



Guide on the Solar Energy Tax Credit Provided under Section 6C

Income Tax



South African Revenue Service

Guide on the Solar Energy Tax Credit Provided under Section 6C

Preface

This guide provides general guidance on the newly introduced solar energy tax credit under section 6C of the Income Tax Act 58 of 1962.

It does not consider the technical and legal detail that is often associated with tax, and should, therefore, not be used as a legal reference.

This guide is not an “official publication” as defined in section 1 of the Tax Administration Act 28 of 2011 and accordingly does not create a practice generally prevailing under section 5 of that Act. It is also not a binding general ruling under section 89 of Chapter 7 of the same Act. Should an advance tax ruling or a VAT class ruling or VAT ruling under section 41B of the Value-Added Tax Act 89 of 1991 be required, visit the **SARS website** for details of the application procedure.

This guide is based on the legislation as at date of issue.

All acts, explanatory memoranda, guides, binding general rulings, and interpretation notes referred to in this guide are the latest versions available on the **SARS website**, unless the context indicates otherwise.

For more information you may –

- visit the SARS website at **www.sars.gov.za**;
- contact the SARS National Call Centre –
 - if calling locally, on 0800 00 7277; or
 - if calling from abroad, on +27 11 602 2093 (only between 8am and 4:30pm South African time);
- have a virtual consultation with a SARS consultant by making an appointment via the **SARS website**;
- visit your nearest SARS branch, after making an appointment via the **SARS website**;
or
- contact your own tax advisor or practitioner.

Comments on this guide may be e-mailed to **policycomments@sars.gov.za**.

Leveraged Legal Products
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Glossary

In this guide, unless the context indicates otherwise —

- “**renewable energy**” means energy produced from sources such as sunlight, wind, and water, which are naturally replenished and do not run out;¹
- “**Schedule**” means a Schedule to the Act;
- “**section**” means a section of the Act;
- “**solar PV panels**” means solar photovoltaic panels;
- “**TA Act**” means the Tax Administration Act 28 of 2011;
- “**tax credit**” means the solar energy tax credit available under section 6C;
- “**the Act**” means the Income Tax Act 58 of 1962; and
- “**the Regulations**” means the Electrical Installation Regulations issued under section 43 of the Occupational Health and Safety Act 85 of 1993 and published in *Government Gazette* 31975 of 6 March 2009.

1. Background

The current energy crisis in the country, coupled with the rising demand for electricity, has resulted in various tax incentives and policy measures being introduced in an attempt to alleviate the pressure on the national grid,² as well as to improve energy efficiency in South Africa.

Although the focus has generally been to promote cleaner technologies in businesses, emphasis has shifted to also encourage the use of renewable energy technology in residential properties, while still providing further allowances to businesses.

To this effect, two short-term incentives have been introduced, namely, a solar energy tax credit under section 6C for natural persons, and an enhanced deduction on certain assets used in the production of renewable energy under section 12BA for taxpayers who conduct a trade.³

This guide provides detail only on the tax credit under section 6C for natural persons.⁴

¹ www.un.org/en/climatechange/what-is-renewable-energy#:~:text=Renewable%20energy%20is%20energy%20derived,plentiful%20and%20all%20around%20us [Accessed 8 March 2024].

² A grid (or power grid) is a network of power lines and associated equipment used to transmit and distribute electricity over a geographic area. See www.collinsdictionary.com/dictionary/english/power-grid [Accessed 8 March 2024].

³ See Taxation Laws Amendment Act 17 of 2023.

⁴ Consideration of the Value-Added Tax implications relating to acquiring the solar panels is beyond the scope of this guide.

2. Solar energy tax credit

In order to encourage households to invest in clean electricity generation capacity as soon as possible, a tax credit has been introduced under section 6C for a limited time period.⁵ Section 6C is deemed to have come into operation on 1 March 2023 and applies to years of assessment commencing on or after this date. Furthermore, this section is only available for a period of one year, that is, from 1 March 2023 to 29 February 2024.

This tax credit applies to natural persons who are liable for personal income tax and who invest in qualifying solar PV panels (see 2.1.2).

Under this section, a natural person may be eligible for the tax credit on the cost that has been actually incurred on the acquisition of qualifying solar PV panels. The cost relating to other components of a complete solar energy system such as inverters, batteries and supporting structures does not qualify for the tax credit.⁶ The rationale behind allowing a tax credit on the cost of only the solar PV panels is because it is the solar PV panels that promote or expand electricity generation capacity in the country. Inverters and batteries on their own create no additional supply of electricity and may even increase the demand on the electrical grid. While batteries and inverters can be used on their own to provide a private benefit to a particular household, it is the addition of solar PV panels that enhances generation supply, which provides a public benefit.

Since the intention is to encourage natural persons to invest in renewable energy, the carrying on of a trade is not a requirement to be eligible to claim this tax credit.

2.1 The requirements of section 6C

The tax credit under section 6C applies to the cost actually incurred by the natural person –

- for the acquisition of any new and unused solar PV panels, the generation capacity of each being not less than 275W [section 6C(2)(a)(i)]; and
- if the solar PV panels referred to in section 6C(2)(a)(i) are brought into use for the first time by that person on or after 1 March 2023 and before 1 March 2024 [section 6C(2)(a)(ii)].

2.1.1 Persons eligible for the solar energy tax credit

Under section 6C(1), the tax credit is available to any *natural person* who complies with all the requirements of this section.

The term “natural person” is not defined in the Act. The grammatical meaning of the term, as defined in the *Merriam Webster Online Dictionary*, is “a human being as distinguished from a person (as a corporation) created by operation of law”.⁷ This means that for purposes of section 6C, a credit will not be available to any juristic persons such as companies, entities of a similar nature or trusts. A body corporate or home-owner’s association that installs solar PV panels in sectional title schemes or residential complexes will thus not be eligible for the tax credit.

⁵ Paragraph 1.3 of the *Explanatory Memorandum on the Taxation Laws Amendment Bill, 2023*.

⁶ Section 6C(2)(a)(i) refers only to the cost of solar PV panels.

⁷ www.merriam-webster.com/legal/natural%20person [Accessed 8 March 2024].

2.1.2 Solar photovoltaic panel requirements

Solar PV panels are a web of photovoltaic cells or panels that captures solar power and transforms it into sustainable energy.⁸ Essentially, when the sun shines onto a solar PV panel, energy from the sunlight is absorbed by the photovoltaic cells in the panel thus creating electrical charges which, through an internal process, causes electricity to flow.⁹

The solar PV panels usually form part of a bigger system and can include, for example, inverters, batteries and mounting or supporting structures. However, as stated in **2**, the tax credit applies only to the cost of the solar PV panels.

In order for a natural person to qualify for the tax credit relating to the solar PV panels, certain requirements under section 6C have to be met, namely, that –

- the panels must be new and unused;
- the generation capacity of each panel must be not less than 275W; and
- the panels must be brought into use for the first time by the natural person who acquired them on or after 1 March 2023 and before 1 March 2024.

(a) Solar photovoltaic panels must be “new and unused”

In order to qualify for the tax credit, the solar PV panels must be new and unused. Whether the panels are new and unused is a factual enquiry based on the facts of each case.

For purposes of this section, the panels must be both new *and* unused.

The solar PV panels must be new and unused when they were acquired and brought into use by the taxpayer. Solar PV panels acquired before 1 March 2023 can qualify on the condition that they were new and unused upon acquisition. However, in the event that the panels had, for example, been acquired long before but had not been installed, they would be unused but not new. No specific period can be set for the requirement of “new” and will be determined on the facts of each case. The word “unused” means that the panels must not have been previously used for any purpose by any person.

(b) Generation capacity of solar photovoltaic panels

In addition to the panels being new and unused, the generation capacity of each panel must not be less than 275W. This means that the generation capacity, that is, the amount of energy that a panel can produce, is not considered in the context of a set of panels as a whole. Instead, each panel must be evaluated individually. If a panel produces less than 275W of energy, its cost will not qualify for a tax credit.

⁸ www.enelgreenpower.com/learning-hub/renewable-energies/solar-energy/photovoltaic-module [Accessed 8 March 2024].

⁹ www.energy.gov/eere/solar/how-does-solar-work#:~:text=When%20the%20sun%20shines%20onto,cell%2C%20causing%20electricity%20to%20flow [Accessed 8 March 2024].

(c) Solar photovoltaic panels must be “brought into use for the first time”

The tax credit is available only if the solar PV panels are brought into use for the first time by the same natural person that acquired them on or after 1 March 2023 and before 1 March 2024. The solar PV panels, however, need not be acquired on or after 1 March 2023 to qualify for the tax credit but still have to meet the requirements of new and unused. Boruchowitz J, in ITC 1804, explained the rationale behind the phrase “brought into use for the first time by that taxpayer” as follows:¹⁰

“...the allowance is available only if the asset is brought into use for the first time by the taxpayer (or his lessee, where applicable). This requirement prevents a taxpayer from claiming that the allowance is available for a further five, four or three years on an asset that was previously brought into use by him (or his lessee), is retired from use and is then brought into use again.”

The determination of when a solar PV panel can be said to have been brought into use for the first time by the natural person is a factual one. The authors of *Juta’s Tax Library* correctly state the following:¹¹

“The asset must be used in a way consistent with the intended and future use.”

It can thus be said that a panel is “brought into use” when it has been installed and used by a person for its intended purpose, that is, the generation of renewable solar energy.

Paragraph 7(1) of the Regulations states that every user or lessor of an electrical installation must be in possession of a valid certificate of compliance,¹² as well as a test report relating to such installation. This will also apply to the installation of solar PV panels. Under paragraph 8(2) of the Regulations, no person shall connect or permit the connection of any completed electrical installation to the electricity supply unless it has been inspected and tested by a registered person and a certificate of compliance for that electrical installation has been issued. As such, section 6C(3)(c) specifically requires that the natural person who brings the panels into use acquires a certificate of compliance issued for the installation of the solar PV panels.

Consequently, the date on the certificate of compliance will be considered as the date when the panels are brought into use for the first time, which must be before 1 March 2024 in order to qualify for the tax credit.

Further, the solar PV panel must be used in such a way that it in fact forms an integral part of the photovoltaic solar energy system. A once-off use is not sufficient as this will be considered inconsistent with the intended use of the panel. Therefore, a solar PV panel cannot be brought into use for an isolated instance merely to take advantage of the tax credit and then be uninstalled.

Importantly, the requirements of both sections 6C(2)(a)(i) and (ii) must be met, namely, the solar PV panels must be new and unused, *and* the panels must be brought into use for the first time by that person on or after 1 March 2023 and before 1 March 2024. Should either of these requirements not be met, the individual will not be eligible for the tax credit.

¹⁰ 68 SATC 105 at page 109.

¹¹ Davis, D. *et al. Juta’s Tax Library* [online] (Jutastat e-publications: 30 November 2017) in Commentary on Income Tax – section 12C(1).

¹² See **2.1.2(d)** for more information on the certificate of compliance.

Example 1 – The requirements “new and unused” and “brought into use for the first time”

Facts:

Homeowner S purchased two solar PV panels in 2019 to alleviate loadshedding challenges. These panels were immediately installed and brought into use. In 2020, S purchased three pre-used panels from a company that was liquidating and had no more use for the panels. Owing to the size of the battery and inverter, only two of these panels were installed. Homeowner S upgraded the solar system in April 2023, which entailed the purchase of an additional battery and three more panels. Of these three panels, one had a generation capacity of 250W and the other two each had a capacity of 280W. All the panels, including the one which was purchased but not installed in 2020, were installed and brought into use in May 2023. All the other requirements of section 6C were complied with.

Homeowner S wanted to claim the tax credit for the four panels installed and brought into use in May 2023 against normal tax payable.

Result:

In order to determine whether all four panels qualified for the tax credit, each panel had to be considered independently.

The panel which was pre-used, acquired in 2020 and remained uninstalled until 2023

Under section 6C(2)(a)(i), the solar panels must be new and unused and the generation capacity of each panel must not be less than 275W. Under section 6C(2)(a)(ii) the solar panels must have been brought into use for the first time, by that person on or after 1 March 2023 and before 1 March 2024.

This panel did not meet the requirements under section 6C(2)(a)(i), that is, the solar PV panel was not new and unused since it had been acquired second-hand, thus failing the “new” test. Even though the panel was brought into use for the first time by Homeowner S on or after 1 March 2023 and before 1 March 2024, both the requirements under section 6C(2)(a)(i) and (ii) had to have been met. Therefore, the tax credit relating to this panel could not be claimed.

Panels which were purchased and installed in 2023

As mentioned above, section 6C(2)(a)(i) requires the solar panels to be new and unused, and the generation capacity of each panel must not be less than 275W. These panels complied with the requirements “new and unused” and “brought into use for the first time by that taxpayer on or after 1 March 2023 and before 1 March 2024”. The generation capacity of these panels, however, also had to be taken into consideration. Section 6C(2)(a)(i) requires that each panel must not be less than 275W. Two of the panels had a generation capacity of 280W, and the other one had a generation capacity of 250W. The latter panel thus did not meet the requirement. As such, Homeowner S could claim the tax credit relating to the two qualifying panels.

(d) Installation requirements of the solar photovoltaic panels

In addition to the requirements under section 6C(2)(a), specific mandatory requirements are contained in section 6C(3).

These are that –

- the solar PV panels must be installed and mounted on or affixed to a residence mainly used for domestic purposes by the natural person referred to in section 6C(2)(a);
- the installation is connected to the distribution board of such residence; and
- an electrical certificate of compliance contemplated in the Regulations, is issued for the installation referred to above.

Installed and mounted on or affixed to a residence

Section 6C(3)(a) requires that the solar PV panels must be installed and mounted on or affixed to a residence. Therefore, if a taxpayer acquires solar PV panels but does not install and mount them on a residence and does not bring them into use, no tax credit may be claimed.

The words “install”, “mounted”, and “affixed” are not defined in the Act and should, therefore, be interpreted according to their ordinary meaning as applied to the subject matter with regard to which they are used.¹³

According to the online *Collins Dictionary*, the words “install”, “mount”, and “affix” are defined as follows:

“Install: 3. to fix in position for use.”¹⁴

Mount: 4. to fix onto a backing, setting, or support.¹⁵

Affix: 1. To attach, fasten, join, or stick.”¹⁶

The coordinating conjunction “and” is used between the words “installed” and “mounted on or affixed to”, which means that the solar PV panels must be installed *and* mounted on or affixed to the residence mainly used for domestic purposes. The legislation does not prescribe the exact place where the solar PV panels must be mounted on or affixed to the residence. Owing to various technical reasons it may not be possible or feasible to mount or affix the solar PV panels to the residential building itself, but rather, for example, to an outbuilding or independent supporting structure. In considering whether the requirement of “mounted on or affixed to” the residence has been met, regard has to be had to the purpose of section 6C, namely, that the rebate should benefit natural persons at their private residences, rather than a literal interpretation of the words.¹⁷ The facts of each case must be considered.

¹³ Kellaway, E. A. (1995) *Principles of Legal Interpretation of Statutes, Contracts and Wills* at 224. Butterworth’s: Durban. Also, see Steyn, L. C. (1981) *Die Uitleg van Wette* (5 ed) at 4 to 7. Juta and Company (Pty) Ltd.

¹⁴ www.collinsdictionary.com/dictionary/english/install [Accessed 8 March 2024].

¹⁵ www.collinsdictionary.com/dictionary/english/mount [Accessed 8 March 2024].

¹⁶ www.collinsdictionary.com/dictionary/english/affix [Accessed 8 March 2024].

¹⁷ In *Capitec Bank Holdings Ltd and another v Coral Lagoon Investments 194 (Pty) Ltd and others* [2021] 3 All SA 647 (SCA) the principle of interpretation was confirmed that it is the language used, understood in the context in which it is used, and having regard to the purpose of the provision that constitutes the unitary exercise of interpretation.

Many solar PV panel systems will be of a permanent nature, since they are wired into the electrical system of the premises and become integrated into the permanent structure.¹⁸ As such, the panels must be mounted on or affixed to the residence in such a way that there is a certain degree of permanency that would ensure the effective and sustained use of the solar PV panels. This will be a factual consideration.

Under the common law principle of *superficies solo cedit* (owned by accession), moveable property becomes immovable when affixed or attached to the land. Whether an asset has been affixed or attached to the land to become immovable, three factors are relevant, namely –

- the nature of the asset;
- the manner of its annexation; and
- the intention of the person affixing the asset.

The first two factors are determined objectively, while the third test is subjective. The assessment of these criteria is dependent on the facts of each case. The requirement under section 6C that the solar PV panels must be installed and mounted on a residence does not mean that the panels must be attached in such a way that the principles of accession must be met. The terms “installed” and “mounted” suggest that generally acceptable industry norms and standards for installation of the solar PV panels must be met. This is a factual determination.

Section 6C does not require the natural person wanting to claim the tax credit to be the owner of the residence where the solar PV panels are installed and mounted. This means that a lessee or any natural person who occupies a residence for domestic purposes and who has acquired and actually incurred the costs of the solar PV panels may be eligible for the tax credit.¹⁹ In the event that a lessee of a residence who actually incurred the costs of the solar PV panels moves out of the residence on which such panels are installed and mounted on or affixed to, the owner of the house or the new lessee will not be able to qualify for the tax credit on the cost of the same panels since the owner or new lessee has not acquired the solar PV panels, has not actually incurred the cost, nor were they new and brought into use for the first time.

If the residence is registered in the name of a juristic person or trust, the registered owner will not be eligible for the tax credit. A body corporate or home-owner’s association that installs solar PV panels on the common property in sectional title schemes or residential complexes will also not be eligible for the tax credit. A natural person occupying such residence may, however, qualify for the tax credit if that natural person has actually incurred the cost of the solar PV panels and meets the other requirements under section 6C.

If the owner of solar PV panels uninstalls the panels from a residence and reinstalls them at another residence, this person will not be eligible to claim the tax credit again since the requirements of *new and unused* will not be met.

¹⁸ See Interpretation Note 47 “Wear-and-Tear or Depreciation Allowance” for further detail on the meaning of “permanent nature”.

¹⁹ *Explanatory Memorandum on the Taxation Laws Amendment Bill, 2023.*

Residence mainly used for domestic purposes

Under section 6C(3)(a), the residence where the panels are installed and mounted on or affixed to must be used mainly for domestic residential purposes by the natural person that acquired the solar PV panels. The person who incurs the acquisition cost of the panels must also reside in the residence on which the panels are mounted on or affixed to. A natural person can therefore not install panels on someone else's residence and claim the tax credit on the cost incurred for acquiring those panels. A natural person who owns a residence but does not reside in it, for example, the residence is let to someone else, will also not be eligible to claim the tax credit.

The determination of whether a residence is mainly used for domestic residential purposes is a question of fact.

In *Glen Anil Development Corporation Ltd v SIR Botha JA* stated the following:²⁶

“Section 103(2) uses the words ‘solely or mainly for the purpose . . .’ In the *Oxford English Dictionary* ‘mainly’ is defined to mean ‘for the most part; in the main; as the chief thing, chiefly, principally’. The word ‘hoofsaaklik’ is used in the Afrikaans text. . . the onus was on the appellant to show that the transactions in question were not entered into solely or mainly for the purpose of utilizing the assessed loss or balance of assessed loss . . . That onus would be discharged if the appellant satisfied the court that the avoidance . . . was not a more important consideration in the mind of Dr Rubenstein (acting on the advice of his auditors) than the avoidance of estate duty and undistributed profits tax.”

In *SBI v Lourens Erasmus (Edms) Bpk*²⁷ Botha JA held that, in the context of an exemption for the previously applicable undistributed profits tax, the word “mainly” prescribed a purely quantitative standard of more than 50%.

In order for a natural person to qualify for the tax credit, the residence on which the solar PV panels are installed and mounted on or affixed to, must be used more than 50% for domestic purposes during the year of assessment. If the residence is used for a dual purpose, for example, as a domestic residence and a portion for purposes of trade, a determination will have to be made in relation to whether the more than 50% requirement has been met. In practice, if more than 50% of a residence, measured by floor space or volume, is used during the year of assessment for residential purposes, the “mainly” requirement will be met. If, for example, the taxpayer uses 60% of the residence for residential purposes, the full tax credit under section 6C may be claimed, that is, no apportionment is necessary. On the other hand, if a taxpayer uses 50% or less of the residence for domestic purposes, no tax credit may be claimed.

Connection to the distribution board

Under section 6C(3)(b), the natural person must ensure that the solar energy system is connected to the distribution board of the residence. A distribution board is where the electrical supply is distributed from within the building. The main supply cable comes into the board and is then distributed to the breakers and from there to all the circuits, for example, the lights and plugs, amongst other things.

Electrical certificate of compliance

Section 6C(3)(c) makes it a mandatory requirement that the natural person must acquire an electrical certificate of compliance contemplated in the Regulations and issued for the installation of the solar PV panels. The electrical certificate of compliance should be issued in the 2024 year of assessment for this requirement to be met.

An electrical certificate of compliance is a legal document that verifies an electrical installation is compliant with all the legal requirements as stipulated in the Electrical Installation Regulations, 2009 issued under the Occupational Health and Safety Act 85 of 1993 on the date of inspection.²⁰

This document is usually issued to the owner of the residence (see 2.4 for a discussion of multiple persons incurring the cost of the solar PV panels). If solar PV panels are installed and mounted on or affixed to a leased property, it would be sufficient for the person wanting to claim the tax credit to provide, as supporting documentation, the certificate as well as the rental contract indicating the names of the parties to the lease agreement.

In the absence of this certificate, a tax credit will not be available to the natural person. The taxpayer does not need to submit this certificate to SARS, but should retain it for audit purposes for a period of five years according to the recordkeeping requirements under section 29 of the TA Act.

2.2 Allowable amount of tax credit

The tax credit is claimed when the natural person's normal tax payable is determined. The normal tax payable can be from any source of income, including salary income. The term "normal tax" is defined in section 1(1) and means –

“income tax referred to in section 5 (1)”

Section 5(1)(d) states that income tax (or normal tax) must be paid annually on the taxable income received by or accrued to or in favour of any person (other than a company) during the year of assessment ending during the period of 12 months ending on the last day of February each year.

The amount of the tax credit allowed as a rebate to an individual under section 6C(2)(b) is 25% of the cost actually incurred on the solar PV panels, up to a maximum of R15 000. The tax credit is deducted from the natural person's tax liability.

The tax credit is limited to the actual cost of the solar PV panels and excludes other costs such as supporting structures, installation costs or financing costs.

Example 2 – Allowable amount of solar energy tax credit

Facts:

Q, a natural person and homeowner, invested in the installation of a solar energy system consisting of 20 solar PV panels, which were all new and unused and had a generation capacity of 330W each. Owing to certain technical reasons, the panels could not be affixed to the roof of Q's residence. The solar PV panels were mounted onto a supporting structure that was adjacent to Q's residence. All the solar PV panels were used for domestic purposes. This installation took place on 20 August 2023.

²⁰ <https://electrical-compliance-certificate.co.za/certificate-of-compliance/what-is-an-electrical-certificate-of-compliance/> [Accessed 8 March 2024].

The cost of the panels (excluding installation and the other components of the solar energy system) was R70 000, that is, R3 500 per panel. All the solar PV panels met the requirements of section 6C(3), since all 20 panels were considered as being mounted on or affixed to a residence to be used mainly for domestic purposes. Before taking into account the tax credit, Q had a tax liability of R25 000 for the 2024 year of assessment.

All the requirements of section 6C were met.

Result:

Since all the requirements of the section were complied with, Q was eligible for the tax credit on the cost of the solar PV panels at 25%, but up to a maximum of R15 000.

The tax credit was calculated as follows: $R70\,000 \times 25\% = R17\,500$ limited to R15 000. Since Q could not claim more than R15 000 as the tax credit, Q's normal tax liability of R25 000 was reduced by R15 000 resulting in normal tax payable of R10 000 for the 2024 year of assessment. The remaining R2 500 ($R17\,500 - R15\,000$) was forfeited and could not be carried forward to a subsequent year of assessment.

2.3 Prohibition of double deductions

Under section 6C(4), a deduction is prohibited on the cost of any asset on which a deduction has been allowed to the taxpayer under section 12B or 12BA.²¹ This ensures that there is no duplication of tax incentives for the cost of a solar PV panel.

2.4 Multiple persons incurring the cost of the solar photovoltaic panels

It may occur that more than one natural person as co-owner actually incurs the cost of the solar PV panels. In these cases, provided that all the requirements of the section are met, each person will be able to claim the tax credit at the rate of 25% on their portion of the cost. In other words, each party will thus **not** be eligible for a credit amounting to 25% of the full cost of the panels.

The electrical certificate of compliance [see **2.1.2(d)**] is issued for the installation of the solar PV panels to a specific residence. If more than one person has incurred the cost to acquire the solar PV panels, the same electrical certificate of compliance can be used by all the qualifying persons to claim the tax credit provided that all the other requirements have been met.²²

Example 3 – Multiple persons incurring the cost of the solar PV panels

Facts:

X and Y jointly invested in the installation of a solar energy system. X and Y both use the residence mainly for domestic purposes. This installation took place on 1 July 2023 and included the purchase of 20 solar PV panels that were all new and unused and had a generation capacity of 550W each.

²¹ Sections 12B and 12BA provide for capital allowances on certain assets that are used for purposes of trade and in the generation of electricity from listed renewable sources.

²² Section 6C(3)(c) requires that an electrical certificate of compliance is issued *in respect of the installation*.

The cost of the panels (excluding installation and the other components of the solar energy system) was R84 000, that is, R4 200 per panel.

X bore 80% of the cost of the panels and Y bore the remaining 20%.

All of the requirements under section 6C were met.

Result:

Since all the requirements of the section were complied with, X and Y were eligible for the tax credit on the actual cost of the panels at 25%, but up to a maximum of R15 000 each.

X's portion of the costs amounted to R67 200 ($R84\ 000 \times 80\%$). The solar energy tax credit applicable to X was R16 800 ($R67\ 200 \times 25\%$). This amount was, however, limited to R15 000. As such, X is eligible for a tax credit of R15 000 and the remaining R1 800 ($R16\ 800 - R15\ 000$) was forfeited.

Y's portion of the costs amounted to R16 800 ($R84\ 000 \times 20\%$). The tax credit applicable to Y was R4 200 ($R16\ 800 \times 25\%$). This amount is below the limit of R15 000. Consequently, Y is eligible for the tax credit of R4 200.

2.5 Provisional tax

Under paragraph 17 of the Fourth Schedule, all provisional taxpayers must make provisional tax payments to the Commissioner in respect of their liability for normal tax for every year of assessment. The term "provisional taxpayer", as defined in paragraph 1 of the Fourth Schedule, includes natural and juristic persons.

Provisional taxpayers who are natural persons will be able to claim the section 6C tax credit against the final provisional tax liability subject to the maximum of R15 000.²³

2.6 Disposal of solar photovoltaic panels and capital gains tax

A taxpayer who subsequently disposes of solar PV panels on which the tax credit was claimed, has no recoupment of the tax credit. The purchaser of these solar PV panels will, however, not be eligible to claim the tax credit under section 6C since that purchaser will not meet the requirements (see 2.1).

The disposal of the solar PV panels may be subject to capital gains tax.²⁴

If the solar PV panels are fixed to the residence in such a way that the common law principle of accession is met, the installation of the solar PV panels may be regarded as an improvement to the residence upon which the panels are mounted on or affixed to. As such, upon the sale of the residence, the Eighth Schedule must be taken into account for any capital gains or losses upon the disposal of such asset. In the event that the solar PV panels are regarded as a movable asset, any gain or loss will be disregarded entirely under paragraph 53 as a personal-use asset.

The facts of each case must be evaluated when determining any capital gains tax implications.

²³ See *GEN-PT-01-G01-Guide for Provisional Tax External Guide* for more information on provisional tax.

²⁴ See the *Comprehensive Guide to Capital Gains Tax* for more information on capital gains tax.

2.7 Income tax returns

The Commissioner annually gives public notice in the *Government Gazette* of the persons that must furnish an income tax return.²⁵

A return must be a full and true return²⁶ and be signed by the taxpayer or by the taxpayer's duly authorised representative. The person signing the return will be regarded as being knowledgeable of the statements made in the return.²⁷

A natural person claiming the tax credit under section 6C may have to confirm the following information in the tax return:

- The number of new and unused solar PV panels installed
- That the panels are connected to the residence's electrical distribution board
- That the minimum generation capacity is 275W for each solar PV panel
- That a legitimate electrical certificate of compliance has been issued

2.8 Recordkeeping

Taxpayers are required to keep records for five years²⁸ from the date of the submission of a return under the TA Act.²⁹

A return³⁰ includes any form, declaration, document or other manner of submitting information to SARS that incorporates a self-assessment or is the basis on which an assessment is to be made by SARS.

Although records are generally required to be kept and retained for five years, there are circumstances in which they are required to be retained for longer periods.³¹

The required retention periods for records, books of account or documents are as follows:³²

- Five years from the date of the submission of a return.³³
- If no return is submitted for a tax period but is required to be submitted, records, books of account or documents must be kept and retained indefinitely until the obligation to submit a return has been complied with, and then for five years from the date of submission of the return.³⁴

²⁵ Section 66(1).

²⁶ Section 25(2) of the TA Act. Under section 234(1) a person that wilfully submits a false statement in a return is guilty of a criminal offence and liable, on conviction, to a fine or imprisonment for a period not exceeding two years.

²⁷ Section 25(3) of the TA Act.

²⁸ Section 29(3) of the TA Act.

²⁹ Sections 3 and 4 of the Tax Administration Laws Amendment Act 44 of 2014 amended and repealed sections 18A(4) and 30(9), respectively. These amendments came into operation on 20 January 2015.

³⁰ The term "return" is defined in section 1 of the TA Act.

³¹ Section 32 of the TA Act.

³² For further commentary, see the *SARS Short Guide to the Tax Administration Act, 2011 (Act No. 28 of 2011)*.

³³ Section 29(2)(a) read with section 29(3)(a) of the TA Act.

³⁴ Section 29(2)(b) of the TA Act.

- If an objection or appeal against an assessment or decision is lodged, the records, books of account or documents relevant to the objection or appeal must be kept and retained until the disputed assessment or decision becomes final or the applicable five-year period has elapsed, whichever is the later.³⁵
- A person notified of, or who is aware of an audit or investigation³⁶ by SARS, must retain the records, books of account or documents relevant to that audit or investigation until it is concluded or the applicable five-year period has elapsed, whichever is the later.³⁷

A natural person wanting to claim the tax credit under section 6C will have to retain, amongst other things, the following records:

- An electrical certificate of compliance contemplated in the Regulations issued for the specific installation. Such a certificate must, amongst other things, contain a certificate number, the registration number and contact details of the electrical contractor who completed the installation and certification.
- An invoice for the purchase of the solar PV panels. The invoice should reflect, amongst other things, the number of panels purchased, the cost per solar PV panel, and the wattage of each panel.
- Proof of the date of installation of the panels and the date when they were brought into use.
- Proof that the installation is for a residence mainly used for domestic purposes by the natural person who acquired the solar PV panels.

The above records as well as other relevant information may be requested by SARS for purposes of the administration of section 6C.³⁸

3. Conclusion

The tax credit under section 6C is available for a limited period. The aim of this incentive is to encourage and promote renewable energy in households thereby reducing the pressure on the national electricity grid.

Section 6C applies only to natural persons meeting the strict requirements and for the years of assessment commencing on 1 March 2023 and ending on 29 February 2024. Thus, the allowance will be available only for one year.

³⁵ Section 32(b) of the TA Act.

³⁶ For further commentary on inspections, verifications, audits and criminal investigations, see the *SARS Short Guide to the Tax Administration Act, 2011 (Act No. 28 of 2011)*.

³⁷ Section 32(a) of the TA Act.

³⁸ Under section 46 of the TA Act relevant material may be requested.

Annexure – The law

Section 6C

6C. Solar energy tax credit.—(1) In determining the normal tax payable by any natural person, there must, subject to subsection 4, be deducted an amount to be known as the solar energy tax credit, equal to the amount of the rebate determined under subsection (2).

(2)(a) The solar energy tax credit applies in respect of the cost actually incurred by the natural person—

(i) for the acquisition of any new and unused solar photovoltaic panels, the generation capacity of each being not less than 275W; and

(ii) if the solar photovoltaic panels referred to in subparagraph (i) are brought into use for the first time, by that person on or after 1 March 2023 and before 1 March 2024.

(b) The amount of the solar energy tax credit allowed to the natural person referred to in paragraph (a) must—

(i) be 25 per cent of the actual cost of the solar photovoltaic panels described in paragraph (a); and

(ii) in aggregate be limited to an amount not exceeding R15 000.

(3) A solar energy tax credit will be allowed under subsection (1) only if —

(a) the solar panels are installed and mounted on or affixed to a residence mainly used for domestic purposes by the natural person referred to in subsection (2)(a);

(b) the installation is connected to the distribution board of such residence; and

(c) an electrical certificate of compliance contemplated in the Electrical Installation Regulations, 2009, is issued in respect of the installation referred to in paragraph (a).

(4) No deduction shall be allowed under this section in respect of any asset in respect of which a deduction has been allowed to the taxpayer under section 12B or 12BA.