

BINDING PRIVATE RULING: BPR 407

DATE: 2 August 2024

ACT : INCOME TAX ACT 58 OF 1962 (the Act)
SECTION : SECTION 12BA
SUBJECT : GENERATION AND SUPPLY OF RENEWABLE ENERGY

Preamble

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

1. Summary

This ruling determines the deductibility of expenditure to be incurred by a company installing photovoltaic solar energy plants on lessors' premises to be used by the Applicant to supply solar electricity to companies within the same group of companies as the Applicant in terms of power purchase agreements (PPAs).

2. Relevant tax laws

In this ruling, references to sections are to sections of the Act applicable as at 26 March 2024. Unless the context indicates otherwise any word or expression in this ruling bears the meaning ascribed to it in the Act.

3. Parties to the proposed transaction

The Applicant: A resident company

The Group: A global group of companies with a South African footprint

The Subsidiaries: Resident companies that are subsidiaries within the same group of Companies as the Applicant

4. Description of the proposed transaction

The group operates from various facilities in cities across South Africa. These facilities are leased on long-term leases by companies within the group including the Applicant. Each of the Subsidiaries occupies an identifiable area of each facility.

The supply authority currently supplies electricity to a system of transformers and sub-transformers within each of the facilities. In addition, generators supply electricity to the system of internal transformers in the facilities when the electricity supply from the supply authority fails. The buildings within the facilities are each equipped with a Building Management System (BMS) measuring the electricity consumed by each area of the building. Each such area is allocated to the operating

subsidiary that occupies it and the group can, therefore, accurately determine the electricity distributed to and used by each subsidiary in the facility.

The group intends to utilise the enhanced incentive for renewable energy and therefore intends to install a solar photovoltaic (PV) system at each of the facilities.

The Applicant will acquire, own, maintain and operate the solar systems, which will be standardised and installed in such a manner that it can be removed without damaging the asset or the property upon which it is installed.

The key features of the systems will be the following:

- PV solar panels will be installed on the roofs of the buildings and will generate electricity and supply this to the facility.
- The AC Island will also be supplied electricity by the supply authority and existing generators.
- The AC Island will act as a gateway from the various sources of electricity and provide electricity to the system of transformers, which will also include new transformers to accommodate the increased capacity.
- The AC Island will be connected to a battery energy storage system (BESS) with sufficient storage capacity to supply the facility with electricity for approximately 2 to 2,5 hours.
- The AC Island ensures a consistent and uninterrupted supply of electricity when the supply authority fails. This is essential to the group as the shutdown and startup of equipment causes significant damage to equipment, when the transformers transition to the generators when the supply authority fails.
- The electricity will be distributed through the existing distribution board and BMS. As a result, the group will be able to accurately measure how much electricity is used by each area and, therefore, each operating entity.
- Metering will occur throughout the system, whereby components are monitored, and production of electricity tracked. Meters already in use for invoicing purposes will be retained and used for measuring electricity usage for purposes of billing.
- Included in the total cost, is an amount which will be assigned to the BMS upgrade. This amount will be used for additional meters and cabling, the upgrade of the BMS electrical module, the purchase (setup and configuration) of the reporting module, as well as the addition of new meters, hierarchies, control points, etc.
- The above components, except for the electrical module of the BMS, will consist of new and unused components. The BMS electrical module will potentially be upgraded.

The system that will be installed at each of the facilities will consist of the following:

- PV Panels, Mounting Structure and Walkways/Catladders;
- Inverters, Chargers and Inverter Enclosure;
- Cabling and Connectors, Cable Management, Switchgear and Metering;
- Low Voltage ("LV") Switchgear, LV Cabling and MV Reticulation;

- Transformers;
- Batteries; and
- Containers.

The Applicant will use some of the electricity that is generated and will sell the remaining electricity to the other subsidiaries at a rate that will ensure the Applicant realises an arm's length margin from the electricity sold. The Applicant will, therefore, supplement its existing business activities with the sale of electricity and is expected to realise a profit from the sale of electricity over the life of the system.

The Applicant intends to sell the electricity at an agreed-upon fee consisting of a direct component (actual energy consumption for the month by the recipient, expressed in kilowatt-hours (kWh), multiplied by an applied reduced percentage of the prevailing monthly average tariff rate as provided by the supply authority) and an indirect component (representing a recovery of day-to-day costs of operating the system).

5. Conditions and assumptions

This binding private ruling is made subject to the condition and assumption that the Applicant and each of the landlords at the respective facilities have the intention that the Applicant will remain the owner of the components of the solar system, once installed.

6. Ruling

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

- a) The Applicant will be entitled to a deduction under the provisions of section 12BA, in respect of the following new and unused components of the solar systems which are brought into use in the generation of electricity before 1 March 2025:
 - i) PV Panels, Mounting Structure and Walkways/Catladders;
 - ii) Inverters, Charge Controllers and Inverter Enclosure;
 - iii) Cabling and Connectors, Cable Management, Switchgear, Metering;
 - iv) LV Switchgear, LV Cabling, MV Reticulation;
 - v) Transformers;
 - vi) Batteries; and
 - vii) Containers;
- b) Any cost relating to the maintenance and/or upgrade of existing infrastructure is specifically excluded from the deduction under section 12BA; and
- c) The costs pertaining to new and unused components that are applied to measurement of electricity consumption by the subsidiaries (for billing purposes) are specifically excluded from the deduction under section 12BA.

7. Period for which this ruling is valid

This binding private ruling is valid for the years of assessment ending 31 December 2024 and 31 December 2025.

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