

BINDING PRIVATE RULING: BPR 371

DATE: 9 May 2022

ACT : INCOME TAX ACT 58 OF 1962 (the Act)
SECTIONS : SECTION 30(1) – PARAGRAPH (c)(i) OF THE DEFINITION OF “PUBLIC BENEFIT ORGANISATION”
SUBJECT : PUBLIC BENEFIT ACTIVITIES CARRIED ON FOR THE BENEFIT OF THE GENERAL PUBLIC

Preamble

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

1. Summary

This ruling determines whether activities carried on by a public benefit organisation will comply with the requirements of the definition of a “public benefit organisation”.

2. Relevant tax laws

In this ruling references to sections are to sections of the Act as at 3 December 2021. 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 paragraph (c)(i) of the definition of “public benefit organisation” in section 30(1).

3. Parties to the proposed transaction

The applicant: a resident trust

Company A: A resident company and founder of the applicant

4. Description of the proposed transaction

The applicant was established by company A. The applicant is required, by agreement with a third party donor, to make quarterly contributions to socio-economic and enterprise development initiatives in neighbouring communities.

The applicant is an approved public benefit organisation. It applies contributions by donors for the benefit of local communities.

Contributions must be directed towards those in need in a specified geographical area. The proximity and need factors are therefore the criteria according to which

beneficiaries are selected. The applicant must assist communities in certain focus areas, including –

- socio-economic development;
- enterprise development;
- education and skills development;
- job creation;
- health care; and
- safety and security.

The applicant's funding round starts with a request for proposals from the general public made through established community forums, including community hall initiatives.

A committee established by the applicant reviews the proposals and conducts a detailed evaluation process. A shortlist of projects is then submitted to the trustees for further deliberations.

The feasibility of the projects, as well as their projected social impact on the relevant communities, are evaluated. Projects which are aligned with the applicant's objectives and public benefit activities will be selected based on definite and quantifiable public benefit being demonstrated by a funding application. Project funding will not be awarded based on any personal or other relationship with the trustees, the applicant, or any of its associated entities.

The proposed transaction will involve the funding of four projects: a bakery, vegetable tunnels, a poultry project and a small manufacturing concern.

The applicant considers that the proposed transaction will benefit the local community as amounts awarded will result in the creation of employment, skills development and the enhancement of local enterprise.

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 proposed transaction will comply with paragraph (c)(i) of the definition of a "public benefit organisation" in section 30(1).

7. Period for which this ruling is valid

This binding private ruling is valid for a period of two years from 3 December 2021.