



19 January 2026

To: **The South African Revenue Services**

Lehae La SARS
299 Bronkhorst Street
0181

By Email: policycomments@sars.gov.za

Re: Draft Interpretation Note – Loan, advance, or credit granted to a trust by a connected natural person

Dear Colleagues,

1. Background

We wish to provide commentary relating to the above related draft interpretation note (hereinafter referred to as 'draft IN'). As stated in the explanatory note of this release, we take note that this draft IN provides guidance on the interpretation and application of section 7C of the Income Tax Act, No. 58 of 1962 (the Act), which targets interest-free or low-interest loans, advances, or credit granted by a connected person to a trust (with certain exclusions). Furthermore, that section 7C deems the interest forgone by the lender to be a continuous donation for as long as the interest-free or low-interest loan remains outstanding.

We have considered the above draft IN and have stated our commentary below.

2. Commentary

2.1. We request clarity on the following aspects:

2.1.1. The background section states out the various ways in which wealth may be transferred. The list also makes reference to instances when:

“A person may sell assets to a trust on loan account, subject to interest at a market-related rate. In this case, the person is liable for normal tax on the interest portion of the loan repayments made by the trust”.

Comment: Please clarify what is meant by “loan repayments,” as we understand that only interest charged is taxable.

2.1.2. The background section also includes the following:

“A person may sell assets to a trust on loan account with interest below the official rate or no interest at all. Donations tax will not be triggered since this transaction is classified as a sale rather than a donation. Consequently, the income tax provisions are not applicable to the forgone interest due to not charging interest at market-related rates.”

Comment: We are of the view that the provisions of section 7C donations tax are still applicable in this instance. And it is calculated on interest below official rate and not

market-related rate. We request that clarity be provided if this is a departure from the above practice.

- 2.1.3. The list proceeds to list the following instance too:

“A person may advance an interest-free loan or a loan with interest below market-related rates to a trust, enabling the trust to acquire assets or retain the advance, thereby avoiding donations tax and income tax on the forgone interest”.

Comment: We are of the view that even in this case, the section 7C donations tax provisions are also applicable. We thus request clarity in this regard.

- 2.1.4. We refer to paragraph 5 of the draft IN, that elaborates on who a provider of a loan, advance or credit is (see page 12).

Comment: Instances relating to when a company is considered to be a connected person in relation to a trust are considered in this paragraph. Paragraph 5.1.1 further states that a company is a connected person to a trust if it is a beneficiary of the trust or if it is a connected person to a beneficiary of the trust. We are of the view that a company is a connected person in relation to a trust also in instances when that company itself is held by the trust. We therefore suggest that this paragraph be updated accordingly.

- 2.1.5. The draft IN, states that after *“making a donation, a donation tax declaration form (IT144) must be submitted to SARS. Proof of payment of the donations tax must accompany the form upon submission.”*

Comment: The statement suggests that a declaration must be made following a donation. On a plain reading, it appears that this requirement applies to all donation payments. To avoid ambiguity, we recommend that the sentence explicitly state that the declaration is only required when payments exceed R100,000.

- 2.1.6. The draft IN states that the term “primary residence” is defined in paragraph 44 of the Eighth Schedule to the Act. Under paragraph (b) of this definition, “primary residence” means a residence where the person, a beneficiary of that special trust ordinarily resides or resided in as his or her main residence and uses or used mainly for domestic purposes.

Comment: While we note that this is a legislative matter and that the most appropriate course of action would be to seek clarification or a technical correction, we request clarity on the rationale for the reference to a special trust.

- 2.1.7. Furthermore, in the discussion of ‘primary residence’ the draft IN indicates that *“in the ITC 1897, Boqwana J, that the normal usage of the word “mainly” implies a quantitative measure of more than 50%. In the context of section 7C(5), “mainly” is similarly interpreted to mean “more than 50%.” Consequently, more than 50% of the primary residence and unconsolidated adjacent land must be used for domestic or private purposes throughout the year of assessment for it to qualify for the exclusion.”*



Comment: We note the above and kindly request confirmation that no apportionment is required.

3. Conclusion

We thank you for the opportunity to participate in this process. We have carefully reviewed the draft and, overall, are supportive of the proposed approach. Our comments are limited to the points outlined above, on which we seek clarification to ensure certainty and consistent application. We trust that these comments are constructive and look forward to your consideration thereof.

Yours sincerely,
SAIT Tax Technical

End.