



## Industrial Buildings Allowances

### Definition

Industrial Buildings Allowances may be available under section 13 of the Income Tax Act No. 58 of 1962 where the building in question is used in a process of manufacture, or a process similar to a process of manufacture. Practice Note No. 42 to the Income Tax Act No. 58 of 1962 contains lists of processes which have, and have not been accepted as qualifying usage for the purposes of Industrial Buildings Allowances.

The lists contained in Practice Note 42 are not exhaustive and consideration should be given to various court cases which have laid down guidelines on the definition of “process of manufacture” or similar processes.

### Non-Qualifying Areas / Expenditure

To qualify for an Industrial Buildings Allowance buildings are to be wholly or mainly used in a qualifying trade. There is no statutory definition of “mainly”, however in practice SARS currently applies a percentage split based on floor area.

Therefore, where part of a building is used for a qualifying purpose and part is not, the whole building may be treated as an industrial building if the floor area of the non qualifying part is less than 50% of the whole building.

Additionally, the term “building” is not defined in the Income Tax Act. Tax case law however, suggests that expenditure on access roads, yards, parking areas, boundary walls and fencing etc would not qualify for allowances as these improvements could not be described as “buildings”. We (PJB) believe that this is a somewhat restrictive interpretation of what the allowances should include. No industrial building could function without access roads, staff/visitor car parking, security fencing, etc. Indeed, in referring to “Tax” Acts in other countries in which we operate, Industrial Buildings Allowances are generally given on all expenditure incurred on buildings, structures or works of a permanent nature (excluding land acquisition costs, associated fees and landscaping costs).

### Writing-Down Allowances

Allowances are given on qualifying expenditure at the rate of 5% per annum on a straight line basis, where construction of the qualifying building commenced after 1st January 1989. Otherwise, the following annual writing-down allowances apply:-

- Construction commencing after 14th March 1961 and before 1st January 1989 – 2% per annum.
- Construction commencing during the period 1st July 1996 to 30th September 1999, and building brought into use before 31st March 2000 – 10% per annum.
- From 25th March 1959 to 14th March 1961 – 2% per annum. However, allowances are only available when a building is used for a “process of manufacture”. Therefore, buildings used for processes described as “similar to a process of manufacture” would not qualify for writing-down allowances.
- Prior to 25th March 1959 – no allowances claimable.

A taxpayer is entitled to writing-down allowances if at the end of a chargeable period he holds the “relevant interest” and the building was used wholly or mainly for a qualifying purpose.

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For further information or a capital allowances assessment without obligation

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The information contained in the DATASHEET is believed to be correct, but there may be errors or omissions for which PJB cannot be responsible. It is therefore essential to take advice on specific issues.

### Recoupment

The residue of expenditure or tax value equates to the balance of qualifying expenditure after the deduction of any initial allowances and writing-down allowances.

Recoupment (or recovery of allowances granted) will arise on disposal of the relevant interest, or on occurrence of other events defined in the legislation. The residue of expenditure is compared with the proceeds arising as a result of the balancing event. (eg, the sale).

In simple terms, if the proceeds of sale exceed the residue of expenditure, the recoupment will be equal to the amount of the excess, but no greater than the allowances given.

### Set-Off of Recoupment

At the taxpayer's option, recoupment may be offset against the cost of a new building, instead of being included in the taxable income. The new building must be purchased, or erection commenced within 12 months of the event giving rise to the recoupment. This new building must also be in a qualifying use.

Any recoupment set-off will be recovered on disposal of the asset upon which the original recoupment was set-off.

### Purchasers

A purchaser of the relevant interest in a used industrial building in a qualifying use will be entitled to allowances based on the cost of acquisition of the building, not the original construction cost. The acquisition price for the property will therefore need to be analysed and apportioned to establish the expenditure incurred by a purchaser on the qualifying buildings.

The writing-down allowance claimable by a purchaser will be the same percentage allowance that the seller was entitled to, with the exception of the 10% allowance noted above. Where the acquisition occurred on or after 1st April 2000, the purchaser will be restricted to a 5% annual allowance.

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