

BINDING PRIVATE RULING: BPR 427

DATE: 31 March 2026

ACT : **INCOME TAX ACT 58 OF 1962 (the Act)**
SECTION : **SECTION 11(f)(i), (ii) and (v)**
SUBJECT : **PREMIUM PAID FOR RIGHT OF USE**

Preamble

This binding private ruling is published with the consent of the Applicant(s) to which it has been issued. It is binding between SARS and the Applicant and any Co-Applicant(s) only and published for general information. It does not constitute a practice generally prevailing.

1. Summary

This ruling determines whether an operator of a solar farm qualifies for a capital allowance in relation to the payment of a lease premium to secure access to the electricity grid.

2. Relevant tax laws

In this ruling, references to sections are to sections of the Act applicable as at 11 March 2026. Unless the context indicates otherwise any word or expression in this ruling bears the meaning ascribed to it in the Act.

This is a ruling on the interpretation and application of section 11(f)(i), (ii) and (v).

3. Parties to the proposed transaction

The Applicant: A resident company; and

Eskom: Eskom SOC Limited.

4. Description of the proposed transaction

The Applicant conducts a business of generating solar electricity and supplying it to customers. To deliver electricity at the point of consumption at its customers, the Applicant must make use of Eskom's electricity grid.

Under a suite of transaction documents (collectively referred to as the Agreements) Eskom agrees to make available the use of the grid to the Applicant on the basis that the Applicant –

- Constructs and hands over to Eskom for no consideration, other than securing the right of use of the grid, specified assets to connect the Applicant's solar farm to the grid, as well as upgrading the existing grid infrastructure where necessary so it can accommodate the wheeling of the

electricity generated by the Applicant's solar farm (collectively referred to as the Grid Infrastructure); and

- Pays to Eskom a once-off connection fee (the Connection Charge) and a recurring tariff.

The obligation to construct the Grid Infrastructure for Eskom's benefit, which is the owner at all relevant times, and the obligation to pay the Connection Charge, are collectively referred to as the Premium.

The Premium represents the total upfront cost incurred by the Applicant to obtain indefinite usage rights of the grid, including the new Grid Infrastructure, for the purposes of wheeling electricity. The obligation to pay the tariffs is ongoing and is excluded and distinct from the Premium. The Premium also excludes the cost of constructing the Applicant's own collector substation, which remains under its ownership and control and does not form part of the Grid Infrastructure, as described.

Collectively, the Agreements govern the construction of the Grid Infrastructure, the handover thereof to Eskom on the specified date (Handover Date), and the Applicant's long-term right to access and use the grid and Grid Infrastructure. The Agreements are contractually interlinked and operate as a single commercial arrangement.

The combined effect of the Agreements is that the Applicant is obliged to construct the Grid Infrastructure on Eskom-controlled land, for Eskom's benefit, but is not allowed to use it without also paying the Connection Charge upfront and, on an ongoing basis, the tariffs.

5. Conditions and assumptions

This binding private ruling is subject to the additional condition and assumption that the value of the Grid Infrastructure, together with the Connection Charge, referred to as the Premium, will be included in the income of Eskom for income tax purposes.

6. Ruling

The ruling made in connection with the proposed transaction is as follows:

- a) The Premium, comprising the cost to the Applicant of the Grid Infrastructure and the Connection Charge, qualifies as a "premium or consideration in the nature of a premium" under section 11(f).
- b) The Applicant must determine the probable period of the right of use or occupation under proviso (bb) to section 11(f) and use that period in determining the amount of the annual allowance under proviso (aa) to section 11(f).
- c) The Applicant will qualify for the allowance under section 11(f)(i), (ii) and (v) from the Handover Date of the Grid Infrastructure.

7. General Note

Refer to paragraph 3.2.4 of Interpretation Note 109 (issue 2) *Lease Premiums* for guidance regarding the apportionment of the deduction under section 11(f).

8. Period for which this ruling is valid

This binding private ruling is valid for a period of five years from 11 March 2026.

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