28 November 2025

To: The National Treasury
240 Madiba Street
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The South African Revenue Service
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VIA EMAIL:	**National Treasury**	(2026AnnexCProp@treasury.gov.za)
	SARS	(2026LegislationComments@sars.gov.za)

Dear Colleagues,

ANNEXURE C PROPOSALS FOR BUDGET 2026: BUSINESS TAX INCENTIVE AND GRANTS TECHNICAL WORK GROUP

At the outset and over and above the technical proposal made below, we wish to reiterate our commitment to engage and participate with National Treasury in investigating and finding solutions that may have unintended consequences within the business tax incentive and grants industry before such amendments are made to subsequent tax legislative cycles.

We value the opportunity to participate in the legislative process and would welcome further engagement where appropriate.

Please do not hesitate to contact us should you need further information.

Yours sincerely,

Business Tax Incentive and Grants Technical Work Group

Unless otherwise indicated all references to legislation are to the Income Tax Act No. 58 of 1962 (the Act).

1. Section 11D: The R&D Tax Incentive

1.1. The legal nature of the problem

1.1.1. In our commentary to you in the 2024 TLAB, we recommended strongly that a detailed Guideline be prepared, particularly since this section underwent a fundamental paradigm shift in December 2024. It is essential, in such scenarios, that Guidelines be prepared in order to create (at least some) certainty under the new legislation.

1.1.2. Regrettably, National Treasury has declined the strong recommendation, suggesting instead that we "draft a proposed Guideline for its review". With respect, this is monumental task – one that would require a team of experts months, if not years, to compile. We would like to suggest a better alternative.

1.2. A detailed factual description (including examples)

1.2.1. First, we reiterate the importance and the urgency in preparing a Guideline on the topic. This is for the benefit of taxpayers, DSI officials, and SARS alike. Moreover, we recommend that Treasury directs that a panel of experts be appointed, having the mandate to prepare a Guideline for Treasury approval. Ideally, we would request that the finalised Guideline be promulgated ultimately as a Regulation under the Act – although this request might be set out for future determination. This is a monumental task, but one that, we believe, is essential to the operation of the incentive.

1.2.2. It is important to recognise the very technical nature of this incentive. Unlike in the past, we recommend, further, that any would-be member of the expert panel must establish their qualification to act in that capacity, before being admitted to the panel. We recommend, too, that the panel comprise at least one expert from the following quarters and disciplines:

- DTI assessors of the R&D tax incentive;
- SARS assessors
- Tax practitioners – with demonstrable experience in R&D tax incentive claims
- government incentive experts – preferably with experience in R&D tax incentives
- Qualified legal practitioners, with demonstrable specialisation in technology and R&D, preferably patent attorneys; and
- Representative(s) of National Treasury (if so desired).

1.3. The nature of the business / persons impacted

1.3.1. Taxpayers who rely on the R&D tax incentive require clear certainty and guidelines within which to operate in order to remain compliant and continue benefiting from the incentive.

1.4. Proposal

1.4.1. Our team of established experts, who have been practicing in this area for many years and possess the necessary experience, and who also serve as members of the SAIT workgroup, would be pleased to volunteer to lead this process in the establishment of the expert panel, after which the reins would be handed over to that panel.

1.4.2. Through this workgroup, SAIT has submitted extensive commentary on ways to improve the incentive, and we respectfully request that National Treasury consider these inputs. Please refer to the submissions made in previous years.

2. Request for inclusion of additional programmes into the Eleventh Schedule of the Act

2.1 The legal nature of the problem

2.1.1 A search revealed one subsequent amendment to the Eleventh schedule, namely the Tax Laws Amendment Bill 2024. That amendment dealt with the Clothing, Textiles, Footwear and Leather Growth Program (CTLGP).

2.1.2 It therefore appears that a number of programmes may not be incorporated in the Eleventh Schedule to the Act. The following list is not necessarily exhaustive.

2.1.2.1 *Agro Industrial Fund ("AIF") (launched 2021) – IDC and DALRRD*
Issue: While the fund plays a crucial role in developing the agro-industrial sector, its exclusion from the tax exemption list limits its potential for investment and growth.

2.1.2.2 *Manufacturing Support Program ("MSP") (launched 2024 – DTIC)*
Issue: The MSP is a newly launched program designed to support the manufacturing sector, but its lack of tax exemption status hampers its attractiveness and impact.

2.1.2.3 *Blended Finance Scheme ("BFS") (Launched Oct 2022) – Land Bank and DALRRD*
Issue: The BFS offers innovative blended financing solutions to farmers, but its exclusion from the Eleventh Schedule limits its tax benefits for recipients.

2.1.2.4 *Automotive Investment Transformation Fund (AITF) (Launched ca 2021) – AUTO FUND in collaboration with the DTIC*[1].
Issue: The AITF was established as a strategic intervention to transform the automotive sector. However, its exclusion from tax exemptions reduces the program's appeal and impacts its ability to drive industry change effectively.

2.2 Rationale for Inclusion in the Eleventh Schedule

2.2.1 The inclusion of the above programs in the Eleventh Schedule of the Act would provide **clarity and certainty** for beneficiaries regarding the tax treatment of government grants. This would:

[1] As far as can be established, this program is an industry brainchild, established in consultation with the DTIC, and is possibly supported financially by the DTIC.

- **Enhance the attractiveness** of these programs by ensuring tax relief for the businesses that benefit from them, thereby encouraging further participation.
- **Support national economic priorities** such as job creation, industrial development, and transformation, especially in critical sectors like agriculture, manufacturing, and automotive.
- **Align with international best practices** where similar tax exemptions are granted to government grants to promote sectoral development.

2.3 Proposal

2.3.1 We propose the inclusion of the following programs in the Eleventh Schedule of the Act to grant tax-exempt status:

- Agro Industrial Fund (AIF)
- Manufacturing Support Program (MSP)
- Blended Finance Scheme (BFS)
- Automotive Investment Transformation Fund (AITF)

2.3.2 To facilitate this, we recommend that the Minister of Finance consult with industry stakeholders to assess the impact and issue a notice in the Government Gazette to formalise the tax exemptions.

2.3.3 Given the evolving nature of government incentives, we also suggest periodic reviews to ensure the list remains up-to-date and relevant. Clear communication from the Department of Finance and SARS is essential to inform stakeholders of any changes to tax exemptions related to grants.

2.3.4 In conclusion, including these programs in the Eleventh Schedule is crucial for fostering growth, addressing economic challenges, and driving transformation in key sectors, ultimately contributing to inclusive economic development. We urge the Minister of Finance to act on this proposal to enhance the effectiveness of these programs.

3. Proposed amendments to the Eleventh Schedule to the Act in relation to GBS (Global Business Services) Government proposal

3.1 The legal nature of the problem and proposed solution

3.1.1 The proposed amendment to the aforementioned as proposed in the DTLAB 2025, sought to update the government grant schedule in the Eleventh Schedule in line with the government grants paid by government.

3.1.2 Although we welcomed the amendment as a logical and necessary clarification, we understand that the change may reflect a realignment of naming convention in relation to this government grant. We recommend that this remaining convention be effected as soon as possible.

4. Section 12J Renewable Projects

4.1 Background

4.1.1. The Section 12J tax incentive was introduced by the government to encourage investment in South Africa, aiming to create jobs and support small businesses while discouraging capital flight. Investors were motivated to keep their funds within the country, with those funds being allocated to small and medium-sized enterprises that contribute to economic growth and infrastructure development. However, Treasury's main criticism of Section 12J was that most of the investments it supported focused on “low-risk” or “guaranteed-return ventures”—businesses likely to attract funding without needing the incentive. This critique is especially directed at property-backed enterprises such as hotels, whose operations rest on real estate assets, and asset rental companies, where risks are often reduced through effective corporate structuring. Since these types of businesses are viewed by Treasury as having lower risk, it's believed they already enjoy relatively easy access to equity capital.

4.2 Legal nature of the problem

4.1.2. Many corporates have great ideas to transform their businesses and enable renewable energy in order to contribute to a lower carbon industry. The lack of funding prevent corporates to make the necessarily investments and implement potential high value projects that will enable South Africa to achieve the Nation’s Commitments to emissions reduction whilst stimulating economic growth and ultimately job creation.

4.3 Proposal/Recommendation

4.1.3. A section similar to 12J incentive granting corporate tax deductions on equity investments is proposed for targeted renewable energy investments, enabling corporates to access capital for major projects.

<u>End.</u>