



South African Revenue Service

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SECTION : SECTION 10(1)(cN)
SUBJECT : PUBLIC BENEFIT ORGANISATIONS: PARTIAL TAXATION

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Preamble

In this Note unless the context indicates otherwise –

- “**basic exemption**” means the amount determined as a threshold and applied to the total receipts and accruals from business undertakings or trading activities of a PBO to the extent that such receipts and accruals are not derived from permissible business undertakings or trading activities;
- “**Commissioner**” means the Commissioner for the South African Revenue Service appointed under section 6 of the South African Revenue Service Act 34 of 1997, or the Acting Commissioner designated under section 7 of that Act;
- “**NPC**” means a “non-profit company” as defined in section 1 of the Companies Act 71 of 2008;
- “**partial taxation**” means the method of taxing the receipts and accruals derived from business undertakings or trading activities falling outside the permissible business undertakings or trading activities exceeding the basic exemption in section 10(1)(cN)(ii);
- “**permissible business undertakings or trading activities**” mean limited qualifying business undertakings or trading activities a PBO may conduct, which are integral and directly related, occasional or approved by the Minister, the receipts and accruals of which are exempt from income tax;
- “**PBA**” means any public benefit activity listed in Part I of the Ninth Schedule and any other activity determined by the Minister by notice in the *Government Gazette* to be of a benevolent nature, having regard to the needs, interests and well-being of the general public;¹

¹ The term “public benefit activity” is defined in section 30(1).

- “**PBO**” means an organisation meeting the requirements of the definition of “public benefit organisation” in section 30(1) and approved by the Commissioner under section 30(3);²
- “**Schedule**” means a Schedule to the Act;
- “**section**” means a section of the Act;
- “**section 10(1)(cN)**” means the section providing for the exemption from income tax of the receipts and accruals of a PBO derived from carrying on its PBAs and permissible business undertakings or trading activities as well as partial taxation;
- “**TA Act**” means the Tax Administration Act 28 of 2011;
- “**the Act**” means the Income Tax Act 58 of 1962; and
- any word or expression bears the meaning ascribed to it in the Act.

All binding general rulings, guides, interpretation notes, public notices and returns referred to in this Note are the latest versions, unless the context indicates otherwise, which are available on the SARS website at www.sars.gov.za or available on request via eFiling at www.sarsefiling.co.za, whichever is applicable.

This Note is based on legislation as at time of issue. Information relating to taxes reflect the rates applicable as at the date of issue of this Note.³

1. Purpose

This Note provides guidance on the interpretation and application of section 10(1)(cN), which provides for two different kinds of exemptions, namely –

- the exemption from income tax⁴ of the receipts and accruals of a PBO to the extent that the receipts and accruals are derived from –
 - carrying on its PBAs;⁵ and
 - permissible business undertakings or trading activities;⁶ and

a basic exemption⁷ to the extent that the receipts and accruals fall within the thresholds provided.

2. Background

Section 10(1)(cN) applies to the receipts and accruals of only an organisation approved by the Commissioner as a PBO under section 30(3).⁸ Approved PBOs enjoy preferential tax treatment.

² The term “public benefit organisation” is defined in section 30(1).

³ For historical rates of various taxes, duties and levies, see the *Guide for Tax Rates/Duties/Levies*.

⁴ Also referred to as normal tax. The term “normal tax” as defined in section 1(1) means income tax referred to in section 5(1).

⁵ Section 10(1)(cN)(i).

⁶ Section 10(1)(cN)(ii)(aa), (bb) and (cc).

⁷ Section 10(1)(cN)(ii)(dd).

⁸ For further commentary, see the *Tax Exemption Guide for Public Benefit Organisations in South Africa*.

A PBO is permitted to carry on permissible business undertakings or trading activities provided its sole or principal object remains the carrying on of one or more PBAs. The receipts and accruals derived by a PBO from conducting permissible business undertakings or trading activities may qualify for exemption from income tax provided the prescribed conditions and requirements, as considered in this Note, are met.

The receipts and accruals derived by a PBO from conducting business undertakings or trading activities falling outside the permissible business undertakings or trading activities, are taxable, if such receipts and accruals exceed the basic exemption.

3. The law

Section 10(1)(cN)

10. Exemptions.—(1) There shall be exempt from normal tax—

(cN) the receipts and accruals of any public benefit organisation approved by the Commissioner in terms of section 30(3), to the extent that the receipts and accruals are derived—

(i) otherwise than from any business undertaking or trading activity; or

(ii) from any business undertaking or trading activity—

(aa) if the undertaking or activity—

(A) is integral and directly related to the sole or principal object of that public benefit organisation as contemplated in paragraph (b) of the definition of “public benefit organisation” in section 30;

(B) is carried out or conducted on a basis substantially the whole of which is directed towards the recovery of cost; and

(C) does not result in unfair competition in relation to taxable entities;

(bb) if the undertaking or activity is of an occasional nature and undertaken substantially with assistance on a voluntary basis without compensation;

(cc) if the undertaking or activity is approved by the Minister by notice in the *Gazette*, having regard to—

(A) the scope and benevolent nature of the undertaking or activity;

(B) the direct connection and interrelationship of the undertaking or activity with the sole or principal object of the public benefit organisation;

(C) the profitability of the undertaking or activity; and

(D) the level of economic distortion that may be caused by the tax exempt status of the public benefit organisation carrying out the undertaking or activity; or

(dd) other than an undertaking or activity in respect of which item (aa), (bb) or (cc) applies and do not exceed the greater of—

(i) 5 per cent of the total receipts and accruals of that public benefit organisation during the relevant year of assessment; or

(ii) R200 000;

4. Application of the law

The starting point for the general framework to calculate taxable income is “gross income”. The meaning of “exemptions” is also relevant for this calculation (see 4.3). The defined term “taxable income”⁹ is the amount on which a person’s income tax at the applicable rate is calculated.

4.1 Gross income

Gross income, in relation to any year of assessment,¹⁰ (see 13.3) is the total amount of income (worldwide), in cash or otherwise, received by or accrued to or in favour of any person who is a resident.¹¹ Receipts or accruals of a capital nature are generally excluded from gross income, such as *bona fide* donations. Certain other receipts and accruals specified within the definition of “gross income” are included regardless of their nature.¹²

South Africa has a residence basis of taxation, which means that a South African resident is taxable on their worldwide income regardless of the source of the income. The definition of “resident” in the context of a person other than a natural person, amongst other things, means a person, which is incorporated, established or formed in South Africa.¹³ The definition of “resident” therefore applies to a PBO incorporated, formed or established as an NPC, a trust or an association of persons in South Africa.

A resident must include in that resident’s gross income the total amount in cash or otherwise received by or accrued to, or in favour of the resident.

4.1.1 Amounts received by or accrued to

An amount, excluding receipts and accruals of a capital nature, will constitute gross income if it was received by or accrued to a taxpayer,¹⁴ during any year or period of assessment. In *CIR v Genn & Co (Pty) Ltd*¹⁵ it was held that not every obtaining of physical control over money and money’s worth constitutes a receipt for purposes of the definition of “gross income”.

The words “received” and “accrued” are not defined in the Act, and therefore reliance is placed on various principles established in this regard by way of case law. An amount will be “received” by a person as envisaged in the Act only if the person receives it on the person’s own behalf and for the person’s own benefit.¹⁶ An amount “accrues” to a person when the person is entitled to it and when the person’s right to the amount is unconditional.¹⁷ An amount is included in a person’s gross income in the year of assessment in which that person receives it, or the year of assessment in which it accrues to that person, whichever comes first.¹⁸

⁹ Section 1(1).

¹⁰ The term “year of assessment” as defined in section 1(1) generally means any year or other period in respect of which any tax or duty leviable under the Act is chargeable.

¹¹ The term “gross income” is defined in section 1(1).

¹² See paragraphs (a) to (n).

¹³ The term “resident” is defined in section 1(1).

¹⁴ The term “taxpayer” as defined in section 1(1) means any person chargeable with any tax leviable under the Act.

¹⁵ 20 SATC 113.

¹⁶ *Geldenhuys v CIR* 1974 (3) SA 256 (C), 14 SATC 419.

¹⁷ *Lategan v CIR* 1926 CPD 203, 2 SATC 16; *Ochberg v CIR* 1933 CPD, 6 SATC 1.

¹⁸ *SIR v Silverglen Investments (Pty) Ltd* 1969 (1) SA 365 (A), 30 SATC 199.

The receipt or accrual in a form other than money could constitute an amount.¹⁹ Unless this amount is of a capital nature, and is not specifically included in the definition of “gross income”, it should be valued and included in the gross income of the taxpayer in the year of assessment in which it is received or accrued.

4.2 Taxable income

After determining a person's gross income, the next step is to determine income,²⁰ by deducting from gross income all receipts and accruals that are exempt from income tax.

Finally, the taxable income or assessed loss (see **11**) of a person is arrived at by –

- deducting from income, all the allowable expenses, losses and allowances, under the Act;²¹ and
- adding all specified amounts to be included in income or taxable income under the Act, for example, taxable capital gains (see **15.2**).

4.3 Exemptions under section 10(1)

There are two categories of exemptions, namely, certain income that is exempt from income tax,²² and the receipts and accruals of certain entities²³ that are exempt from income tax.

The type of receipt or accrual envisaged is one that is included in the definition of “gross income” (see **4.1**). The term “gross income” includes the total amount received by or accrued (see **4.1.1**) to a person that is not of a capital nature unless specifically included under one of the sub-paragraphs of the definition.

Receipts or accruals of a capital nature not specifically included in gross income would not be included in the receipts and accruals referred to in the opening words of section 10(1)(cN) since they do not require exemption. Receipts or accruals of a capital nature are taken into account in determining a taxable capital gain.²⁴ A taxable capital gain is potentially subject to income tax, however, the exemptions in section 10 do not apply to it because a taxable capital gain is included directly in taxable income²⁵ and does not comprise “income” (gross income less exempt income).²⁶ Paragraph 63A of the Eighth Schedule contains the rules for disregarding capital gains and losses of a PBO (see **15.2**).

¹⁹ *Commissioner, SARS v Brummeria Renaissance (Pty) Ltd* 2007 (6) SA 601 (SCA), 69 SATC 205. Also, see Interpretation Note 58 “The Brummeria case and the right to use loan capital interest free”.

²⁰ The term “income” is defined in section 1(1).

²¹ Section 11(a) read with section 23(g).

²² For example, any levy contemplated in section 10(1)(e)(i), any amount, amongst other things, received as a war pension contemplated in section 10(1)(g) and any government grant or government scrapping payment contemplated in section 10(1)(y).

²³ For example, the national, provincial or local sphere of government under section 10(1)(a), institutions, boards or bodies under section 10(1)(cA)(i), recreational clubs under section 10(1)(cO) and small business funding entities under section 10(1)(cQ).

²⁴ The term “taxable capital gain” as defined in section 1(1) means an amount determined in accordance with paragraph 10 of the Eighth Schedule.

²⁵ Paragraph (b) of the definition “taxable income” in section 1(1).

²⁶ Section 26A.

5. Receipts and accruals exempt from income tax under section 10(1)(cN)

5.1 Exempt receipts and accruals derived otherwise than from business undertakings or trading activities under section 10(1)(cN)(i)

The receipts and accruals of any PBO will be exempt from income tax to the extent that the receipts and accruals are derived otherwise than from any business undertaking or trading activity (see 5.1.1). The receipts and accruals derived by a PBO from carrying on its sole or principal object,²⁷ which must be the carrying on of one or more PBAs, are therefore exempt from income tax under section 10(1)(cN)(i).

Since a PBO enjoys preferential tax treatment, the expression “sole or principal” must be considered strictly, having regard to the facts of each case.²⁸ The word “principal” is used in conjunction with “sole” and this concept therefore implies that the PBO must have as the only, or predominant, or foremost aim to carry on one or more PBAs. The word “sole” equates to 100%. The word “principal” as a percentage within this context is interpreted and concluded to mean not less than 90%, having regard to the expression “substantially the whole”,²⁹ which in the strict sense is interpreted by SARS as 90% but not less than 85% [see 5.2.1 (b)].

A PBO is required to carry on its PBAs in a non-profit manner with an altruistic or philanthropic intent,³⁰ with the intention of not directly or indirectly promoting the economic self-interest of any fiduciary or employee,³¹ where each PBA carried on is for the benefit of, or is widely accessible to the general public at large.³² The sole or principal object of a PBO can therefore not be the carrying on of a business undertaking or trading activity (see 5.1.1). The concepts “business undertaking” and “trading activity” are not mentioned in the approval section 30 only in section 10(1)(cN), which provides for the exemption of income tax of receipts and accruals of a PBO.

A PBO may not be a party to, or permit itself to be used for any transaction, operation or scheme, the sole or main purpose of which is or was to reduce, postpone, or avoid any tax, duty or levy, which would otherwise have been or would have become payable by any person under the Act or under any other Act administered by the Commissioner.³³ This rule will apply irrespective of whether the PBO itself or any other person benefitted from the reduction, postponement or avoidance of any applicable tax, duty or levy.

²⁷ Paragraph (b) of the definition of “public benefit organisation” in section 30.

²⁸ *CIR v D & N Promotions (Pty) Ltd* 1995 (2) SA 296 (A), 57 SATC 178 at 182.

²⁹ The expression “substantially the whole” was introduced in the revised tax system for PBOs in 2000 to achieve a more supportive fiscal environment and to give effect to the proposals and recommendations of the Katz Commission set out in the *Ninth Interim Report of the Commission of Inquiry into Certain Aspects of the Tax Structure of South Africa* at 9 and 18.

³⁰ Paragraph (b)(i) of the definition “public benefit organisation” in section 30(1).

³¹ Paragraph (b)(ii) of the definition “public benefit organisation” in section 30(1).

³² Paragraph (c)(i) of the definition “public benefit organisation” in section 30(1).

³³ Section 30(3)(c).

5.1.1 Meaning of “business undertaking” and “trading activity”

The terms “business”, “carrying on business” and “business undertaking” are not defined in the Act and should therefore be interpreted according to their ordinary meaning as applied to the subject matter with regard to which they are used.³⁴

The *Claassen’s Dictionary of Legal Words and Phrases* defines “business” as follows:³⁵

“Business is anything which occupies the time and attention of a man for the purpose of profit..... Generally, the word business is capable of a very wide meaning. It may be a charitable business Even a single, isolated activity enterprise or pursuit may constitute a business.”

On the issue of what constitutes “carrying on business”, Beadle CJ, in *Estate G v COT* said the following:³⁶

“The sensible approach, I think, is to look at the activities concerned as a whole, and then to ask the question: Are these the sort of activities which, in commercial life, would be regarded as ‘carrying on business’? The principal features of the activities which might be examined in order to determine this are their nature, their scope and magnitude, their object (whether to make a profit or not), the continuity of the activities concerned, if the acquisition of property is involved, the intention with which the property was acquired. This list of features does not purport to be exhaustive, nor are any one of these features necessarily decisive, nor is it possible to generalize and state which feature should carry most weight in determining the problem. Each case must depend on its own particular circumstances.”

Based on case law, “business” is therefore generally accepted to include anything that occupies the time, attention and labour of a person for profit.³⁷ There are no set rules to determine what constitutes “business” and as a result, the answer to the question of whether a person is carrying on “business” requires an inference from facts, taking into account certain factors such as intention, motive, frequency and nature of the activity.³⁸

The words “trading activity” are not defined in the Act. The term “trade” is defined as including –³⁹

“every profession, trade, business, employment, calling, occupation or venture, including the letting of property and the use of or the grant of permission to use any patent as defined in the Patents Act⁴⁰ or any design as defined in the Designs Act⁴¹ or trade mark as defined in the Trade Marks Act⁴² or any copyright as defined in the Copyright Act⁴³ or any other property which is of a similar nature”.

³⁴ Kellaway, E., A. (1995) *Principles of Legal Interpretation of Statutes, Contracts and Wills*. Butterworths: Durban. Also, see LC Steyn *Die Uitleg van Wette* 5 ed (1981) Juta and Company (Pty) Ltd at 4 to 7.

³⁵ Claassen, R., C. (2023). [online] (My LexisNexis: June 2023).

³⁶ 1964 (2) SA 701 (SR), 26 SATC 168 at 173.

³⁷ *Smith v Anderson* (15 Ch.D. 258).

³⁸ *Estate G v COT* 1964 (2) SA 701 (SR), 26 SATC 168. Also, see *CIR v Stott* 1928 AD 252, 3 SATC 253 at 257 and ITC 1283 (1978) 41 SATC 36 (SW) at 43.

³⁹ Section 1(1).

⁴⁰ Act 57 of 1978.

⁴¹ Act 195 of 1993.

⁴² Act 194 of 1993.

⁴³ Act 98 of 1978.

The *Claassen's Dictionary of Legal Words and Phrases* defines "trade" as follows:⁴⁴

"A handicraft, occupation or a business carried on by a person for profit."

The courts have also interpreted trade to be neither exhaustive nor restrictive and will include any activity involving risking something with the object of making a profit, including the continuous turnover of floating capital.⁴⁵ The absence of profit will, however, not preclude a taxpayer's activities from being classified as a trade.⁴⁶ Each case will be considered on its own merits to determine whether a trading activity⁴⁷ is being carried on.⁴⁸

The carrying on of a "trade" is not the same thing as the conducting of a "business". However, the word "business" is included in the definition of "trade". The conducting of a "business undertaking" will, therefore, also constitute "trade".

Example 1 – Trading activities

The following are non-exhaustive examples of trading activities:

- Letting of immovable property
- Conducting farming activities
- Provision of professional services
- The granting of permission to use a copyright or patent

The passive investment of surplus funds in shares or an investment in a financial institution is not normally regarded as a business undertaking or trading activity. However, if it is undertaken in an active manner, such as the advancing of interest-bearing loans at market-related rates it could be regarded as a business undertaking. The mere holding of shares does not constitute a "business undertaking" or "trading activity". Continuity is a factor that may be taken into consideration in determining whether a person is conducting a business. However, the main criterion applied in determining whether a business is conducted, is that the transaction should be undertaken with the direct and primary object of making a profit and not with a mere hope of ultimately making a profit.⁴⁹

⁴⁴ Claassen, R., C. (2023). [online] (My LexisNexis: June 2023).

⁴⁵ ITC 1675 (1998) 62 SATC 219 (G); *Burgess v CIR* 1993 (4) SA 161 (A), 55 SATC 185 at 196; ITC 770 (1953) 19 SATC 216 (T) at 216 and 7; ITC 615 (1946) 14 SATC 399 (U) at 402 and *Modderfontein Deep Levels Ltd & another v Feinstein* 1920 TPD 288.

⁴⁶ *De Beers Holdings (Pty) Ltd v CIR* 1986 (1) SA 8 (A), 47 SATC 229 at 260.

⁴⁷ Section 10(1)(cN)(ii).

⁴⁸ For commentary, see Interpretation Note 33 "Assessed Losses Companies: The 'Trade' and 'Income from Trade' Requirements".

⁴⁹ *Platt v CIR* 1922 AD 42, 32 SATC 142.

5.2. Exempt receipts and accruals derived from permissible business undertakings or trading activities under section 10(1)(cN)(ii)

The receipts and accruals derived by a PBO from business undertakings or trading activities will be exempt from income tax only if such undertakings or activities fall within the permissible business undertakings or trading activities provided in section 10(1)(cN)(ii), namely, if the undertaking or activity is –

- integral and directly related to the sole or principal object of that PBO [see **5.2.1 (a)**], is carried out or conducted on a basis substantially the whole of which is directed towards the recovery of cost [see **5.2.1 (b)**] and does not result in unfair competition in relation to taxable entities [see **5.2.1 (c)**];
- of an occasional nature and undertaken substantially with assistance on a voluntary basis without compensation (see **5.2.2**); or
- approved by the Minister (see **5.2.3**).

The use of the disjunctive word “or” between the permissible business undertakings or trading activities provided in that section means that the receipts and accruals of a PBO may be derived from either one or a combination of those undertakings or activities. There is no limit on the amount of receipts and accruals qualifying for exemption from income tax under a permissible business undertaking or trading activity.

Each permissible business undertaking or trading activity in section 10(1)(cN)(ii) has its own conditions and requirements which are applied separately. The permissible business undertakings and trading activities are considered below.

5.2.1 Integral and directly related permissible business undertaking or trading activity

The receipts and accruals of any PBO will be exempt from income tax to the extent that the receipts and accruals are derived from any business undertaking or trading activity if the undertaking or activity –⁵⁰

- is integral and directly related to the sole or principal object of that PBO;⁵¹
- is carried out or conducted on a basis substantially the whole of which is directed towards the recovery of cost;⁵² and
- does not result in unfair competition in relation to taxable entities.⁵³

Section 10(1)(cN)(ii)(aa) must be interpreted and applied as a whole, having regard to the context in which it appears and the apparent purpose to which it is directed. The individual requirements should therefore not be read in isolation because they are joined together by the conjunctive word “and”, which means that all the requirements must be met for the receipts and accruals to be regarded as being derived from this permissible business undertakings or trading activities.

⁵⁰ Section 10(1)(cN)(ii)(aa).

⁵¹ Section 10(1)(cN)(ii)(aa)(A).

⁵² Section 10(1)(cN)(ii)(aa)(B).

⁵³ Section 10(1)(cN)(ii)(aa)(C).

(a) Integral and directly related to the sole or principal object

The words “integral”, “directly” and “related” are not defined in the Act. The *Cambridge Dictionary* provides the following descriptions:

- “Integral” is “necessary and important as a part of a whole, contained within something, not separate.”⁵⁴
- “Directly” is “without anything else being involved or in between.”⁵⁵
- “Related” is “connected to, influenced by, or caused by something.”⁵⁶

A business undertaking or trading activity will not be regarded as related to a PBO’s sole or principal object if it does not directly contribute to achieving the sole or principal object of the PBO, which must be to carry on one or more PBA. Whether a business undertaking or trading activity contributes to achieving the PBO’s sole or principal object will depend on the facts of each case. The size and extent of the business undertaking or trading activity involved must be considered in relation to the nature and extent of the approved function that they intend to serve to determine whether those business undertakings or trading activities contribute directly to achieve the sole or principal object of a PBO.

Example 2 – Integral and directly related business undertaking or trading activity*Facts:*

A PBO provides healthcare services at no charge to poor and needy persons.⁵⁷ In addition to providing a medical consultation service, the PBO also provides medication at cost.

Result:

The provision of medication at cost is regarded as integral and directly related to the activity of providing healthcare services to poor and needy persons.

Example 3 – Integral and directly related business undertaking or trading activity*Facts:*

A PBO carries on a community broadcasting service to serve a particular community, meet their needs, contribute to the general enrichment of the community members within its broadcasting coverage area, and to contribute to the overall community development and empowerment.⁵⁸

The Independent Communications Authority of South Africa has granted the PBO a community broadcasting service licence. The majority of the programmes, news bulletins and current affairs broadcast are local origination programmes.

⁵⁴ <https://dictionary.cambridge.org/dictionary/english/integral> [Accessed 31 October 2023].

⁵⁵ <https://dictionary.cambridge.org/dictionary/english/directly> [Accessed 31 October 2023].

⁵⁶ <https://dictionary.cambridge.org/dictionary/english/related> [Accessed 31 October 2023].

⁵⁷ PBA 2(a), which is described as the provision of health care services to poor and needy persons.

⁵⁸ PBA 6(a), which is described as the advancement, promotion or preservation of the arts, culture or customs.

The PBO, amongst other things, derives receipts and accruals from advertising and the sale of airtime from local community members or local businesses within the community served. It is a requirement under the Electronic Communications Act 36 of 2005, regulating electronic communications in South Africa, that receipts and accruals are to be derived for non-profit purposes. A licenced community broadcasting service is also required in the event of any surplus funds to use or invest such funds in the community served for purposes of community development.

Results:

The receipts and accruals derived by the PBO from advertising income and the sale of airtime may be regarded as integral and directly related to the PBA carried on by the PBO, which is the advancement and promotion of the arts, culture and customs of that particular community being served by the PBO contemplated in PBA 6(a).

An unrelated business undertaking or trading activity would be an undertaking or activity conducted by a PBO that is not directly related to the performance of the PBO's sole or principal object. The use by a PBO of the profits derived from any unrelated business undertaking or trading activity does not make the undertaking or activity directly related to the performance by the PBO or its sole or principal object.

It is unacceptable for the sole or principal object of a PBO to be the conducting of a commercial business undertaking or trading activity to use profits or proceeds derived from such commercial undertaking or activity to carry on or fund PBAs. Any receipts and accruals derived from business undertakings or trading activities that are not integral and directly related to the sole or principal object of the PBO are taxable subject to the basic exemption (see 6).

Example 4 – Unrelated business undertakings or trading activities to a PBO's sole or principal object

The following are non-exhaustive examples of unrelated business undertakings or trading activities:

- A PBO, established to practice religion contemplated in PBA 5(a),⁵⁹ uses its assets to generate income, for example, the letting of parking facilities, and its hall to members of the general public on week days and Saturdays for various functions such as weddings, birthday celebrations, concerts and conferences.
- A museum, during the week, uses its theatre auditorium for showing educational films to promote the arts, culture, buildings and collections with historical interest, since its sole or principal object is to carry on PBA 6(b).⁶⁰ However, the museum operates the theatre as a motion picture theatre showing mainstream movies at market-related prices for the general public over weekends when the museum is closed.

⁵⁹ This PBA is described as the promotion or practice of religion which encompasses acts of worship, witness, teaching and community service based on a belief in a deity.

⁶⁰ This PBA is described as the promotion, establishment, protection, preservation or maintenance of areas, collections or buildings of historical or cultural interest, national monuments, national heritage sites, museums, including art galleries, archives and libraries.

- A PBO, established to prevent cruelty to animals contemplated in PBA 7(b),⁶¹ receives income from providing pet boarding and grooming services to the general public at market-related prices to augment their income.

(b) Substantially the whole directed towards the recovery of cost

It is a requirement that the integral and directly related permissible business undertaking or trading activity is carried out or conducted on a basis substantially the whole of which is directed towards the recovery of cost.

The words “carried out”, “conducted”, “basis”, “substantially”, “whole”, “recovery” and “cost” are not defined in the Act. The ordinary meaning in the *Cambridge Dictionary* are as follows:

- “Carried out something” is “to perform or complete a job or activity; to fullfull.”⁶²
- “Conduct” is “to organize and perform a particular activity.”⁶³
- “Basis” is “the most important facts, ideas, etc. from which something is developed.”⁶⁴
- “Substantially” is “to a large degree.”⁶⁵
- “Whole” is “complete or not divided.”⁶⁶
- “Recovery” is “the process of getting something back.”⁶⁷
- “Cost” is “the amount of money needed to buy, do, or make something, or an amount spent for something.”⁶⁸

The expression “substantially the whole” is used in various sections of the Act, although not defined in the Act. Strictly interpreted the expression is regarded by SARS to mean 90% or more. However, since PBOs operate in an uncertain environment making proper planning difficult, SARS in these circumstances accepts a percentage of not less than 85%.⁶⁹ This percentage must be determined using a method appropriate to the circumstances and may be motivated by taking into account time or cost.

It is not always possible to base business undertakings or trading activities on a 100% cost-recovery basis and it is for this reason that legislation requires that substantially the whole, not less than 85%, of the integral and directly related permissible business undertaking or trading activity must be based on the recovery of cost.⁷⁰ This

⁶¹ This PBA is described as the care of animals, including the rehabilitation, or prevention of the ill-treatment of animals.

⁶² <https://dictionary.cambridge.org/dictionary/english/carry-out?q=carried+out> [Accessed 31 October 2023].

⁶³ <https://dictionary.cambridge.org/dictionary/english/conduct> [Accessed 31 October 2023].

⁶⁴ <https://dictionary.cambridge.org/dictionary/english/basis> [Accessed 31 October 2023].

⁶⁵ <https://dictionary.cambridge.org/dictionary/english/substantially> [Accessed 31 October 2023].

⁶⁶ <https://dictionary.cambridge.org/dictionary/english/whole> [Accessed 31 October 2023].

⁶⁷ <https://dictionary.cambridge.org/dictionary/english/recovery> [Accessed 31 October 2023].

⁶⁸ <https://dictionary.cambridge.org/dictionary/english/cost> [Accessed 31 October 2023].

⁶⁹ For further commentary, see Binding General Ruling (Income Tax) 20 “Interpretation of the Expression ‘Substantially the Whole’ ”.

⁷⁰ Section 10(1)(cN)(ii)(aa)(B).

requirement will be met when not less than 85% of the integral and directly related permissible business undertaking or trading activity is carried out to recover direct and reasonable indirect costs.

The concept “recovery of cost” means that the integral and directly related permissible business undertaking or trading activity is not conducted at a mark-up to maximise profits, but rather with the intention of recovering direct and reasonable indirect costs relating to the integral and directly related business undertaking or trading activity.

In *C v COT Goldin J* stated the following on the meaning of “cost”:⁷¹

“The word ‘cost’, when undefined, may be used in various senses. As Jordan CJ said in the case of *Ex parte Brierley, Re Elvidge* (1947) 47 NSWSR 423 at 427; *Words and Phrases Legally Defined* 2 ed –

‘It may, in the case of manufacture, be used to mean the price paid for the raw material plus the wages paid for turning it into finished articles; and, in the case of trading, the price paid for what is re-sold. Or, in either case, it may include all the other expenses incurred in bringing into existence, or obtaining, and then selling a vendible article – what are generally described as ‘overheads’ ”.

Goldin J stated further that –⁷²

“[t]he word ‘cost’ has to be construed according to its context”.

Trollip JA held in *SIR v Eaton Hall (Pty) Ltd* that –⁷³

“in the absence of any definition in the Act of such cost one must look at its ordinary meaning. The *Oxford English Dictionary* defines ‘cost’ as meaning: ‘That which must be given or surrendered in order to acquire, produce, accomplish, or maintain something; the price paid for a thing’ ”.

Example 5 – Substantially the whole towards the recovery of cost

Facts:

A PBO provides literacy and numeracy education to adults.⁷⁴ To fund the provision of these PBAs, the PBO charges tuition fees. The fees are based on the estimated cost to the PBO in providing the tuition that includes the cost of hiring a hall, tuition material and text books. The tuition is provided on a voluntary basis by teachers after hours. The tuition fee is the principal source of income for the PBO.

Result:

Since the tuition fees are determined on a cost-recovery basis and no charge is made for the donated services of the teachers, substantially the whole of the activities are regarded as being directed towards the recovery of cost.

⁷¹ 1973 (4) SA 449 (R), 35 SATC 241 at 246 and 247.

⁷² At 247.

⁷³ 1975 (4) SA 953 (A), 37 SATC 343 at 347.

⁷⁴ PBA 4(c), which is described as “Adult education and training” as defined in the Adult Education and Training Act 52 of 2000, including literacy and numeracy education.

Example 6 – Recovery of cost*Facts:*

A PBO carries on a PBA under the category “Education and Development”, and operates a tuck shop serving and selling refreshments to learners for a consideration determined by taking into account the cost of the goods. The cost of the goods sold includes the purchase price, costs such as telephone, electricity, repairs and maintenance, stationery, cleaning materials, and an amount for a reserve created for future replacement costs of capital assets such as a refrigerator, microwave and deepfreeze. Assistance in the tuck shop is provided by volunteers and as a result no salaries or wages are incurred and a small profit may result, which is used by the PBO to fund its PBAs.

Result:

The running of the tuck shop is regarded as being carried out or conducted on a cost-recovery basis, since substantially the whole of its business activities are directed towards the recovery of cost.

(c) Unfair competition with taxable entities

It is a requirement that the integral and directly relating permissible business undertaking or trading activity should not result in unfair competition with other taxable entities.

The *Ninth Interim Report of the Commission of Inquiry into Certain Aspects of the Tax Structure of South Africa* provides the following on unfair competition:⁷⁵

“In granting privileged tax status to particular organisations, the fiscus needs to have regard to the issue of ‘unfair competition’ between bodies which are subject to tax and those which are tax-exempt. The broad issue of fairness or equity within a free-market economy is a fundamental one that warrants some degree of vigilance. However, the Commission is of the view that this value should not be elevated to the status of a ‘*summum bonum*’⁷⁶ and needs to be counter-balanced with other important values in society, including the need for a strong, independent, and viable NPO⁷⁷ sector.”

A PBO should not be in a more favourable position or have an unfair advantage over a taxable entity conducting the same business undertaking or trading activity.⁷⁸ A PBO has an advantage in that it is not required to sacrifice a portion of its profit in the form of tax.

Each case, however, must be considered on its own merits to determine whether a PBO has an unfair advantage. In determining whether a PBO has an unfair advantage, various factors could be taken into account such as –

- whether the PBO engages in active advertising or marketing;
- whether the business undertaking or trading activity is conducted on a competitive basis with the intention of maximising profits;

⁷⁵ At 10.

⁷⁶ The Latin expression is described in the *Merriam-Webster Dictionary* as “the supreme good from which all others are derived”. See, www.merriam-webster.com/dictionary/summum%20bonum [Accessed 31 October 2023].

⁷⁷ Stands for non-profit organisation.

⁷⁸ Section 10(1)(cN)(ii)(aa)(C).

- the amount of income received;
- the location and availability of similar business undertakings or trading activities; or
- whether voluntary assistance is provided by other persons who are not compensated for their services.

Example 7 – Unfair competition

Facts:

An orphanage caring for abandoned children, which is approved by the Commissioner as a PBO,⁷⁹ also operates a service station with the intention of earning a profit to augment its income.

Result:

The operation of the service station is a commercial trading activity resulting in unfair competition with other taxable entities.

The receipts and accruals derived by the PBO from the service station does not meet the requirements of the integral and directly related permissible business undertaking or trading activity (see 5.2.1) and will therefore be taxable subject to the basic exemption (see 6).

Example 8 – Unfair competition

Facts:

A PBO cares for disabled persons.⁸⁰ The PBO has acquired land on which the residents are taught to grow vegetables and care for a small herd of cattle. The mechanical labour as well as veterinary services are provided at no cost by a nearby agricultural college. All the manual labour is undertaken by the residents. The produce is primarily used for own consumption and any surplus is sold to a local farmers' market to defray costs.

Some of the residents have been taught to knead and bake bread, which is supplied to a nearby supermarket. No commercial ovens or baking processes are used.

Both the farming and baking activities are regarded as being of therapeutic benefit for the residents.

⁷⁹ PBA 1(a), which is described as the care or counseling of, or the provision of education programmes relating to, abandoned, abused, neglected, orphaned or homeless children.

⁸⁰ PBA 2(b), which is described as the care or counseling of terminally ill persons or persons with a severe physical or mental disability, and the counseling of their families in this regard. Also, see PBA 4(f), which is described as the training or education of persons with a severe physical or mental disability.

Result:

The trading activities are integral and directly related to the sole object of the PBO, which is to care for and train disabled persons. The primary purpose of the activities is to provide for the consumption of the residents and only the excess produce is sold to recover costs. Secondly, the activities are regarded as being of therapeutic benefit to the residents who are unable to find employment in the open labour market.

Substantially the whole of the trading activities are conducted on a cost-recovery basis [see **5.2.1 (b)**]. If it were not for the donated services or if external labour had been hired, a profit would not have been realised.

The activities do not result in unfair competition with other taxable entities.

5.2.2 Occasional permissible business undertakings or trading activities

The receipts and accruals of any PBO will be exempt from income tax to the extent that the receipts and accruals are derived from any business undertaking or trading activity if the undertaking or activity is of an occasional nature and undertaken substantially with assistance on a voluntary basis without compensation.⁸¹

The Act does not define “occasional”, “nature”, “substantially” [see **5.2.1 (b)**], “assistance”, “voluntary” and “compensation”. The *Cambridge Dictionary* provides the following descriptions:

- “Occasional” is “not happening or done often or regularly.”⁸²
- “Nature” is “the type or main characteristic of something.”⁸³
- “Assistance” is “help.”⁸⁴
- Voluntary” is “done, made, or given willingly, without being forced or paid to do it.”⁸⁵
- “Compensation” is “the combination of money and other benefit (= rewards) that an employee receives for doing their job.”⁸⁶

A business undertaking or trading activity of an occasional nature is one conducted on an irregular, infrequent basis or as a special event. For example, fundraising activities that take place on an annual basis with the assistance of helpers or volunteers who are not compensated for their services.

The difference between occasional and frequent is that “occasional” occurs irregularly, from time-to-time, once in a while, therefore rarely, while “frequent” occurs regularly, very often or many times. Fundraising activities will therefore not be regarded as occasional if there is a frequency and continuity to them, and if such activities are pursued in a manner similar to commercial activities of taxable entities.

⁸¹ Section 10(1)(cN)(ii)(bb).

⁸² <https://dictionary.cambridge.org/dictionary/english/occasional> [Accessed 31 October 2023].

⁸³ <https://dictionary.cambridge.org/dictionary/english/nature> [Accessed 31 October 2023].

⁸⁴ <https://dictionary.cambridge.org/dictionary/english/assistance> [Accessed 31 October 2023].

⁸⁵ <https://dictionary.cambridge.org/dictionary/english/voluntary> [Accessed 31 October 2023].

⁸⁶ <https://dictionary.cambridge.org/dictionary/english/compensation> [Accessed 31 October 2023].

Example 9 – Business undertakings or trading activities of an occasional nature

The following are non-exhaustive examples of business undertakings or trading activities of an occasional nature:

- Annual jumble sales at which donated second-hand clothing is sold
- Annual fundraising events such as fêtes, cake sales or the sale of raffle tickets involving prizes that have been donated
- Charity golf days involving donated or sponsored prizes
- A gala dinner held to raise funds
- The sale of Christmas cards reconditioned by volunteers

It is a requirement that a large or significant part of the occasional permissible business undertaking or trading activity must be undertaken with assistance from volunteers without compensation.

The repayment of reasonable and necessary out-of-pocket expenditure to volunteers in assisting in the carrying on of the PBO's occasional permissible business undertakings or trade activities is allowed.

Example 10 – Substantially with assistance on a voluntary basis*Facts:*

An independent school, which has been approved by the Commissioner as a PBO, provides education to learners from Grade 1 to 12.⁸⁷ The independent school intends to hold a fête at which each class will be assigned to run a stall selling donated goods to raise funds to buy computers for use by the learners. All the stalls will be manned by volunteers, who include teachers, parents and learners.

Result:

The receipts and accruals derived by the independent school from the fête meets the requirement of the occasional permissible business undertaking or trading activity, since all the assistance given to the independent school at the fundraising event is provided on a voluntary basis without compensation.

5.2.3 Permissible business undertakings or trading activities approved by the Minister

The receipts and accruals of any PBO will be exempt from income tax to the extent that the receipts and accruals are derived from any business undertaking or trading activity if the undertaking or activity is approved by the Minister by notice in the *Government Gazette*.⁸⁸

⁸⁷ The independent school is carrying on as its sole or principal object PBA 4(a), which is described as the provision of education by a "school" as defined in the South African Schools Act 84 of 1996.

⁸⁸ Section 10(1)(cN)(ii)(cc).

A business undertaking or trading activity may be approved by the Minister having regard to the –

- scope and benevolent nature of the undertaking or activity;⁸⁹
- direct connection and interrelationship of the undertaking or activity with the sole or principal object of the PBO;⁹⁰
- profitability of the undertaking or activity;⁹¹ and
- level of economic distortion that will be caused by the tax-exempt status of the PBO carrying on the undertaking or activity.⁹²

Any request in this regard must be addressed to the Commissioner and must comprehensively address each of the above bullet points, clearly demonstrate the benefits of the business undertaking or trading activity for the general public, and motivate why it will not result in unfair competition with other taxable entities, or erode the tax base. The Commissioner will, if the request has merit, draft a submission based on the information provided for the Minister's consideration and possible approval.

This provision is intended to cater for exceptional business undertakings or trading activities falling outside the permissible business undertakings or trading activities already catered for in section 10(1)(cN)(ii). This provision to allow the Minister to approve permissible business undertakings or trading activities is rarely invoked.

Should the Minister, however, approve a particular business undertaking or trading activity as permissible, that undertaking or activity may be conducted by the PBO only whom requested such approval from the Minister.

6. Basic exemption

The receipts and accruals of any PBO derived from any business undertaking or trading activity other than from permissible business undertakings or trading activities will be exempt from income tax to the extent that they do not exceed the greater of –⁹³

- 5% of the total receipts and accruals of that PBO during the relevant year of assessment;⁹⁴ or
- R200 000.⁹⁵

The basic exemption is the amount determined as a threshold and applied to the total receipts and accruals of a PBO during a year of assessment derived from business undertakings or trading activities other than permissible business undertakings or trading activities.

The basic exemption cannot create a loss, since it is not a deduction but a calculation to determine the threshold amount to be applied to the total receipts and accruals from business undertakings or trading activities other than permissible business undertakings or trading activities to determine the receipts and accruals qualifying for

⁸⁹ Section 10(1)(cN)(ii)(cc)(A).

⁹⁰ Section 10(1)(cN)(ii)(cc)(B).

⁹¹ Section 10(1)(cN)(ii)(cc)(C).

⁹² Section 10(1)(cN)(ii)(cc)(D).

⁹³ Section 10(1)(cN)(ii)(dd).

⁹⁴ Section 10(1)(cN)(ii)(dd)(i).

⁹⁵ Section 10(1)(cN)(ii)(dd)(ii).

exemption and the receipts and accruals subject to tax (see 7). The total receipts and accruals of a PBO will include the total or gross amount received or accrued from all sources, whether of a capital nature or not, such as donations, subsidies, school fees, rent, accommodation charges, fundraising activities, investment income, the sale of movable and immovable assets and bequests.

If a PBO is operational for only a part of a year of assessment, its total receipts and accruals will equate to the receipts and accruals for the relevant operational period derived during that year of assessment. The basic exemption is therefore not applied on a *pro rata* basis to the number of months a PBO operated in a year of assessment, because it applies to the PBOs total receipts and accruals derived from business undertakings or trading activities other than permissible business undertakings or trading activities during a year of assessment.

The total receipts and accruals derived from all business undertakings or trading activities other than permissible business undertakings or trading activities must be added together before the deduction of the basic exemption. The basic exemption threshold must be applied collectively to the total receipts and accruals from all business undertakings or trading activities other than permissible business undertakings or trading activities and not individually to each such undertaking or activity.

In the case of a regulating or co-ordinating body of a group of PBOs,⁹⁶ the total receipts and accruals of all the individual PBOs within the group as reflected in the consolidated financial statements will be taken into account in calculating the 5% of the total receipts and accruals. The threshold amount of R200 000 is not increased by the number of individual PBOs within the group, since this amount is applicable to a PBO, which in this case is, the regulating or co-ordinating body, which has been approved by the Commissioner as a PBO.

Example 11 – Basic exemption

Facts:

A PBO conducts PBAs from a property it owns. To augment its income, it lets a portion of the property not used for carrying on the PBAs.

The PBO's total receipts and accruals for the year of assessment are as follows:

	R
Donations	450 000
Rental income	90 000
Interest income	<u>50 000</u>
Total receipts and accruals	<u>590 000</u>

Result:

The rental income is not derived from a permissible business undertaking or trading activity and is regarded as a commercial trading activity, which is subject to the basic exemption.

⁹⁶ Section 30(3A).

The basic exemption is calculated as an amount equal to the greater of –

- 5% of the total receipts and accruals of the PBO during the year of assessment; or
- R200 000.

5% of the total receipts and accruals of the PBO during the year of assessment of R590 000 amounts to R29 500.

The total receipts and accruals from letting the property amounting to R90 000 will be exempt as the PBO receives the benefit of the greater of –

- R29 500; or
- R200 000.

7. Partial taxation

A PBO carrying on business undertakings or trading activities (see **5.1.1**) other than permissible business undertakings or trading activities (see **5.2**) will, subject to the basic exemption (see **6**), be taxed on the receipts and accruals derived from all such business undertakings or trading activities exceeding the basic exemption threshold.

Example 18 and **19** in the **Annexure** provide a step-by-step guide to calculating the taxable income of a PBO by applying the basic exemption.

A PBO liable to income tax on taxable income will pay tax at a rate applicable to PBOs, irrespective of whether it is established as a trust, an NPC or as an association of persons.⁹⁷

A PBO liable to income tax on taxable income will pay tax at a rate of –⁹⁸

- 28% for any year of assessment ending before 31 March 2023; and
- 27% for any year of assessment ending on or after 31 March 2023.

The Minister may announce different rates in the national annual budget, which are prescribed annually in the Rates and Monetary Amounts and Amendment of Revenue Laws Act.⁹⁹

8. Apportionment of expenditure

Expenditure directly incurred in the production of a specific category of income must be allocated to such income. Expenditure paid as a single amount relating to non-exempt income and income from PBAs (exempt income) must be apportioned *pro rata* between these two categories. The basis of apportioning an expense will depend on the nature of the expense.

⁹⁷ The rate of tax fixed by Parliament under section 5(2) for PBOs is set out in Schedule I (Section 1).

⁹⁸ See paragraphs 5 and 6 of Schedule I (Section 1) in the Rates and Monetary Amounts and Amendment of Revenue Laws Act 19 of 2022.

⁹⁹ Section 5(2)(a).

General expenditure incurred, such as accounting fees, audit fees, bank charges or overhead expenses, not specifically relating to a particular source of income but which can be attributed to various sources, must be apportioned on a *pro rata* basis by applying the ratio that a particular source of income bears to the total receipts and accruals derived by the PBO (see from Step 5 in **Example 18** in the **Annexure**).

If a PBO has maintained accurate records of expenditure relating to particular sources of income it will be unnecessary for it to allocate the expenditure on a *pro rata* basis.

9. Allowable deductions

Expenditure incurred in the production of income is generally allowable as a deduction in determining taxable income to the extent that it meets the requirements of the Act. Expenditure of a capital nature, such as the cost of acquiring the business and expenditure incurred, which produces exempt income is not allowed as a deduction in determining taxable income.

An equitable allocation must be made when expenditure is incurred with a dual intent, namely, for purposes of trade as well as to carry on PBAs. Such an allocation is necessary to exclude from deduction the portion of expenditure incurred in the production of exempt income.

10. Income derived by a PBO as a beneficiary of a trust

A PBO may be a beneficiary¹⁰⁰ of a trust.¹⁰¹ Generally income received by or accrued to (see **4.1.1**) a trust during a year of assessment is deemed to accrue to its beneficiary when the beneficiary acquires a vested right to such income during that year of assessment, including the acquisition of such a right through the exercise of the trustees' discretion.¹⁰²

To the extent that an amount is not deemed to accrue to a beneficiary it is deemed to accrue to the trust.¹⁰³ It follows that a PBO that is a beneficiary of a trust must account for any income vested in it during the year of assessment.

A distribution received by a PBO from a trust which is generated from a business undertaking or trading activity, such as rental income or income derived from the operation of a commercial bookshop, retains its character and will be deemed to be a receipt or accrual from a business undertaking or trading activity falling outside the permissible business undertakings or trading activities (see **5.2**) derived by the PBO and will be taken into account in the determination of the basic exemption (see **6**) of the PBO (see **Example 19** in the **Annexure**).

¹⁰⁰ The term "beneficiary" as defined in section 1(1) in relation to a trust means a person who has a vested or contingent interest in all or a portion of the receipts or accruals or the assets of that trust.

¹⁰¹ The term "trust" as defined in section 1(1) means any trust fund consisting of cash or other assets, which are administered and controlled by a person acting in a fiduciary capacity, where such person is appointed under a deed of trust or by agreement or under the will of a deceased person.

¹⁰² Sections 25B(1) and (2).

¹⁰³ Section 7(7) contains an exception to this rule when the income of the trust has been funded by a donation, settlement or other disposition. When section 7(7) applies the income will be deemed to accrue to the trust donor.

11. Losses incurred

A profit or loss arises from the final result of a trading operation after allowable expenditure has been deducted. Expenditure and losses, which are not of a capital nature and which are actually incurred in the production of income, may be deducted under section 11(a) in the determination of taxable income.

An “assessed loss” arises when the deductions admissible under section 11 exceed the income against which they are so admissible.¹⁰⁴ A balance of assessed loss determined in a previous year of assessment may be carried forward from the preceding year of assessment for set-off against the income derived in the current year of assessment.

In the case of a company,¹⁰⁵ an assessed loss may not be carried forward or set-off in the next succeeding year of assessment unless the company has carried on a “trade” (see 5.1.1).¹⁰⁶

12. Wear-and-tear or depreciation allowance on assets

Section 11(e) provides for the deduction of a wear-and-tear or depreciation allowance on certain qualifying assets.¹⁰⁷ The allowance is claimed over the useful life of the asset concerned and will only be allowed to the extent that the asset is used for the purposes of trade. The allowance must be apportioned for an asset that has not been used throughout the year of assessment for the purposes of trade, for example, in the year of assessment in which an asset is acquired, disposed of or ceases to be used.

The allowance may be claimed proportionately on an asset used by a PBO partly for trade and partly for conducting PBAs. Only the portion of the allowance that is attributable to the PBOs trade usage will qualify for deduction.

An asset may have been used by a PBO in a previous year of assessment during which its receipts and accruals were fully exempt from income tax. The PBO may later become taxable on its business undertakings or trading activities in the current year of assessment as a result of its income from such undertakings or activities exceeding the basic exemption (see 6). The use of the asset during the period when the PBO was fully exempt from income tax must be taken into account in determining the amount by which the value of the asset has diminished.

¹⁰⁴ The term “assessed loss” is defined in section 20(2).

¹⁰⁵ The term “company” is defined in section 1(1).

¹⁰⁶ For further commentary, see Interpretation Note 33 “Assessed Losses: Companies: The ‘Trade’ and ‘Income from Trade’ Requirements”. This Note applies to PBOs that are NPCs and association of persons and not to PBOs that are trusts.

¹⁰⁷ For further commentary, see Interpretation Note 47 “Wear-and-Tear or Depreciation Allowance”.

13. Reporting requirements and compliance with tax legislation

13.1 Filing of income tax returns

A PBO must comply with any reporting requirements determined by the Commissioner.¹⁰⁸ Aside from the general reporting requirements of the Act and TA Act considered below, no specific reporting requirements applicable to PBOs other than PBOs approved for purposes of section 18A,¹⁰⁹ have been determined by the Commissioner.¹¹⁰

The Commissioner annually gives public notice in the *Government Gazette* of the persons that must furnish an income tax return.¹¹¹ The persons required to submit returns, amongst other things, include every –

- company and trust, which are a resident during that particular year of assessment, subject to specific conditions and requirements set out in the relevant public notice;
- company, trust or other juristic person, which was not a resident during that particular year of assessment, but derived income from a source in South Africa; or
- person issued with an income tax return or who is requested by the Commissioner in writing to furnish a return, irrespective of the amount of income or nature of receipts or accruals of the person.

The term “company” is defined in the Act¹¹² and, amongst other things, includes –

- any association, corporation or company incorporated or deemed to be incorporated by or under any law in force or previously in force in South Africa or in any part thereof, or any body corporate formed or established or deemed to be formed or established by or under any such law;¹¹³ or
- any association formed in the Republic to serve a specified purpose, beneficial to the public or a section of the public.¹¹⁴

A PBO constituted as an NPC or an association of persons¹¹⁵ falls within the definition of “company” and therefore will be register as a “company” for purposes of income tax.

A PBO must submit income tax returns even if its exemption results in no tax liability. The income tax return enables the Commissioner to annually assess whether the PBO is operating within the prescribed limits of its approval and to determine whether partial taxation (see 7) have been applied to receipts and accruals derived from a business undertaking or trading activity (see 5.1.1) not qualifying for exemption.

¹⁰⁸ Section 30(3)(e).

¹⁰⁹ See Public Notice 3082 in *Government Gazette* 48104 of 24 February 2023.

¹¹⁰ Section 67(1).

¹¹¹ Section 25 of the TA Act read with section 66(1).

¹¹² Section 1(1).

¹¹³ Paragraph (a) of the definition of “company” in section 1(1).

¹¹⁴ Paragraph (d) of the definition of “company” in section 1(1).

¹¹⁵ Paragraph (a)(i) of the definition of “public benefit organisation” in section 30(1).

The prescribed Income Tax Return for Exempt Organisations (IT12EI) applicable to PBOs must be submitted on an annual basis. The return may be obtained from –

- the **eFiling website**;
- any SARS branch office; or
- the SARS National Contact Centre on 0800 00 7277.

A return must be a full and true return¹¹⁶ and be signed by the PBO or by the PBO's duly authorised representative (see **13.5**)¹¹⁷ The person signing the return will be regarded as being cognisant of the statements made in the return.¹¹⁸

Non-receipt of an income tax return does not affect the obligation to submit an income tax return.¹¹⁹ A person who wilfully and without cause refuses or neglects to submit a return or document to SARS is guilty of an offence and on conviction is subject to a fine or imprisonment for a period not exceeding two years.¹²⁰

An appropriate penalty¹²¹ will be imposed by SARS if satisfied that the PBO failed to comply with the obligation to submit an income tax return.¹²² The appropriate penalty for non-compliance will be imposed according to a fixed amount penalty table.¹²³

13.2 Taxpayer reference number

A taxpayer reference number is allocated on completion of registration for income tax purposes.¹²⁴ For a group registration, a taxpayer reference number will be allocated to the co-ordinating body and not to each individual PBO within the group.

The taxpayer reference number must be included when filing a return or any document with SARS.

The taxpayer reference number is a different reference number to the exemption reference number, which is a unique reference number allocated to an organisation on application for approval as a PBO and stated in the letter issued by the Commissioner notifying the PBO of its approval.

¹¹⁶ Section 25(2) of the TA Act.

¹¹⁷ For further commentary, see the *External Guide - How to Register for eFiling and Complete the IT12EI Return for Tax Exempt Organisations*.

¹¹⁸ Section 25(3) of the TA Act.

¹¹⁹ Section 25(4) of the TA Act.

¹²⁰ Section 234(2)(d) of the TA Act.

¹²¹ The terms "administrative non-compliance penalty" and "penalty" are defined in section 208 of the TA Act and means a penalty imposed by SARS in accordance with Chapter 15 of the TA Act or a tax Act other than this Act, and excludes an understatement penalty referred to in Chapter 16 of the TA Act.

¹²² Section 210 of the TA Act. For commentary, see the *Guide to Understatement Penalties*.

¹²³ Section 211 of the TA Act.

¹²⁴ The term "taxpayer reference number" is defined in section 1 of the TA Act and means the reference number referred to in section 24 of the same Act.

13.3 Year of assessment

A PBO that is a trust or a testamentary trust will have a year of assessment ending on the last day of February. A trust may apply for permission to draw up its financial statements to a different closing date if it would be more convenient for it to do so.¹²⁵

A PBO that is an NPC or an association of persons established under a constitution or any other written instrument will have a year of assessment ending on the date that coincides with its financial year-end. If the financial year-end is 30 June, its year of assessment will run from 1 July the preceding year to 30 June of the following year. The Commissioner may exercise discretion to accept financial accounts of a company for a period ending on a day differing from the last day of the company's financial year.¹²⁶

13.4 Supporting documentation

It is not a requirement for supporting documents to be submitted together with the income tax return (see **13.1**). The PBO will be notified if supporting documentation is required to substantiate any aspect of the income tax return.

A PBO whose income tax return is supported by any balance sheet, statement of assets and liabilities or account prepared by any other person may be requested to submit a certificate or statement recording –¹²⁷

- the extent of the examination by the preparer of the books of account and of the documents from which the books of account were prepared; and
- in so far as may be ascertained by the examination, whether the entries in those books and documents disclose the true nature of any transaction, receipt, accrual, payment or debit.

The accounts must be signed by a person responsible for the PBO in a fiduciary capacity and by the person who prepared them on behalf of the PBO.

13.5 Representative taxpayer

A PBO that is a trust, an association of persons or an NPC acts through its representatives. The representatives, amongst other things, are responsible for the tax compliance and liabilities of a PBO. The Act defines a “representative taxpayer”.¹²⁸ For purposes of a PBO, the representative taxpayer is a natural person who resides in South Africa and includes –

- the trustee of the income of a trust;
- the person in a fiduciary capacity of the income under his or her management, disposition or control of an association of persons;
- the public officer of the income of an NPC; and

¹²⁵ Section 66(13A). For further commentary, see Interpretation Note 19 “Year of Assessment of Natural Persons and Trusts: Accounts Accepted to a Date other than the Last Day of February”.

¹²⁶ For further commentary, see Interpretation Note 90 “Year of Assessment of a Company: Accounts Accepted to a Date other than the Last Day of a Company's Financial Year”.

¹²⁷ Section 28 of the TA Act.

¹²⁸ See the complete definition of “representative taxpayer” in section 1(1). A representative taxpayer under section 153(1)(a) of the TA Act means a person who is responsible for paying the tax liability of another person as an agent and, amongst other things, includes a person who is a representative taxpayer under the Act.

- the business rescue practitioner if an NPC is placed under business rescue under the Companies Act.

13.6 Financial statements

A PBO that is an NPC may be required to be audited or independently reviewed under the Companies Act¹²⁹ taking into account, for example, the category of the company and its public interest score.

14. Record-keeping

All PBOs are required to keep records for five years¹³⁰ from the date of the submission of a return (see **13.1**) under the TA Act.¹³¹

A return¹³² includes any form, declaration, document or other manner of submitting information to SARS that incorporates a self-assessment or is the basis on which an assessment is to be made by SARS.

Although records are generally required to be kept and retained for five years, there are circumstances in which they are required to be retained for longer periods.¹³³

The required retention periods for records, books of account or documents are as follows:¹³⁴

- Five years from the date of the submission of a return.¹³⁵
- If no return is submitted for a tax period but is required to be submitted, records, books of account or documents must be kept and retained indefinitely until the obligation to submit a return has been complied with, and then for five years from the date of submission of the return.¹³⁶
- If an objection or appeal against an assessment or decision is lodged (see **16**), the records, books of account or documents relevant to the objection or appeal must be kept and retained until the disputed assessment or decision becomes final or the applicable five-year period has elapsed, whichever is the later.¹³⁷
- A person notified of, or who is aware of an audit or investigation¹³⁸ by SARS must retain the records, books of account or documents relevant to that audit or investigation until it is concluded or the applicable five-year period has elapsed, whichever is the later.¹³⁹

¹²⁹ See section 30(2) of the Companies Act read with regulations 27, 28 and 29 to that Act.

¹³⁰ Section 29(3) of the TA Act.

¹³¹ Sections 3 and 4 of the Tax Administration Laws Amendment Act 44 of 2014 amended and repealed sections 18A(4) and 30(9), respectively. These amendments came into operation on 20 January 2015.

¹³² The term “return” is defined in section 1 of the TA Act.

¹³³ Section 32 of the TA Act.

¹³⁴ For further commentary, see the *SARS Short Guide to the Tax Administration Act, 2011 (Act No. 28 of 2011)*.

¹³⁵ Section 29(2)(a) read with section 29(3)(a) of the TA Act.

¹³⁶ Section 29(2)(b) of the TA Act.

¹³⁷ Section 32(b) of the TA Act.

¹³⁸ For further commentary on inspections, verifications, audits and criminal investigations, see the *SARS Short Guide to the Tax Administration Act, 2011 (Act No. 28 of 2011)*.

¹³⁹ Section 32(a) of the TA Act.

- Indefinitely, if a document is relevant for future years of assessment such as the prescribed application form EI 1 and the required supplementary information and documentation on which the Commissioner based the decision to approve or not to approve an organisation as a PBO.

The records, books of account, or documents that must be kept and retained may include anything that contains a written, sound or pictorial record or other record of information whether in physical or electronic form.

Example 11 – Records, books of account or documents that must be kept and retained

The following are non-exhaustive examples of records, books of account or documents that must be kept and retained:

- Cash books and invoices
- Debtors, creditors and sales ledgers
- Journals
- Fixed-asset register
- Bank statements and deposit slips

To ensure the safe retention of records as well as easy and efficient access to records by SARS, especially for inspection or audit purposes during the prescribed retention period, a PBO is required to keep and retain its records in their original form, in an orderly fashion and in a safe place.¹⁴⁰

The electronic form of record-keeping is regulated by the Electronic Record-Keeping Rules.¹⁴¹ The rules require that electronic records must be kept in their original form,¹⁴² and should within a reasonable time, be accessible to and readable by SARS. Other requirements deal with the location of the records, the maintenance of system documentation and measures for storage, back-ups and conversions.¹⁴³

15. Other taxes and duties

15.1 Provisional tax

Provisional tax¹⁴⁴ is dealt with in the Fourth Schedule. It is not a separate tax, but merely a mechanism to assist taxpayers in meeting their tax liability by spreading it over the relevant year of assessment as opposed to paying a large amount at the end of a year of assessment. A provisional taxpayer¹⁴⁵ is required to estimate taxable income for a year of assessment and calculate provisional tax payable on that estimate.¹⁴⁶

¹⁴⁰ Section 30 of the TA Act.

¹⁴¹ See Government Notice 787 in *Government Gazette* 35733 of 1 October 2012.

¹⁴² A document under section 14 of the Electronic Communications and Transactions Act 25 of 2002 will be regarded as being in original form if the integrity of the data is maintained, for example, when it is complete and unaltered.

¹⁴³ For further commentary, see the *Electronic Communications Guide*.

¹⁴⁴ The term “provisional tax” is defined in paragraph 1 of the Fourth Schedule.

¹⁴⁵ The term “provisional taxpayer” is defined in paragraph 1 of the Fourth Schedule.

¹⁴⁶ For further commentary, see *Taxation in South Africa* and the *Guide for Provisional Tax*.

Public benefit organisations are excluded from the definition of “provisional taxpayer” in the Fourth Schedule and are not required to submit provisional tax payments.¹⁴⁷ Any liability to income tax on taxable income (see 7) will become payable on assessment.

15.2 Capital gains tax

Capital gains and capital losses may under specified circumstances be disregarded. As from the first day of its first year of assessment commencing on or after 1 April 2006¹⁴⁸ any capital gain or capital loss made by a PBO on the disposal of an asset that has been used for a business undertaking or trading activity or substantially the whole of which has been used in such an undertaking or activity will not be disregarded.¹⁴⁹ Capital gains tax falls outside the scope of this Note.¹⁵⁰

16. Objection and appeal

A PBO aggrieved by an assessment may, before lodging an objection, request SARS to provide reasons for the assessment to enable the PBO to formulate an objection.¹⁵¹ The request, amongst other things, must be made in the prescribed form and manner and delivered to SARS within 30 days¹⁵² from the date of the assessment.

Any PBO may object to an assessment¹⁵³ in accordance with Chapter 9 of the TA Act read with the “rules”¹⁵⁴ as published in the *Government Gazette* within 80¹⁵⁵ business days¹⁵⁶ after the –¹⁵⁷

- delivery of the notice providing reasons requested for an assessment, if applicable;¹⁵⁸
- notice issue by SARS notifying the PBO that the reasons requested to enable it to formulate an objection have been provided;¹⁵⁹ or
- date of assessment.

¹⁴⁷ Paragraph (aa) of the exclusions to the definition of “provisional taxpayer” in paragraph 1 of the Fourth Schedule.

¹⁴⁸ The date partial taxation (see 7) was introduced.

¹⁴⁹ Paragraph 63A of the Eighth Schedule.

¹⁵⁰ For further commentary, see Interpretation Note 44 “Public Benefit Organisations: Capital Gains Tax”, the *Comprehensive Guide to Capital Gains Tax*, the *Guide on Determining the Market Value of Assets for Capital Gains Tax Purposes* and the *ABC of Capital Gains Tax for Companies*.

¹⁵¹ Rule 6 deals with reasons for an assessment.

¹⁵² The term “day” in Rule 1 means a “business day” as defined in section 1 of the TA Act.

¹⁵³ For further commentary, see the Interpretation Note 15 “Exercise of Discretion in case of Late Objection or Appeal”.

¹⁵⁴ The rules for objections and appeals are formulated under section 103 of the TA Act.

¹⁵⁵ Rule 7(1) was amended from 30 to 80 days. The amendment is effective from 10 March 2023.

¹⁵⁶ The term “business day” is defined in section 1 of the TA Act.

¹⁵⁷ Rule 7 deals with objections.

¹⁵⁸ Rule 7(1)(a) read with Rule 6.

¹⁵⁹ Rule 7(1)(a) read with Rule 6(4).

The objection must be made on the prescribed form and set out the grounds of the objection in detail including – ¹⁶⁰

- specifying the part or specific amount of the disputed assessment objected to;
- specifying which of the grounds of assessment¹⁶¹ are disputed; and
- submitting the documents required to substantiate the grounds of objection that the PBO has not previously delivered to SARS for purposes of the disputed assessment.

SARS will consider the objection and may disallow the objection or allow the objection completely or in part.

If on disallowance of the objection the PBO is dissatisfied with the decision by SARS, it may appeal against the disallowance. Such appeal must be in writing and lodged with SARS within the prescribed period.¹⁶²

17. Conclusion

This Note considers only the broad principles of section 10(1)(cN) and related provisions. Each case must be considered on its own merits, since the facts and circumstances pertaining to each PBO may differ.

The onus is on a PBO to prove¹⁶³ that it complies with the requirements as considered in this Note and must retain the necessary evidence to support the view taken.¹⁶⁴ The burden may be discharged, if requested to do so by SARS, by way of acceptable supporting evidence.

Leveraged Legal Products

SOUTH AFRICAN REVENUE SERVICE

Date of 1st issue	:	19 March 2004
Date of 2nd issue	:	31 August 2007
Date of 3rd issue	:	4 February 2014
Date of 4th issue	:	12 February 2018

¹⁶⁰ Rule 7(2).

¹⁶¹ The term “grounds of assessment” as defined in Rule 1, for purposes of the rules, include, amongst other things, any grounds for a decision referred to in section 104(2) of the TA Act; and reasons for assessment provided by SARS contemplated in Rule 6(5).

¹⁶² Rule 10.

¹⁶³ Section 102 of the TA Act.

¹⁶⁴ Section 29 of the TA Act.

Annexure – Calculation of taxable income

The following examples provide a step-by-step guide to calculating the taxable income of PBOs by applying the basic exemption.

Example 18 – Simple determination of taxable income of PBO and tax payable

Facts:

A PBO conducts religious PBAs contemplated in PBA 5(a).¹⁶⁵ The resident minister does not occupy the manse and the congregation has let it to a third party at market-related rates for the full year.

The following information is reflected in the financial statements for the year of assessment ended 30 June 2023:

Total receipts and accruals	R
Donations and tithes from members	660 000
Bequest	40 000
Interest on investment of surplus funds	20 000
Proceeds from annual fête	32 600
Rental income from letting of manse	<u>268 000</u>
Total receipts and accruals	<u>1 020 600</u>

Expenditure

PBA expenses	324 000
Manse (rates, repairs, garden services)	<u>52 000</u>
Total expenditure	<u>376 000</u>

Result:

Step 1 – Determine receipts and accruals exempt from tax

Receipts and accruals attributable to PBAs – exempt section 10(1)(cN)(i)

Donations and tithes from members	660 000
Bequest	40 000
Interest on investment of surplus funds	<u>20 000</u>
Total receipts and accruals attributable to PBAs	720 000

Occasional business undertaking or trading activity – exempt section 10(1)(cN)(ii)(bb)

Proceeds from annual fête	<u>32 600</u>
Total exempt receipts and accruals	<u>752 600</u>

Step 2 – Identify receipts and accruals from business undertakings or trading activities not exempt from tax

Rental income from letting of manse	<u>268 000</u>
Total taxable receipts and accruals	<u>268 000</u>

¹⁶⁵ The PBA is described as the promotion or practice of religion which encompasses acts of worship, witness, teaching and community service based on a belief in a deity.

Step 3 – Calculation of basic exemption – section 10(1)(cN)(ii)(dd)

The basic exemption is limited to the greater of –

- 5% of total receipts and accruals of R1 020 600 = R51 030; or
- R200 000

Basic exemption is R200 000

Step 4 – Apply basic exemption to receipts and accruals from business undertakings or trading activities not exempt from tax

	R
Total taxable receipts and accruals (see Step 2)	268 000
Less: Basic exemption (see Step 3)	<u>(200 000)</u>
Total receipts and accruals from business undertakings or trading activities subject to tax	<u>68 000</u>

Step 5 – Allocate direct expenditure incurred relating to taxable business undertakings or trading activities to “exempt” and “taxable” receipts and accruals

Expenditure incurred in the production of receipts and accruals from business undertaking or trading activities must be apportioned between the “exempt” and “taxable” portions using the following formula:

$$\frac{\text{Total receipts and accruals subject to tax}}{\text{Total receipts and accruals from an undertaking or activity}} \times \frac{\text{Direct expenditure}}{1}$$

Calculate expenditure attributable to taxable portion of rental income:

$$\frac{68\,000}{268\,000} \times \frac{52\,000}{1} = \text{R}13\,194$$

Expenditure attributable to “taxable” portion of rental income = R13 194

Step 6 – Determine expenditure attributable to “exempt” portion of rental income

	R
Direct expenditure incurred in the production of rental income	52 000
Less: Expenditure attributable to “taxable” portion of rental income (see Step 5)	<u>(13 194)</u>
Expenditure attributable to “exempt” portion of rental income and not deductible	<u>38 806</u>

Step 7 – Calculate taxable income

Total receipts and accruals not exempt (see Step 2)	268 000
Less: Exempt portion (see Step 3)	<u>(200 000)</u>
Total receipts and accruals subject to tax (see Step 4)	68 000
Less: Allowable expenditure (see Step 5)	<u>(13 194)</u>
Taxable income	<u>54 806</u>

Step 8 – Calculate income tax payable

Taxable income R54 806 at 27% (2023/2024)	
Income tax payable	<u>14 798</u>

Example 19 – Advanced determination of taxable income of PBO and tax payable*Facts:*

An NPC, conducts PBA 1(a)¹⁶⁶ of caring for abandoned children. The PBO sells Christmas cards reconditioned by volunteers, operates a bookshop in a shopping mall and holds a concert as a special fundraising event, to supplement its income. Royalty income was received as a distribution from a trust in accordance with section 25B(2).

The following receipts and expenditure are reflected for the year of assessment ending 30 November 2023:

Total receipts and accruals	R
Donations	165 000
Government subsidy	1 100 000
Grants	550 000
Interest on investments	18 000
Bookshop sales	227 400
Royalties – distribution from trust	132 600
Sale of Christmas cards	4 000
Sale of concert tickets	<u>13 000</u>
Total receipts and accruals	<u>2 210 000</u>
Expenditure	
PBA expenses (direct expenditure)	724 000
Bookshop trading expenses (direct expenditure)	48 000
Accounting fees (general (indirect) expenditure)	<u>16 900</u>
Total expenditure	<u>788 900</u>

Note: No portion of the general (indirect) expenditure has been incurred in the production of the investment income or the royalty income.

*Result:***Step 1 – Determine receipts and accruals exempt from tax**

Receipts and accruals attributable to PBAs – exempt section 10(1)(cN)(i)	R
Donations	165 000
Government subsidy	1 100 000
Grants	550 000
Interest on investments	<u>18 000</u>
Total receipts and accruals attributable to PBAs	1 833 000
Occasional business undertakings or trading activities – exempt section 10(1)(cN)(ii)(bb)	
	R
Sale of Christmas cards	4 000
Sale of concert tickets	<u>13 000</u>
Total receipts and accruals exempt from tax	17 000
Total receipts and accruals exempt from tax (R1 833 000 + 17 000)	<u>1 850 000</u>

¹⁶⁶ The PBA is described as the care or counseling of, or the provision of education programmes relating to, abandoned, abused, neglected, orphaned or homeless children.

Step 2 – Identify receipts and accruals from other business undertakings or trading activities

	R
Bookshop sales	227 400
Royalties	<u>132 600</u>
Total trading receipts and accruals not exempt from tax	<u>360 000</u>

Step 3 – Calculation of basic exemption - section 10(1)(cN)(ii)(dd)

The basic exemption is limited to the greater of –

- 5% of total receipts and accruals of R2 210 000 = R110 500; or
- R200 000.

Basic exemption is R200 000.

Step 4 – Apply basic exemption to receipts and accruals from business undertakings or trading activities not exempt

The allocation is on a *pro rata* basis in relation to the total receipts and accruals from business undertakings or trading activities subject to income tax using the following formula:

$$\frac{\text{Receipts and accruals from an undertaking or activity}}{\text{Total receipts and accruals not exempt from income tax}} \times \frac{\text{Basic exemption}}{1}$$

Application of formula to bookshop income

$$\frac{227\,400}{360\,000} \times \frac{200\,000}{1} = R126\,333$$

Application of formula to royalty income

$$\frac{132\,600}{360\,000} \times \frac{200\,000}{1} = R73\,667$$

Step 5 – Determine receipts and accruals subject to tax after deduction of basic exemption

	Bookshop R	Royalty R	Total R
Receipts and accruals from trade	227 400	132 600	360 000
Less: Basic exemption (<i>pro rata</i>) (see Step 4)	<u>(126 333)</u>	<u>(73 667)</u>	<u>(200 000)</u>
Total receipts and accruals from business undertakings or trading activities subject to tax	<u>101 067</u>	<u>58 933</u>	<u>160 000</u>

Note: This step is necessary as the basic exemption applies to receipts and accruals not qualifying for exemption, before calculating allowable deductions. A portion of the expenditure incurred must therefore be allocated to that portion of the receipts and accruals which relate to the basic exemption as it does not qualify under section 23(f), since it will be in the production of exempt income.

Step 6 – Allocate direct expenditure incurred in respect of taxable business undertakings or trading activities to “exempt” and “taxable” total receipts and accruals

Expenditure incurred in the production of taxable total receipts and accruals from business undertakings or trading activities must be apportioned between the “exempt” and “taxable” portions using the following formula:

$$\frac{\text{Total receipts and accruals subject to tax}}{\text{Total receipts and accruals from an undertaking or activity}} \times \frac{\text{Direct expenditure}}{1}$$

Application of formula to bookshop income

Calculate (direct) expenditure attributable to taxable portion of bookshop income:

$$\frac{\text{Total receipts and accruals from bookshop subject to tax}}{\text{Total receipts and accruals from bookshop}} \times \frac{\text{Direct expenditure}}{1}$$

$$\frac{101\,067}{227\,400} \times \frac{48\,000}{1} = R21\,333$$

Direct expenditure attributable to “taxable” portion of bookshop income = R21 333

Step 7 – Determine expenditure attributable to “exempt” portion of bookshop income

	R
Direct expenditure incurred in the production of bookshop income	48 000
Less: Expenditure attributable to “taxable” portion of bookshop income	<u>(21 333)</u>
Expenditure attributable to “exempt” portion of bookshop income	<u>26 667</u>

Step 8 – Calculate taxable portion of receipts and accruals from the bookshop before allowable general expenditure

	R
Total receipts and accruals (see Step 2)	227 400
Less: Basic exemption (see Step 4)	<u>(126 333)</u>
Total receipts and accruals subject to tax (see Step 5)	101 067
Less: Allowable expenditure (see Step 6)	<u>(21 333)</u>
Taxable receipts and accruals before deduction of general expenditure	<u>79 734</u>

Step 9 – Calculate general (indirect) expenditure

Expenditure incurred not specifically relating to a particular source of income but which can be attributed to various sources of receipts and accruals must be apportioned on a *pro rata* basis using the following formula:

$$\frac{\text{Specific source of receipts and accruals}}{\text{Total receipts and accruals}} \times \frac{\text{General expenditure}}{1}$$

Step 10 – Source of receipts and accruals to which general expenditure is to be apportioned (based on formula in Step 9)

	Total receipts
	R
PBAs (Donations + subsidy + grants)	1 815 000
Bookshop	227 400
Sale of Christmas cards	4 000
Sale of concert tickets	<u>13 000</u>
Total receipts and accruals (excluding investment and royalty income)	<u>2 059 400</u>

Application of formula (see Step 9) to bookshop income

$$\frac{227\,400}{2\,059\,400} \times \frac{16\,900}{1} = R1\,866$$

Note: For purposes of this Note, the formula has only been applied to bookshop income, but the formula must be applied to all other sources of receipts and accruals.

Proportionate general expenditure to be deducted from specific source of receipts and accruals

Specific source of receipts and accruals	Total receipts R	Allocated expenditure R
PBAs (Donations + grants + subsidy)	1 815 000	14 894
Bookshop	227 400	1 866
Sale of Christmas cards	4 000	33
Sale of concert tickets	<u>13 000</u>	<u>107</u>
Total	<u>2 059 400</u>	<u>16 900</u>

Step 11 – Allocation of general (indirect) expenditure between “taxable” and “exempt” portion of bookshop income

$$\frac{\text{Total receipts and accruals from bookshop subject to tax (Step 5)}}{\text{Total receipts and accruals from bookshop}} \times \frac{\text{Allocated expenditure}}{1}$$

$$\frac{101\,067}{227\,400} \times \frac{1866}{1} = R829$$

Step 12 – Determine taxable income from the bookshop

Total receipts and accruals from bookshop subject to tax (see Step 5)	R 101 067
Less: Direct expenditure determined (see Step 6)	(21 333)
	79 734
Less: General (indirect) expenditure determined (see Step 11)	<u>(829)</u>
Taxable income from bookshop	<u>78 905</u>

Step 13 – Calculation of total taxable income

Taxable income from the bookshop (see Step 12)	78 905
Taxable income from trust distribution (Royalties) (see Step 5)	<u>58 933</u>
Total taxable income	<u>137 838</u>

Step 14 – Calculate income tax payable

Taxable income R137 838 at 27% (2023/2024)	
Income tax payable	<u>37 216</u>