

**DEPARTMENT OF ENERGY
DEPARTEMENT VAN ENERGIË**

No. R. 729

16 September 2011

NATIONAL ENERGY ACT, 2008

**REGULATIONS ON THE ALLOWANCE FOR ENERGY EFFICIENCY
SAVINGS**

I, Elizabeth Dipuo Peters, Minister of Energy, after consultation with the Minister of Finance and the Minister of Trade and Industry, hereby under section 19 of the National Energy Act, 2008 (Act No. 34 of 2008), read with section 12L of the Income Tax Act, 1962 (Act No.58 of 1962), make the regulations in the Schedule.

SCHEDULE

Definitions

1. In these Regulations, any word or expression to which a meaning has been assigned in the Act or in terms of the Income Tax Act shall have the meaning so assigned and, unless the context otherwise indicates—

“accreditation number” means an accreditation number contained in a certificate of accreditation issued by the South African National Accreditation System under section 22(2)(b) of the Accreditation for Conformity Assessment, Calibration and Good Laboratory Practice Act, 2006 (Act No. 19 of 2006), to a measurement and verification body for the inspection, measurement, reporting and verification of energy efficiency savings;

“allowance” means the allowance contemplated in section 12L(2) of the Income Tax Act;

“baseline” means baseline as defined in the standard;

“certificate” means an energy efficiency savings certificate as defined in section 12L(1) of the Income Tax Act;

“certificate number” means a unique traceable number allocated to a certificate by SANEDI;

“committee” means a committee appointed by SANEDI to evaluate reports as contemplated in regulation 3;

“energy efficiency savings” means energy efficiency savings as defined in the standard;

“Income Tax Act” means the Income Tax Act, 1962 (Act No. 58 of 1962);

“measurement and verification” means measurement and verification as defined in the standard;

“measurement and verification body” means a body that is accredited by the South African National Accreditation System in terms of section 22 of the Accreditation for Conformity Assessment, Calibration and Good Laboratory Practice Act, 2006 (Act No. 19 of 2006) for the purposes of inspection, measurement, reporting and verification of energy efficiency savings;

“measurement and verification professional” means a natural person who performs measurement and verification of energy efficiency savings under the auspices of a measurement and verification body;

“person” means a person as defined in section 1 of the Income Tax Act;

“report” means—

- (a) a measurement and verification report that contains a computation of energy efficiency savings in respect of a person for a year of assessment; and
- (b) the measurement and verification report as compiled by a measurement and verification professional in accordance with the criteria and methodology contained in the standard;

“reporting period energy use” means reporting period energy use as defined in the standard;

“SANEDI” means the South African National Energy Development Institute established in terms of section 7 of the Act;

“standard” means the South African National Standard 50010 that is issued by the South African Bureau of Standards in terms of the Standards Act, 2008 (Act No. 8 of 2008);

“the Act” means the National Energy Act, 2008 (Act No. 34 of 2008);

“trade” means trade as defined in section 1 of the Income Tax Act;

“year of assessment” means year of assessment as defined in section 1 of the Income Tax Act;

Procedure for claiming allowance

2. A person who claims an allowance must, in respect of each year of assessment for which the allowance is claimed—

- (a) register with SANEDI in respect of any energy efficiency savings measure for which the allowance is intended to be claimed in the form and manner and at the place that SANEDI may determine;
- (b) appoint a measurement and verification professional to compile a report that contains a computation of the energy efficiency savings in respect of that person for the year of assessment for which the allowance is claimed;
- (c) submit the report to SANEDI in accordance with regulation 3; and
- (d) submit a certificate obtained from SANEDI to the South African Revenue Service together with the claim for the allowance.

Evaluation of reports

3. (1) SANEDI must appoint a committee to evaluate reports submitted by any person claiming the allowance.
- (2) The committee contemplated in subregulation (1) must—
- (a) be chaired by the CEO of SANEDI;
 - (b) consist of eight members;
 - (c) consist of a quorum of five in order to make valid decisions;
 - (d) consist of industry specialists with key competencies, and at least one certified measurement and verification professional

(3) The committee may obtain independent professional advice to carry out its duties, subject to compliance with non-disclosure requirements and potential conflict of interest declarations relating to a particular application.

(4) If after consideration and evaluation of a report the committee is satisfied that the information contained in the report—

(a) complies with the standard; and

(b) is an accurate reflection of the energy efficiency savings of the person claiming the allowance in respect of the year of assessment for which the allowance is claimed,

(5) SANEDI must issue a certificate containing the information set out in regulation 4 to the person who submitted the report.

(6) SANEDI must—

(a) keep and maintain all reports submitted to the committee for the purposes of evaluation;

(b) create and maintain a database of all certificates issued by SANEDI in accordance with these Regulations; and

(c) at all times provide the Minister of Finance and the Commissioner for the South African Revenue Service with ready access to—

(i) the reports contemplated in paragraph (a); and

(ii) the database contemplated in paragraph (b).

Content of certificate

4. The certificate issued by SANEDI as contemplated in regulation 3(2) must contain—

- (a) the baseline at the beginning of the year of assessment for which the allowance is claimed, derived and adjusted in accordance with regulation 5 and determined in accordance with the standard;
- (b) the reporting period energy use at the end of the year of assessment for which the allowance is claimed, determined in accordance with the standard;
- (c) the annual energy efficiency savings expressed in kilowatt hours or the equivalent of kilowatt hours for the year of assessment for which the allowance is claimed, determined in accordance with the standard;
- (d) the initials and surname of the measurement and verification professional who compiled the report;
- (e) the name and accreditation number of the measurement and verification body under whose auspices the measurement and verification professional compiled the report;
- (f) the name and registration number of the person to whom the certificate is issued;
- (g) the date on which the certificate is issued; and
- (h) the certificate number.

Baseline calculation**5. The baseline—**

- (a) for the first year of assessment for which the allowance is claimed must be derived from data gathered between the first day and the last day of the year of assessment preceding the first year of assessment for which the allowance is claimed; and
- (b) must be adjusted for every year of assessment for which the allowance is claimed in accordance with the methodology in the standard by taking into account the reporting period energy use at the end of the immediately preceding year of assessment for which the allowance was claimed for computing the baseline for the beginning of the subsequent year of assessment for which the allowance is claimed.

Concurrent benefits

6. For the purposes of section 12L(4) of the Income Tax Act, a “concurrent benefit” means any credit, allowance, grant or other benefit granted by any sphere of government for any energy efficiency savings.

Short title and commencement

7. These Regulations are called the Regulations on the Allowance for Energy Efficiency Savings.