BINDING PRIVATE RULING: BPR 430

DATE: 17 August 2026

ACT	**:**	**INCOME TAX ACT 58 OF 1962 (the Act)**
SECTION	**:**	**SECTIONS 7(8), 54, 55 AND 56, AND PARAGRAPH 72 OF THE EIGHTH SCHEDULE**
SUBJECT	**:**	**DISTRIBUTION OF A LOAN CLAIM**

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 the tax consequences of the distribution of a loan claim by a resident trust to a foreign trust.

2. Relevant tax laws

In this ruling, references to sections and paragraphs are to sections of the Act and paragraphs of the Eighth Schedule to the Act applicable as at 6 August 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 7(8);
- sections 54, 55 and 56; and
- paragraph 72 of the Eighth Schedule

3. Parties to the proposed transaction

The Applicant:	A resident discretionary trust of South Africa
Co-Applicant 1:	A resident natural person of South Africa
Co-Applicant 2:	A non-resident trust

4. Description of the proposed transaction

The Applicant advanced an interest-free loan to Co-Applicant 1 (Interest-Free Loan) during 2022.

On receipt of the Interest Free Loan Co-Applicant 1 submitted an application to the South African Reserve Bank (SARB) to obtain approval to advance an interest-bearing loan to Co-Applicant 2 (Interest-Bearing Loan). The SARB approved the foreign direct investment in May of 2024. The loan bears interest at an arm's length rate, supported by a transfer pricing benchmark study. The loan agreement became effective later in the year in which the SARB approved the Interest-Bearing Loan.

Co-Applicant 2 on-lent the funds, on an interest-bearing basis, to a foreign company wholly owned by Co-Applicant 2. That company invested the funds in traditional asset classes, as well as venture capital, private equity and private credit opportunities. The assets generate both capital appreciation and interest income.

The proposed transaction comprises the following steps:

Step 1: The Applicant distributes part of its Interest-Free Loan claim against Co-Applicant 1 to Co-Applicant 2. The amount distributed equals the current outstanding capital balance of the Interest-Bearing Loan owed by Co-Applicant 2 to Co-Applicant 1. As a result, Co-Applicant 2 will hold a loan claim against Co-Applicant 1, and Co-Applicant 1 will hold a loan claim against Co-Applicant 2.

The Applicant's Trust Deed authorises the distribution of the Interest-Free Loan to Co-Applicant 2. The trustees may distribute or vest income or capital allocated to a beneficiary to any trust, corporation or company in which that beneficiary has a beneficial interest. For this purpose, a beneficiary has a beneficial interest in a trust, corporation or company if that beneficiary is entitled to receive capital or income under its provisions or through the exercise of discretionary powers.

Co-Applicant 1 is a beneficiary of both the Applicant and Co-Applicant 2. Accordingly, the distribution of the Interest-Free Loan for the benefit of Co-Applicant 1 is permitted.

Step 2: The capital portion of the Interest-Bearing Loan held by Co-Applicant 1 against Co-Applicant 2, and the Interest-Free Loan held by Co-Applicant 2 against Co-Applicant 1, will be extinguished by set-off.

Co-Applicant 1 and Co-Applicant 2 will agree in writing to the set-off. As the two loan claims are equal in value, they will be settled in full on a value-for-value basis.

To date, Co-Applicant 1 has included all accrued interest on the Interest-Bearing Loan as income in his South African income tax returns under section 24J. The interest has not yet been remitted to South Africa. The capitalised interest will be remitted when Co-Applicant 1 requires funds.

5. Conditions and assumptions

This binding private ruling is not subject to any additional conditions and assumptions.

6. Ruling

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

a) The distribution of the Interest-Free Loan by the Applicant to Co-Applicant 2 will constitute a "donation, settlement, or other disposition" for purposes of section 7(8) and paragraph 72 of the Eighth Schedule.

b) Neither section 7(8) nor paragraph 72 will apply to the distribution, as no amount would have constituted income for Co-Applicant 2 if it were a resident, by reason of or in consequence of this donation and no capital gain will be attributable to the donation of the Interest-Free Loan.

c) The donation will be exempt from donations tax in terms of section 56(1)(*l*).

7. Additional notes

a) No view is expressed on the interpretation and application of the general anti-avoidance provisions or doctrine in the context of the proposed transaction.

b) No view is expressed on whether the proposed transaction is permissible under the exchange control regulations.

8. Period for which this ruling is valid

This binding private ruling is valid for a period of three years from 6 August 2026.

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