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# Taxation of sale and leaseback arrangements

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## Sale and lease back: What are the tax consequences?

**Sale and lease ack arrangements allow asset owners to sell the asset while retaining use of the asset sold through a leaseback arrangement.**

Generally, lease payments are deductible when they are paid or become payable in the calculation of taxable income. The acquirer of the asset who becomes lessor is able to claim wear & tear on the asset used by the former owner the lessee under certain circumstances. Sale and leaseback transactions can therefore offer much needed cashflow for businesses while providing tax planning opportunities.

South African legislation provides for certain limitation on the amount that can be claimed by the lessee in respect of lease payments under a sale and lease agreement, the limitations are covered currently in section 23D and 23G of the Income Tax Act. On 18 February 2022, SARS published draft interpretation note on how businesses that enter into sale and leaseback arrangements should apply the limitation of section 23D and 23G. Both sections limit to a certain extent what the lessor can claim in respect of wear & tear and 23G further details tax principles to be applied on lease income received from a sale and leaseback arrangement.

When the business held a depreciable asset within a two-year period before entering into a sale and leaseback arrangement in relation to that asset, section 23D requires a lessor to limit allowances that can be claimed to the sum of tax value of the asset, recoupment and taxable capital gain calculated in respect of the disposal of an asset.

In terms of section 23G,When a sale and leaseback arrangement is entered into by a tax exempt lessee or sublessee ,a lessor will not be allowed to claim any capital assets on a leased assets and the rental income that arises from the leasing of an asset is limited to an amount which constitutes interest under section 24J of the Income Tax Act and the interest must be spread over the lease term in accordance with the yield to maturity method.

In a situation where a lessor is exempt from tax, the rental income received by a tax-exempt lessor in respect of a leased asset is limited to the interest that is determined under section 24J and must be spread over the lease term in accordance with the yield to maturity method.