

Ref #:776185

Submission File

8 November 2024

South African Revenue Service
Private Bag X923
Pretoria
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BY E-MAIL: policycomments@sars.gov.za

Dear SARS

**COMMENTS ON THE SARS DRAFT INTERPRETATION NOTE ON THE MEANING OF
“SIMILAR FINANCE CHARGES”**

1. The South African Institute of Chartered Accountants (“SAICA”) welcomes the opportunity to make a submission to the South African Revenue Service (“SARS”) on the draft Interpretation Note (“the draft IN”) on the meaning of the phrase “similar finance charges” in the definition of “interest” in section 24J of the Income tax Act, 1962 (‘the Act’).
2. We set out below our comments in this regard.

GENERAL

3. The main point highlighted in the draft IN is that *“irrespective of what a finance charge is called, it must be of the same nature or character as interest to be included under the term “similar finance charges” in paragraph (a). As such, the phrase “similar finance charges” does not include all forms of costs associated with acquiring and executing a loan and should not be interpreted and applied too widely.” (own emphasis)*
4. However, it is notable that the IN addresses charges that would **not** be similar to interest but does not give even one example of an expense that might constitute “similar finance charges” to interest.
5. It is thus difficult to think of any expense that will constitute “similar finance charges” in light of this IN.

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| 6. <u>Submission:</u> It is submitted that the IN provide examples of charges that would be considered to be similar to interest. |
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YIELD TO MATURITY

7. “Yield to maturity” is defined in section 24J(1) as:

“the rate of compound interest per accrual period at which the present value of all amounts payable or receivable in terms of any instrument in relation to a holder or an



issuer, as the case may be, of such instrument during the term of such instrument equals the initial amount in relation to such holder or issuer of such instrument...”

(own emphasis)

8. It is therefore noted in this definition that there are other fees/costs payable in respect of an instrument, which do not constitute “similar finance charges”.
9. The draft IN does not, however, consider the interplay between the above-mentioned interest definition (which includes ‘similar finance charges’) and the yield to maturity (‘YTM’) calculation as set out in section 24J of the Act.
10. It is unclear whether fees, if not classified as similar finance charges, could still be factored into the YTM calculation, and therefore fall within the ambit of section 24J.

11. Submission: It is submitted that the draft IN should provide clarity on the interaction between the definition of “interest” and the calculation of the YTM. Specifically, it should be clarified whether finance charges, such as raising fees, arrangement fees, and commitment fees fall within the ambit of section 24J of the Act by virtue of the calculation of the YTM, regardless of whether they constitute interest as defined or not.

CONCLUSION

12. We once again thank SARS for the ongoing opportunity to provide constructive comments in this regard. SAICA continues to believe that a collaborative approach is best suited in seeking solutions to complex challenges and should you wish to clarify any of the above matters please do not hesitate to contact us.

Yours sincerely

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The South African Institute of Chartered Accountants