

A 12J Venture Capital Company: What is section 12J?

In 1981 the UK Government launched the Business Expansion Scheme (BES) in an attempt to get private investors to invest in smaller trading companies and provide funding which was otherwise not available to the companies. BES was phased out in 1993 in favour of the Enterprise Investment Schemes (EIS) which is still in effect. Similar to the BES, the purpose of the EIS is to recognise that unquoted trading companies can often face considerable cashflow difficulties, but the new scheme provides a well-targeted means to achieve this and other specific Government intentions.

Section 12J was added to the South African Tax Act and has been built upon from the learnings of the UK initiative. Section 12J specifically aims to help create and secure jobs and to grow small and medium sized businesses by increasing their access to equity finance, and hopefully the transfer of skills whilst the companies are being mentored. To attract investors into this typically under-funded sector, which is imperative if we are to drive economic growth, SARS offers taxpayers a 100% tax deduction if they invest into a recognised 12J Venture Capital Company (VCC), by way of subscription of shares in a Section 12J VCC, which in turn invests into these SMMEs.

How does it work?

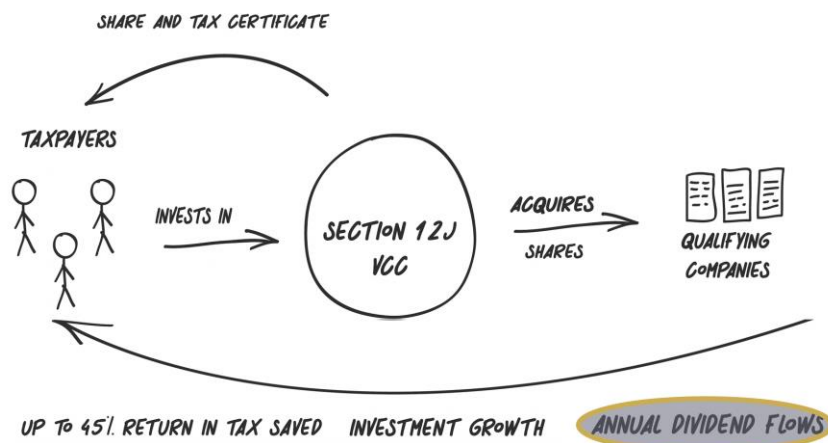
The sole purpose of a 12J VCC is the management of the underlying investments. These qualifying companies must meet certain criteria, and the following are some which need to be met: Apart from not having an asset value of more than R50m after the investment, (except for Junior mining at R500m) it may not operate in the following trades:

1. Any trade carried on in respect of immovable property, except trade as a hotel keeper (includes bed and breakfast establishments);
2. Financial service activities such as banking, insurance, money-lending and hire purchase financing;
3. Provision of financial or advisory services, including legal, tax advisory, stock broking, management consulting, auditing, or accounting;
4. Operating casinos or other gambling related activities including any other games of chance;
5. Manufacturing, buying or selling liquor, tobacco products or arms or ammunition; or
6. Any trade carried on mainly outside the Republic.

There are no special tax rules for investee companies. The standard tax rules apply.

The diagram below explains the process relatively simply:

1. Tax payer invests into an approved 12J VCC
2. The VCC issues a share and tax certificate to the client and SARS is advised
3. At tax year-end the investor advises SARS of the investment and the investment is recognised
4. The VCC identifies, assesses and invests into qualifying companies
5. Before redeeming the investment, clients might receive dividends during the investment period. (Remember that the tax benefit received is not recouped, but must be invested for no less than 5 years)



The table below compares an investor who does not invest via a 12J structure and one who does.

EXAMPLE: A TAXPAYER EARNS R1 MILLION IN RENTAL INCOME

OPTION A		OPTION B	
NO INVESTMENT INTO THE VCC		INVESTMENT OF R1,000,000 INTO THE VCC	
INCOME	R1,000,000	INCOME	R1,000,000
DEDUCTIONS	(R 0)	SECTION 12J DEDUCTION	(R1,000,000)
TAXABLE INCOME	R1,000,000	TAXABLE INCOME @ 45%	R 0
TAX PAYABLE @ 45%	R450,000	TAXPAYER PAYS NO TAX	

OPTION B RESULTED IN IMMEDIATE TAX SAVING OF R450,000

Regarding immediate tax benefits received, unlike a Retirement Annuity, there is no limit to a 12J investment. You may receive dividends during the investment period but investors need to be invested for five years before they can redeem their initial investment.

Where appropriate and for certain investors, 12J could form part of a diversified portfolio.

This is a remarkable opportunity for South Africans to create broader-interest and value for the country as a whole, and to create self-interest value.

This is private equity so comes with risk, so select your 12J VCC carefully. One must always remember that no amount of a "tax sweetener" can transform a bad investment into a good one. All it does is lessen the bitterness when the investment turns sour.

Anuva Investments LTD, is an approved 12J VCC, it has a 3 year track record and has raised R235 million to date. Anuva has saved/created 335 jobs through 11 investments in SMMEs.

“Anuva Investments is in the process of building a portfolio of companies that will continue to create and save jobs, continue to act in a socially responsible manner striving to deliver good returns to our investors”, says Larry Worthington-Fitnum co-founder and director of Anuva Investments.

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