SUSTAINABLE FINANCE COALITION

FISCAL INCENTIVES: NATURE RESERVES AND NATIONAL PARKS

AT A GLANCE	Income Tax Deductions Municipal Property Rates Exclusion

What does this mean for landowners

Private and communal landowners of nature reserves, national parks and properties within nature reserves may benefit from several fiscal incentives encased in the Income Tax Act No.58 of 1962 (ITA) and the Municipal Property Rates Act No.6 of 2004 (MPRA). These are detailed below, with the most significant incentives discussed first.

Fiscal benefits in the form of tax deductions, and exclusion or partial exclusion from the payment of municipal property rates contribute to the financial sustainability of landowners and taxpayers. This releases more cash flow for conservation, maintenance and other expenditure.

Testimonial: Section 37D

The challenges in protecting our environment and operating a viable business in the wildlife economy have increased dramatically over the last fifteen years, not least the increase in rhino poaching and the staggering rise in the costs for their security. Our land is prime Black Rhino habitat. The tax incentive will release funds which will enable us to employ more currently unemployed people to further improve our environment for the benefit of all species and significantly the Black Rhino, which will result in a greater game viewing experience for our lodge guests. This, in turn, will lead to a busier lodge and even further employment opportunities for the rural communities in our area. (Don Airton | Rhino River Lodge | Manyoni Private Game Reserve | KZN).

Income Tax Deduction: Section 37D of the ITA

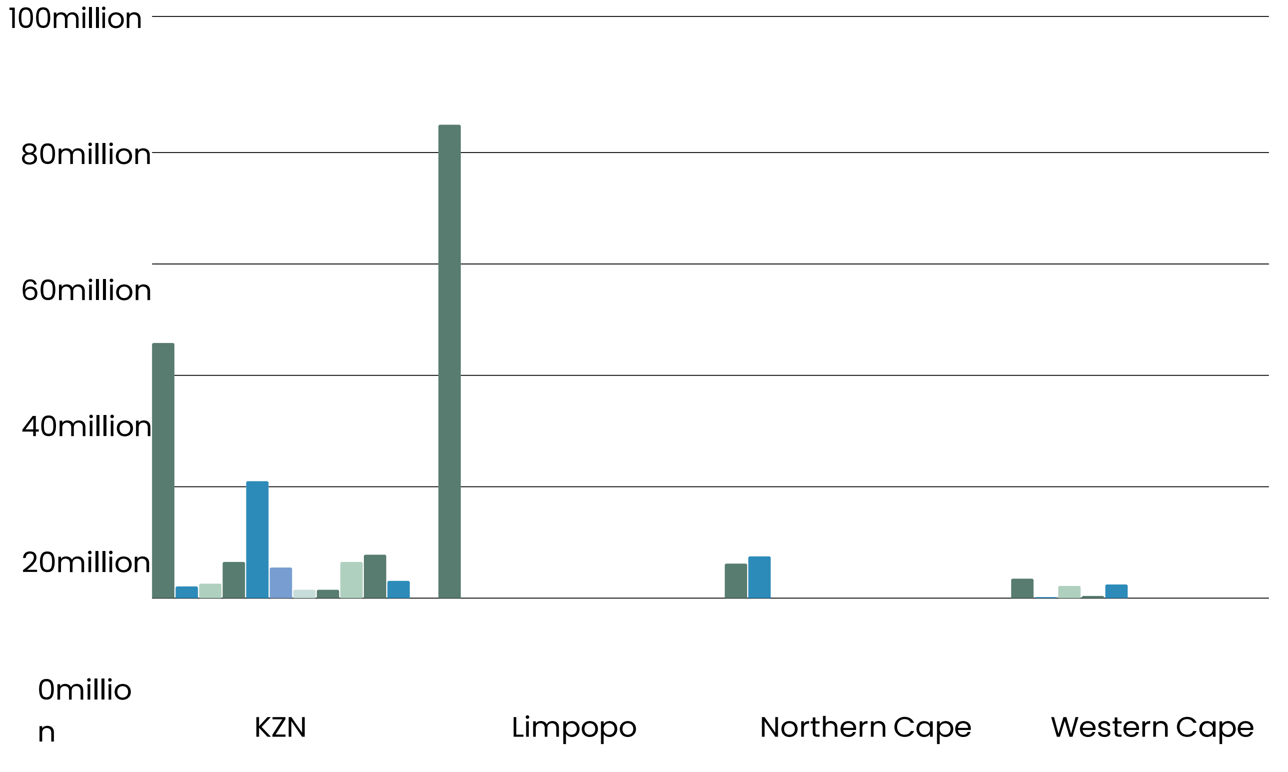
Section 37D of the ITA provides nature reserves and national parks, declared in terms of the National Environmental Management: Protected Areas Act No. 57 of 2003 (NEMPA), and which are subject to a title deeds endorsement for a period of at least 99 years, with a deduction against taxable income. The deduction is based on the value of land declared as a nature reserve or national park where the value is determined by the greater of the acquisition and improvement cost and pre-determined formula and is calculated at 4% per annum over 25 years. In the case of commercial operations conducted on the declared property, a slight apportionment of the deduction may be required. The Coalition has assisted landowners to access over $30 million in tax deductions under section 37D between 2016 and 2024.

Importantly, all types of landowners have accessed section 37D thus far and benefits are unlocked in year 1 for the total period of 25 years when the total value of the deduction is established. The landowner does not (in most instances) have to do a valuation of the deduction every year. Thus, money spent on tax advice in year 1 is well worth it.

Impact: Section 37D of the ITA

Section 37D of the ITA provides the most significant fiscal benefit to qualifying landowners

Since the first implementation of section 37D of the ITA in 2016, a total of $30 million in deductions have been secured (up to the 2025 tax year). Tax deductions secured for landowners vary between R184 000 and R85 million deducted over 25 years. The size of the property, value per hectare and capital improvements are the main determinants of the magnitude of the deduction. Graph 1 indicates the range of deductions secured for taxpayers in KZN, Limpopo, Northern Cape and Western Cape.



Graph 1: Tax deductions secured in KZN, Limpopo, Northern Cape and Western Cape (2016 - 2025 tax years)

Municipal Property Rates Exclusion: Section 17(1)(e) of the MPRA

Section 17(1)(e) of the MPRA states that special nature reserves, national parks and nature reserves are excluded from paying property rates. This exclusion applies only to those portions of the land that are not used for commercial, business, agricultural or residential purposes. District municipalities are not mandated to implement municipal property rates. It is important that the owner and/or management authority of the declared property approaches the applicable **local municipality** to ensure that the exclusion is applied in line with the intention of the law, which is to rate only the actual improved areas. Often, local municipalities are not aware of this fiscal benefit, and engagement and guidance is required in this regard.

The best way to approach accessing this fiscal benefit is as follows:

- The land only needs to be declared as a nature reserve or national park in terms of NEMPAA. The title deed does not have to be endorsed.
- In the case of old ordinance nature reserves, the local municipality may also require the management plan of the property.
- The declaration notice needs to be delivered to the Revenue Department of the local municipality.
- Experience has shown that it is good to follow the administrative procedures of the local municipality by doing the following:

a) Engage the municipal valuer and indicate that the property is now a protected area or multiple use property (residential/commercial and protected area). The valuer will assist with changing the category on the valuation roll.

b) Category change may require that an Objection Form be completed and submitted to the local municipality. Objection Forms can be obtained at the municipality. The valuer will have to do a revaluation of the property based on its new category/ies.

Income Tax Deduction: Section 37C(3) of the ITA

Section 37C(3) provides for the deduction of conservation and maintenance expenses in the case of a nature reserve or national park declared for a period of at least 30 years in terms of section 18A of the ITA (limited to 10% of taxable income). The deduction is made against taxable income of the landowner(s). These expenses should not be deductible in terms of other sections of the ITA, i.e. if incurred in the course of a trade (in which case section 11(a) of the ITA will apply) or in the course of farming (in which case the First Schedule to the ITA will apply).

Income Tax Deduction: Section 37C(1) of the ITA

Section 37C(1) of the ITA allows for the deduction of conservation and maintenance expenses in the case of a Biodiversity Management Agreement (BMA) concluded between the taxpayer (responsible for the conservation and maintenance) and the Minister of the Department of Forestry, Fisheries, and the Environment (DFFE) in terms of section 44 of the National Environmental Management: Biodiversity Act No. 10 of 2004 (NEMBA). The deduction allows for all costs relating to the management activities of threatened species and ecosystems to be deducted from taxable income. The tax deduction is a niche fiscal benefit, and its scope is limited in application to everyday taxpayers on either private or communal land who are not conducting commercial activities.

Reach Out

Contact us for more information or for specialist fiscal benefit services

Email: ellane@sfcoalition.org.za

Follow us on LinkedIn: https://www.linkedin.com/company/the-sustainable-finance-coalition