (3), in respect of the cost of the erection, extension, addition or improvement of any commercial or residential building within an urban development zone to be used solely for purposes of that taxpayer’s trade—

- (a) which was commenced by the taxpayer on or after the date of publication of the notice contemplated in subsection (8) in respect of that urban development zone, in terms of a contract formally and finally signed by all parties thereto on or after that date; and
- (b) in respect of which a certificate of occupancy has been granted.

(3) The amount of the allowance contemplated in subsection (2)—

- (a) in the case of the erection of any new building or the extension of or addition to any building (other than a building in respect of which paragraph (b) applies), is equal to—
 - (i) 20 per cent of the cost to the taxpayer of the erection or extension of or addition to that building, which is deductible in

- the year of assessment during which that building is brought into use by that taxpayer solely for the purposes of that taxpayer's trade; and
- (ii) five per cent of that cost in each of the 16 succeeding years of assessment; or
- (b) in the case of the improvement of any existing building or part of a building (including any extension or addition which is incidental to that improvement) where the existing structural or exterior framework thereof is preserved, is equal to—
- (i) 20 percent of the cost to the taxpayer of the improvement, extension or addition which is deductible in the year of assessment during which the part of the building so improved, extended or added is brought into use by the taxpayer solely for the purposes of that taxpayer's trade; and
 - (ii) 20 per cent of that cost in each of the four succeeding years of assessment.
- (4) No deduction shall be allowed under this section, unless the taxpayer has together with the tax return for the year of assessment in which the deduction is claimed under subsection (3)(a)(i) or (b)(i), provided to the Commissioner—
- (a) a certificate from the municipality confirming that the building is located within an urban development zone within that municipality;
 - (b) the total amount of the costs to the taxpayer of the erection, extension, addition or improvement and the extent that those costs relate to any portion of the building in respect of which a certificate of occupancy has been granted; and
 - (c) particulars as to whether the costs were incurred in respect of the erection of a building as contemplated in subsection (3)(a) or the extension, addition or improvement of a building as contemplated in subsection (3)(b).
- (5) No deduction shall be allowed under this section in respect of any building—
- (a) where that taxpayer ceased to use that building solely for purposes of that taxpayer's trade during any previous year of assessment; or
 - (b) which has been disposed of by the taxpayer during any previous year of assessment.
- (6) For the purposes of this section, one area may be demarcated by a municipality where—
- (a) that area is a developed urban location with the municipality of Buffalo City, Cape Town, Ekurhuleni, Emalahleni, Emfuleni, eThekweni, Johannesburg, Mafikeng, Mangaung, Matjhabeng, Mbombela, Msunduzi, Nelson Mandela, Polokwane, Sol Plaatje or Tshwane;
 - (b) that area is demarcated through formal resolution by the relevant municipal council no later than 30 June 2004 or such later date as the Minister may approve on good cause shown;
 - (c) that area is prioritised in that municipality's integrated development plan adopted and undertaken in terms of Chapter 5 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) as a priority area for further investments to promote business and industrial

- activity as well as dense residential settlements to support such activity;
- (d) that area proportionately contributes or previously contributed a significant portion of the total revenue collections for all areas located within the current boundaries of that municipality, as measured—
 - (i) in the form of property rates; or
 - (ii) assessed property values used to determine those rates, and where the contribution from that area is undergoing a sustained decline;
 - (e) significant fiscal measures have been implemented by that municipality to support the regeneration of that area, including—
 - (i) the appropriation of significant funds for developing the area in the annual budget of the municipality;
 - (ii) special tariffs for categories of residential, commercial or industrial users; or
 - (iii) partnership arrangements with the business community for the promotion of urban development within that area; and
 - (f) that municipality commits to the objective of processing all planning approval applications for that area within 90 days of submission and to report those applications that are processed in a longer period, together with reasons for the delay, to the National Treasury on a quarterly basis within 30 days of the end of each quarter.
- (7) (a) Subject to paragraph (d), the area demarcated in terms of subsection (6) may not exceed—
- (i) where that municipality has a population of not more than 500 000 persons, a total area of 150 hectares; or
 - (ii) where that municipality has a population of more than 500 000 persons, 150 hectares plus 20 hectares for each additional 100 000 persons included in that population.
- (b) Where that municipality has a population of 2 million persons or more, the municipal council may demarcate two areas in lieu of the one area demarcated in terms of subsection (6) provided that—
- (i) the two areas do not in total exceed the one area contemplated in paragraph (a)(ii); and
 - (ii) each area otherwise satisfies the requirements of subsection (6).
- (c) For purposes of this subsection, the population of a municipality shall be the population figures as determined by Statistics South Africa in the Census for 2001 and the total population of that municipality must be rounded to the nearest multiple of 100 000.
- (d) The area demarcated in terms of subsection (6) may exceed the limits contemplated in paragraph (a) where—
- (i) the municipality proves to the Minister that the excess area is integrally related to the area within the limitation contemplated in paragraph (a);
 - (ii) the municipality can prove to the Minister that sound economic reasons exist for demarcating a larger area;
 - (iii) the municipality has not demarcated two areas as contemplated in subparagraph (b); and
 - (iv) the Minister is satisfied that the demarcation of the excess area would fall within Government's affordability constraints.

(8) The Minister must publish by notice in the *Gazette* particulars of an area demarcated by a municipality after that municipality has proved to the Minister that the area so demarcated complies with the provisions of subsection (6).

(9) Every municipality must provide an annual report to the Commissioner and the Minister for each urban development zone located within that municipality within such time as is prescribed by the Minister, listing—

- (a) each taxpayer to which a certificate contemplated in subsection 4(a) has been issued;
- (b) the location of each building for which that certificate was issued;
- (c) the costs incurred by the taxpayer in respect of each building;
- (d) the total jobs created as a result of this section;
- (e) the additional property rates collected as a result of this section; and
- (f) the total applications for a certificate contemplated in subsection 4(a).

(10) Where—

- (a) a municipality does not provide an annual report as contemplated in subsection (9) or a quarterly report as contemplated in subsection 6(f) or the Commissioner reports to the Minister that the municipality has issued a certificate contemplated in subsection (4)(a) in respect of a building that is located outside an urban development zone; and
- (b) corrective steps are not taken by that municipality within a period specified by the Minister,
the Minister may withdraw the notice contemplated in subsection (8) for that municipality in respect of contracts formally and finally signed by all parties thereto on or after the date of withdrawal.

(11) The Commissioner must on an annual basis submit a report to the Minister containing information relating to—

- (a) the number of taxpayers which have during the relevant year claimed an allowance in terms of this section;
- (b) the total amount of the deductions by taxpayers allowed in that year in terms of this section; and
- (c) the total amount of the costs to those taxpayers which are or will be allowable as a deduction in terms of this section.

2. Explanatory Memorandum to Revenue Laws Amendment Act, Act No. 45 of 2003

Under current law, the tax depreciation of buildings is generally low, either being nil, 2% or 5%. No provision exists for the accelerated tax depreciation of buildings. Like many countries, South Africa has a number of urban areas that are impoverished and suffering from extensive urban decay. In order to address these concerns and maintain existing infrastructure that was developed at great cost, governments internationally have utilised tax measures to support efforts aimed at regenerating these urban areas. These narrowly targeted capital allowances seek to attract private sector businesses to areas where interest would otherwise be lacking. The proposed legislation therefore introduces a tax incentive as a response, coming in the form of an accelerated depreciation allowance for investments in the inner cities. The core objectives of the incentive are to promote urban renewal and development by promoting investment by the private sector in the construction and improvement of

buildings.

The Bill contains accelerated depreciation deductions for the construction and improvement of buildings within demarcated urban development zones. Significant time has been spent with municipalities in developing the criteria for determining the location and size of the zones.

Subsection (2)

General:

The proposed section 13^{quat} provides taxpayers investing in under utilised designated urban areas with a special depreciation allowance. The allowance will cover the erection, extension, addition or improvement (the last three will be referred to as “refurbishment”) of any commercial or residential building in a demarcated area. The allowance is deductible in the year the erected building or the refurbished part of the building is brought into use by the taxpayer for purposes of trade. This tax expenditure will benefit owners, users or lessors of such buildings. The detailed set of criteria required to be met to qualify for this incentive are described below.

Demarcated Areas

The urban development allowance will apply to demarcated areas only. Accordingly, only buildings that are erected or refurbished within these areas will qualify for the incentive. Several criteria (set out in subsection 6) have been taken into account in demarcating qualifying zones (demarcated areas) within the selected metropolitan and urban areas. This approach is adopted in order to ensure that the impact of the incentive is maximised in these parts of the cities and towns that are most in need of development. International experience suggests that successful urban renewal occurs only if efforts are concentrated at specific locations.

Commencement of erection or refurbishment

As with any legislation, the proposed amendment contains an effective date. Under this effective date, the contract in terms of which the erection or refurbishment is carried out must have been signed by all parties involved on or after the date the details of the relevant demarcated area are published in the *Gazette*. This will encourage municipalities to demarcate their areas as quickly as possible. No relief is available for projects occurring before the effective date because these projects would have been performed in any event, thereby leading to a dead-weight loss.

Certificate of Occupancy

A Certificate of Occupancy must support the erection or refurbishment of any commercial or residential building. The purpose of the certificate is to differentiate between substantial changes and minor changes (i.e. repairs). Minor changes have been excluded from the incentive because these changes will have no meaningful impact on urban renewal.

Subsection (3)

Amount of allowance

The allowance covers all the costs of the erection or refurbishment of any commercial or residential building. These costs include the costs that a taxpayer has incurred in demolishing or destroying any existing building (or any part thereof) and costs that have been incurred with respect to permanent fixtures directly adjoining the site. These latter costs involve provision for amenities like water, power, sewage, access or parking for the building, drainage, security for the building (including fences, cameras and surveillance equipment), means of waste disposal, sidewalks and landscaping (including earthworks, greenery and irrigation). The amount of the allowance is dependant on whether the taxpayer erects a new building or refurbishes an existing commercial or residential building.

Depreciation on erection of new buildings

Taxpayers erecting a new commercial or residential building within a demarcated area will be allowed a 17-year write-off period. Specifically, they will be allowed a 20 percent write-off in the first year and an annual 5 percent write-off for the following 16 years.

Example

Facts: The taxpayer constructs a new commercial building for consumer retail purposes. The new construction costs R100 million.

Result: Under current law, the taxpayer receives a 0 percent deduction. Under proposed law, the taxpayer can deduct 20 percent of cost the in the first year (i.e., R20 million). Thereafter, the taxpayer can deduct 5 percent of the cost for the next 16 years (i.e., R5 million per annum for the next 16 years). The estimated tax savings for companies in this circumstance is R6 million in the first year (R20 million x 30 percent) and R1,5 million in each year thereafter (R5 million x 30 percent).

Depreciation on refurbishment of existing building

Taxpayers refurbishing existing buildings will receive a 20 percent straight-line depreciation allowance over a 5-year period. The purpose of this enhanced incentive is to maintain structures considered worthy of retention and to maximise the use of all the sunken capital in existing buildings, which were developed at great cost. In order to qualify as a refurbishment, taxpayers must preserve a substantial part of the building's existing structural or exterior framework must be preserved. In addition, any extension or addition to an existing building must be of an incidental nature to the improvement.

Example

Facts: The taxpayer refurbishes an old commercial building for consumer retail purposes. The refurbishment costs R100 million.

Result: Under current law, the taxpayer receives a 0 percent deduction. Under proposed law, the taxpayer can deduct 20 percent of the cost over 5 years (i.e., R20 million over 5 years). The estimated tax savings over 5 years is R6 million per year for companies in this circumstance (R20 million x 30 percent).

Subsection (4)

Reporting Requirement

This subsection creates a reporting obligation in order for taxpayers to obtain deductions under section 13*quat*. Under this rule, a taxpayer must provide certain additional information when filing an income tax return. Failure to submit this prescribed information for the year means the deduction will not be available for that year. The reason for this subsection is to ensure that Government's revenue costs allocated to urban renewal are carefully monitored to review the affordability thereof. This subsection also provides a means of monitoring the success of the project through transparent tax expenditure reporting and budgeting.

A taxpayer must attach a certificate from the local authority confirming that the building is situated within a demarcated area of that local authority. In addition, a taxpayer must state the total amount of costs incurred by him for the erection or refurbishment of the building, and the extent to which those costs relate to any part of a building in respect of which a certificate of occupancy has been granted. Lastly, details as to whether the costs were incurred in the erection or the refurbishment of a building must be provided.

Subsection (5)

Limitation of allowance

As with all depreciation allowances, a taxpayer receives the deduction only while using the building for the purposes of trade or still owning it. If a taxpayer ceases to use the building solely for the purpose of trade or disposes of it, the deduction in respect of that building ceases.

Subsection (6)

Geographic Targeting - Designation of Inner City Districts

Subsection (6) stipulates that the Municipal Councils for each of the 16 municipal areas identified are responsible for the designation of one inner city district within their municipal boundaries. Each designation will specifically constitute an inner city district which traditionally formed the social and economic heart of a municipality and which has the potential with financial incentives to act as a catalyst for the rejuvenation of a wider area suffering from economic decline.

While tax incentives can be useful, urban renewal cannot be achieved by tax incentives alone. Tax incentives should merely act as a complementary intervention to best facilitate the achievement of development objectives. Hence, several criteria

have been included in demarcating qualifying zones that seek to ensure that the proposed tax incentive complements other existing urban renewal efforts.

The criteria for selecting a single inner city district are as follows:

(a) *Formal resolution by municipal council*

The municipal council must demarcate the area by formal resolution by 30 June 2004 or such later date as the Minister may approve.

(b) *Municipality's Integrated Development Plan*

The demarcated area must be consistent with that municipality's integrated development plan. This plan often encompasses a short-term delivery strategy of approximately 3 to 5 years. The purpose of the integrated development plan is to bring about the rejuvenation of the area through a series of actions, which aim to:

- Support existing residential functions through refurbishment of existing properties, sensitively designed new developments, and the provision of adequate amenity or recreation space;
- Support the development of a broad based social mix in the area;
- Provide opportunities for employment to locate to the area;
- Impose linkages within the area and outside; and
- Bring vacant, derelict and unused buildings or sites back into productive use.

(c) *Declining contribution to total revenue*

This factor requires that the demarcated area currently contribute, or have previously contributed, the largest portion of the total revenue (i.e. rates and taxes) for the municipal area. Further, the level of contribution must evidence a declining trend. In other words, the demarcated area must currently be, or previously been, a focal point, but now demonstrates a high degree of urban decay relative to other parts of the city.

(d) *Additional Financial Measures*

Each municipality must provide additional financial measures to support and enhance regeneration within its area. These additional financial measures can take any number of forms, such as reduced property rates and local user charges.

(e) *Commitment to speedy processing of planning approval applications*

Each municipality must commit to the objective of processing all planning approval applications in the demarcated area within 90 days of submission and to providing National Treasury with regular reports of cases where this period is exceeded.

Subsection (7)

Demarcated areas

A hectare limitation is set for the surface area a municipality may demarcate based on its population. This limitation is designed to ensure that the incentive is properly targeted and to ensure that the incentive is within affordability constraints. The area is limited to 150 hectares for the first 500 000 or less persons in a municipality and an additional 20 hectares for each additional 100 000 persons. A municipality with a population of 2 million persons or more may divide its allowable area between two demarcated areas. The population of a municipality must be rounded to the nearest 100 000 in order to determine the allowable area. The legislation contains some flexibility so that municipalities can motivate for higher hectare limitations if required. The municipality must prove to the Minister that the extended area is part of a bigger integrated area and sound economic reasons exist for the extension. The Minister must also be satisfied that the extended area will be within Government affordability constraints.

Subsection (8)

Publication in Government Gazette

The demarcated area may be published by notice in the Government Gazette only after the Minister of Finance is satisfied that the selected area satisfies the requirements as set out in subsection 6 above.

Subsection (9)

Requirements for reporting by municipality

Subsection (9) lists the required information each municipality must provide in the annual report which it must furnish to the Commissioner and the Minister for each of its urban development zones. This requirement ensures proper monitoring of this initiative.

Subsection (10)

Failure to report

Subsection (10) provides that where the municipality does not provide the required reports and does not take corrective steps within the period specified by the Minister, the Minister may withdraw the notice in terms of subsection (8) for that municipality.

Subsection (11)

Commissioner's Report

SARS must annually provide information about the urban renewal project to the Minister of Finance so that the Minister can fully report to Parliament regarding:

- (a) the number of taxpayers that claimed the allowance in that particular year;
- (b) the total amount allowed as a deduction to taxpayers in that particular year; and
- (c) the total amount of deductions allowable by taxpayers in that particular year.

This requirement ensures proper monitoring of this initiative and annual accountability to Parliament.

3. Revenue Laws Amendment Act, Act No. 31 of 2005

Section 13^{quat} of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in subsection (1) for the words in the definition of “cost” preceding paragraph (a) of the following words:
“**cost**” means the costs (other than borrowing or finance costs) actually incurred in erecting or extending, adding to or improving a building or part thereof and includes any costs incurred—”;
- (b) by the substitution in subsection (1) for paragraph (c) of the definition of “costs” of the following paragraph:
“(c) in respect of structures or works directly adjoining the building or part so erected, extended, added to or improved, for purposes of providing—
(i) water, power or parking with respect to that building or part;
(ii) drainage or security for that building or part;
(iii) means of waste disposal for that building or part; or
(iv) access to that building or part, including the frontage thereof;”;
- (c) by the insertion in subsection (1) after the definition of “cost” of the following definitions:
“**developer**” means a person who—
(a) erects, extends, adds to or improves a building or part of a building with the sole purpose of disposing of that building or part thereof immediately after completion of that erection, extension, addition or improvement; and
(b) does not use the building or part which is to be disposed of as contemplated in paragraph (a) for purposes of his or her trade in any other manner;”;
“**purchase price**” in relation to any building or part of a building purchased by the taxpayer means the lesser of—
(a) the actual cost to the taxpayer to purchase that building or part; or
(b) the cost which a person would have incurred had that person purchased that building or part under a cash transaction concluded at arm’s length on the date on which that taxpayer purchased that building or part;
- (d) by the substitution for subsection (2) of the following subsection:
“(2) There **[shall]** must be allowed to be deducted from the income of the taxpayer an allowance determined in terms of subsection (3), in respect of the cost of the erection, extension, addition or improvement of any commercial or residential building **[within an urban development zone]** or part of a building which is owned by the taxpayer and is to be used solely for purposes of that taxpayer’s trade, if—
(a) **[which]** that building is situated within an urban development zone;
(b) the erection, extension, addition or improvement was commenced by the taxpayer or the developer, as the case may be, on or after the date of publication of the notice contemplated in subsection (8) in respect of that urban development zone, in terms of a contract formally and finally signed by all parties thereto on or after that

- date; **[and]**
- (c) the erection, extension, addition to or improvement by the taxpayer or developer covers either the entire building or a floor area of at least 1000 m² of that building;
 - (d) in the case where the taxpayer purchased that building or part from a developer—
 - (i) the agreement to purchase was concluded on or after 8 November 2005;
 - (ii) that developer has not claimed any allowance under this section in respect of that building or part; and
 - (iii) if the developer improved the building or part as contemplated in subsection (3)(b), that developer has incurred expenditure in respect of those improvements which is equal to at least 20 percent of the purchase price paid by the taxpayer in respect of that building or part; and
- [(b)] [in respect of which]** a certificate of occupancy has been granted in respect of the building or part so erected, extended, added to or improved.”;
- (e) by the insertion after subsection (3) of the following subsection:

“(3A) For purposes of subsections (2) and (3), where the taxpayer purchased a building or part of a building from a developer—

 - (a) 55 per cent of the purchase price of that building or part, in the case of a new building erected, extended or added to by that developer as contemplated in subsection (3)(a); and
 - (b) 30 per cent of the purchase price of that building or part, in the case of a building improved by that developer as contemplated in subsection (3)(b), is deemed to be costs incurred by that taxpayer in respect of the erection, extension, addition to or improvement of that building or part.”;
 - (f) by the substitution in subsection (4) for paragraphs (a), (b) and (c) of the following paragraphs:
 - “(a) a certificate **[from]** issued by the municipality to the taxpayer confirming that the building is located within an urban development zone within that municipality;
 - (b) the total amount of the costs to the taxpayer (other than a taxpayer contemplated in paragraph (d)) of the erection, extension, addition or improvement and the extent that those costs relate to any portion of the building in respect of which a certificate of occupancy has been granted; **[and]**
 - (c) particulars as to whether the costs referred to paragraph (b) were incurred in respect of the erection or extension of or addition to a building as contemplated in subsection (3)(a) or the **[extension, addition or]** improvement of a building as contemplated in subsection (3)(b); and”;
 - (g) by the addition to subsection (4) of the following paragraph:

“(d) in the case of a taxpayer who purchased the building or part of a building from a developer—

 - (i) the purchase price of that building or part;
 - (ii) the amount of the purchase price deemed to be a cost incurred by the taxpayer in terms of subsection (3A); and

- (iii) a certificate from the developer in the form prescribed by the Commissioner confirming that the requirements in subsection (2)(b), (c) and (d) have been met.”;
- (h) by the substitution in subsection (5) for the words preceding paragraph (a) and paragraph (a) of the following words and paragraph:
 - “(5) No deduction shall be allowed under this section in respect of any building or part of a building—”;
 - (a) where that taxpayer ceased to use that building, or part solely for purposes of that taxpayer’s trade during any previous year of assessment: **[or]**”;
- (i) by the addition in subsection (5) of the word “or” at the end of paragraph (b);
- (j) by the addition to subsection (5) of the following paragraph:
 - “(c) which is brought into use by the taxpayer after 31 March 2009.”;
- (k) by the addition in subsection (6) of the word “and” at the end of paragraph (d) and the deletion of the word “and” at the end of paragraph (e);
- (l) by the substitution in subsection (9) for paragraph (c) of the following paragraph:
 - “(c) the estimated costs incurred by the taxpayer in respect of each building or in the case of a taxpayer who purchased the building or part from a developer, the estimated amount of the allowance to be claimed in respect of that building or part under this section;”;
- (m) by the insertion after subsection (10) of the following subsections:
 - “(10A) Every developer who erects, extends, adds to or improves any building within an urban development zone must, if the estimated cost of that erection, extension, addition or improvement is likely to exceed R5 million—
 - (a) inform the Commissioner within 30 days after commencement of the erection, extension, addition or improvement of the estimated costs thereof in respect of the building or the parts which the developer intends to sell and the estimated selling price of that building or those parts; and
 - (b) inform the Commissioner within 30 days after sale of the building or all anticipated sales of any parts of the building have been concluded of the actual costs incurred in respect of that building or parts and the actual selling price of that building or parts thereof.
 - (10B) If the Commissioner has reason to believe that the information provided in the certificate by a developer as contemplated in subsection (4)(d)(iii) is not correct, the Commissioner must disallow any deduction claimed under this section, unless sufficient information is provided to the Commissioner to prove that the information contained in that certificate is correct.”.

4. Explanatory Memorandum to Revenue Laws Amendment Act, Act No. 31 of 2005

Section 13*quat* was inserted in the Income Tax Act, 1962, in 2003 as a tax incentive to encourage investment in identified urban development zones to address the problem of urban decay in these zones and maintain existing infrastructure that was developed at great cost.

Section 13 $quat$ provides for an accelerated depreciation allowance for the construction of new buildings and refurbishment of existing buildings in identified inner cities within selected municipalities. The allowance is available to taxpayers who own the building, has constructed or refurbished it and uses it solely for the purposes of trade, including the letting of the property. Therefore, if a developer builds in an urban development zone with the intention to on-sell the building, no allowance under this section will be available, since the developer will not use the building. The purchaser of the property will also not be eligible for the allowance as the purchaser has not undertaken the construction or improvements.

It is proposed that the tax incentive be extended to first purchasers that buy from *bona fide* developers. Extending the incentive in this way will allow developers to incur the actual costs of constructing or refurbishing a building in an urban development zone and on-sell the building together with the right to claim the incentive. The first purchaser, although not having incurred the actual costs of construction or refurbishment, will qualify for the tax incentive and be able to claim an allowance on a percentage of the purchase price which is deemed to be attributable to the developer's construction or refurbishment costs.

The current provisions of section 13 $quat$ also require that the whole building must be used by the taxpayer for purposes of trade. As developers often sell buildings constructed by them on a sectional title basis, it is proposed that the scope of the section be extended to also cover parts of buildings that are constructed or refurbished.

In order to ensure that refurbishments of part of a building are substantial, a requirement for a minimum refurbished floor space of 1000m² has been introduced. This minimum floor space requirement does not apply where an entire building is constructed or refurbished.