

## During the YOA

- Expenditure cannot be carried forward or back unless section 23H applies.

## DEFINITION

- Expenditure and losses actually incurred during the year of assessment in the production of the income, not of capital nature to the extent that it is laid out / expended for the purposes of trade.
- Paragraph 11(a) and 23 (g)
- 11(a) - Positive Terms
- 23(g) - Negative Terms

## Pre-trade Expenditure

- Section 11 qualifying pre trade expenses can be deducted once trade commenced.
- Expenses > Income is ringfenced to that trade.

## In Production of income

- Apply gross income definition.
- Consider:
  1. What action gave rise to expenditure + purpose of action.
  2. Connection to income-earning business activities.

## Expenditure & losses

- Amount spent / intended to be spent.
- Disbursement of assets with monetary value.
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# GENERAL DEDUCTION FORMULA

## Not of Capital Nature

### Considerations

1. Go back to the purpose and intention.
2. Expense not to add to income-earning structure.
3. Expense not for income-earning right.
4. Expense does not create an enduring benefit.

Its important to apply logic and understand the revenue first to assess the relevant expenses.

## Actually Incurred

- All expenses for which a liability has been incurred. <unconditional legal liability>
- Estimates are not considered expenses.
- Shares issued for expenses are not deductible as expenses.
- Must be a quantifiable amount.

### Prohibited

- 23q - Expenditure in production of foreign dividends.
- 23r - Premiums i.r.o insurance for illness, injury, disability, unemployment, death.
- 23B - Double Deductions
- 23g - Excessive expenditure
- 23C - VAT

### 23H Prepaid Expenses

- Allows and limits expenses paid for a future YoA.
- Limits:
  1. Supply is within 6 months after YoA.
  2. Aggregate < R100,000

### Prohibited

- 23(a) - Private Maintenance
- 23(c) - Recoverable expenses
- 23(d) - SARS interest, penalties and taxes.
- 23(e) - Provisions and reserves
- 23(f) - Expenditure to produce exempt income

### key Note

- Apply 11(a) first and then 23 restrictions.
- Assess home office expenses carefully (may not be in connection with dwelling).

# SECTION 23 RULES

### Domestic Expenditure

- Not allowed unless connected to trade.
- Qualifications:
  1. Specifically equipped.
  2. Exclusively used.
  3. Or income > 50% commission.

### Prohibited

- 23(g) - Non-trade expenses.
- 23(h) - Notional interest.
- 23(i) - deductions against any lump sum withdrawal benefits.
- 23(l) - Restraint of trade (deductible ones discussed later).
- 23(k) - Expenditure incurred by labour brokers and personal service providers.
- 23(o) - unlawful activities

### Employment Expenses 23(m)

- N/a where income > 50% commission.
- Deductions:
  1. Contributions to retirement fund
  2. Legal Expenses, wear and tear, bad debts, provision for doubtful debts.
  3. Refunds of amounts received.
  4. Home office expenses (qualifications per domestic expense rules)

## Key Notes

1. Flag these sections for ease of referencing in a test.
2. Explain your thought process in a discussion.
3. Remember applicable case law principles.

## General

1. Advertising - To advertise business but should not be an asset.
2. Copyrights, inventions, patents, trademarks, know hows - Only is paid for use to generate revenue.
3. Damages and compensation - If negligence is strongly connected to trade.
4. Education - Professional CPD is deductible.
5. Employee cost - deductible.

## Legal Expenditure

1. Linked to operations with objective of producing income.
  2. Not capital in nature.
  3. Not to protect income.
- 2 considerations:
- Creation of right (Capital)
  - In actual earning of income (income)

## Losses

- A loss made due to the sale of debts is deductible if the sale is to finance the company.
- Provisions for anticipated losses is not allowed as a deduction.

# SPECIFIC TRANSACTIONS

## Losses

- fires, theft and embezzlement:
- Deductible unless recoverable by insurance.
- Director embezzlement = not deductible.

## Key Notes

1. The general deduction formula always applies to all transactions.
2. Prohibitions is for anti avoidance - therefore think of how a section can be twisted and you will identify the reason for the prohibition.
3. Always be on the lookout for specific transactions as they are usually hidden in a fact pattern.
4. Expenses is where logic is required.

## Losses

- Advances to 3rd parties - If loans is integral part of business then deductible
- Borrowings from 3rd parties
- Hold on revenue accounts as working capital employed then deductible.
- Hold amounts as fixed capital then no deduction.