

Guidance Note – Article 31D (Taxation of Rental Income)

The purpose of this guidance note is to clarify the application of Article 31D of the Income Tax Act.

In this regard, it is hereby being clarified that:

- a) The final tax rate of 15% can be applied on receipts of rent, including ground rents derived from the granting of an emphyteutical concession in respect of a residential tenement and a commercial tenement
- b) The final tax rate of 15% can be applied both on receipts of rental income that are chargeable to tax either under Article 4(1)(a) of the Income Tax Act or Article 4(1)(e) of the Income Tax Act
- c) A “tenement” within the meaning of Article 31D is considered to include all types of immovable property (e.g. undeveloped land, roof tops, etc.)
- d) Receipts derived from the charging or recharging of common costs in respect of a residential or commercial tenement, are not considered rental income derived from the letting of property for the purpose of Article 31D.
- e) Where a person who opts to be taxed under Article 31D of the Income Tax Act would have otherwise claimed a deduction for wear and tear against the income in respect of which the 15% final tax rate is being availed of, it shall be deemed that such person has claimed the said deduction for wear and tear even in the year in which the 15% final tax rate is availed of.

Accordingly, when such person is required to calculate a balancing charge or balancing allowance in terms of Article 24 of the Income Tax Act in respect of the plant and machinery or the industrial building, as the case may be, such person must add to the total depreciation referred to in item (ii) of Article 24(1) of the Income Tax Act, the deduction for wear and tear which he is deemed to have claimed in terms of the previous paragraph.