

2 November 2009

Producer number:

Dear member

RESEARCH AND DEVELOPMENT EXPENDITURE ALLOWANCE

Section 11D of the Income Tax Act, 1962 provides for an enhanced deduction (150%) in respect of certain qualifying research and development (“R & D”) expenditure incurred by taxpayers. The enhanced deduction only applies in respect of specific types of R & D activities undertaken in the Republic, i.e. the discovery of novel, practical and non-obvious information, amongst others. The taxpayer must also intend to use the outcomes of the R & D projects in the production of his or her income, or for the purposes of deriving income therefrom.

Winetech undertakes a large number of projects which meet the requirements of the R & D projects for which the enhanced deduction was intended. Whilst not all the R & D projects undertaken by Winetech qualify for the section 11D enhanced deduction, a significant number of its R & D projects meet the requirements of section 11D.

As such, Winetech managed to secure a binding class ruling from the South African Revenue Service (“SARS”) in terms of which the members of Winetech will be able to claim a deduction of 150% in respect of a portion of the R&D levies for which they are invoiced. The portion of the R&D levies in respect of which the deduction of 150% can be claimed, will be determined annually as soon as possible after the year end of Winetech and members will be advised by letter of the percentage determined which can then be used to determine the enhanced deduction for income tax purposes.

Also note that in certain instances two percentages may be applicable, i.e. when your financial year end is not the same as that of Winetech, which is 1 January to 31 December. As Winetech will only be able to advise these members of the percentage applicable to any R&D levies invoiced during 1 January to 31 December within the first few months of the following year, we advise these members to only submit their tax returns once they have been advised of the applicable percentage. This should not represent a problem for the members which are operating as legal entities (companies or close corporations) unless their year ends are the end of January, as their tax returns need only be submitted 12 months after their year ends.

Members who operate in their individual capacity are advised to request for extensions to submit their tax returns.

The binding class ruling is valid for a period of 5 years starting from October 2008.

The application of the binding class ruling is illustrated by way of the following two examples **(kindly note that the information used in these examples are for illustration purposes only)**:

Example 1 (member's tax year coincides with that of Winetech):

Member A was invoiced an amount of R100 000 in aggregate in respect of R&D levies payable to Winetech in respect of the year which ended on 31 December 2008 (Winetech's year end). Winetech determines that its members will be able to claim the section 11D enhanced allowances in respect of, say 60% of the R&D levies invoiced for the period 1 January 2008 to 31 December 2008. A has the same financial year end as Winetech, i.e. 1 January 2008 to 31 December 2008. A will therefore be able to not only claim the R100 000 as a normal expense for income tax purposes (as he has done in the past) but he will also be able to claim **an additional** R30 000 ($R100\ 000 \times 60\% \times 50\%$) as a section 11D enhanced deduction. Member A will therefore be entitled to a total deduction of R130 000 in respect of the levies paid by him to Winetech.

Example 2 (member's tax year does not coincide with Winetech's tax year)

Member B was invoiced an amount of R100 000 in aggregate in respect of R&D levies payable to Winetech in respect of Member B's financial year which ended on 30 June 2009. R40 000 of the levies was paid by Member B in respect of the period 1 July 2008 to 31 December 2008 and the balance of R60 000 was paid by him in respect of the period 1 January 2009 to 30 June 2009. As noted in example 1 above, Winetech has determined that its members will be able to claim the section 11D enhanced allowances in respect of, say 60% of the R&D levies invoiced for the period 1 January 2008 to 31 December 2008. Winetech has also advised its members that they will be able to claim the section 11D enhanced allowances in respect of, say 70% of the R&D levies invoiced for the period 1 January 2009 to 31 December 2009. B will therefore be able to not only claim the R100 000 as a normal expense for income tax purposes (as he has done in the past) but he will also be able to claim an additional R33 000 ($(R40\ 000 \times 60\% \times 50\%) + (R60\ 000 \times 70\% \times 50\%)$) as a section 11D enhanced deduction. Member B will therefore be entitled to a total deduction of R133 000 in respect of the levies paid by him to Winetech.

Please note that the additional deduction that can be claimed from 1 October to 31 December 2008 = [(actual amount invoiced October to December 2008) x 59.31 % x 50 %].

The percentage for 2009 (1 January to 31 December 2009), which can be used to calculate the deduction, will be made available early 2010.

If necessary please contact mr Etienne le Grange at SAWIS (Tel: 021-807 5705).

Kind regards



**MR J H BOOYSEN
EXECUTIVE MANAGER**