

2026 Annexure C Submission

This submission is made by the research and advisory firm Krutham SA (Pty) Ltd – under its [Accelerating Impact](#) initiative. The initiative is sponsored by Investec Bank Limited, First Rand Empowerment Foundation, The Standard Bank Tutuwa Community Foundation and the Anglo American Foundation.

Introduction

Impact investing has the potential to deliver extensive social benefits for South African society but we need a more conducive regulatory environment to fully realise this potential.

Impact investors desire not just financial returns but returns in the form of measurable improvements in societies and their environments. Impact investing has the potential to generate positive social and environmental outcomes in addition to a form of financial return.

With the ability to mobilise both private and public savings, this form of investment can deliver outcomes that lead to better lives for South Africa's people. Governments around the world are actively encouraging impact investing as they've recognised the importance of stimulating investment markets to support projects that have positive social and environmental outcomes.

From a public policy perspective, impact investing offers clear benefits given that allocating investment in a way that has positive public outcomes creates public benefits "for free". Investing already achieves public benefits simply by financing economic activity; impact investing leverages that to achieve greater public [benefit](#). This does not displace traditional investing but rather focuses on increasing the public benefits. For fiscally constrained governments, eager to mobilise private finance to achieve public policy objectives, impact investing is a clear opportunity.

South Africa's tax legislation recognises the significant role played by non-profit entities in dealing with social challenges in the country. The legislation provides for non-profit entities to operate under a special status that exempts them from paying income tax, thus allowing more financial resources to be devoted to the causes they serve.

Research conducted by Krutham under its [Accelerating Impact project](#) suggests that while many aspects of the existing tax legislative framework for non-profit entities work well, more flexibility and clarity is needed to encourage innovations in the non-profit sector to support their own financial sustainability.

Greater use of patient, philanthropic capital and attracting commercial capital into hybrid investment vehicles on a blended basis will enable non-profit entities to support vulnerable communities, education and unemployment programmes and emerging small businesses at a scale not hitherto witnessed in South Africa.

The growth of impact investing

The vanguard of impact investing worldwide has been public foundations. These are non-profit organisations that have large investment endowments. Traditionally those endowments have been invested in debt and equity instruments through public capital markets to generate a return that finances their programmes. But these foundations have over time come to recognise that their endowment portfolios can be managed, at least in part, in a way that achieves positive impact in line with their overall mission. They have therefore become more active managers of their portfolios and are using a portion of portfolios for "mission-aligned investing". Foundations can also supplement their traditional grant-making activities by introducing investing instruments as part of their programmes, such as small loans, which potentially allow grant monies to be recycled and increase impact (often called "programmatically investing").

Globally, foundations are learning that through impact investing they can magnify the difference they make in the world. Impact investing enables them to catalyse their limited financial resources to have a much greater impact than through grant-making programmes alone. Given that foundations undertake public benefit activities, this scaling of their impact ultimately means greater public good is delivered through impact investing than through traditional grant-making alone.

However, when a foundation becomes an active manager of a portfolio that has both impact and financial objectives, there is a risk that such activities conflict with tax-based restrictions on non-profit activities, and foundations risk losing their tax-exempt status. This risk discourages foundations from engaging in impact investing even though it has clear public benefit consequences. The ambiguities and risks around the tax status of impact investing must be resolved to stimulate greater impact investing activity by foundations and other non-profits operating in South Africa.

Impact investing

There are several definitions of the term "impact investing". The Global Impact Investing Network's definition is: "Investments made with the intention to generate positive, measurable social and environmental impact alongside a financial return."

The diagram below illustrates how impact investing is growing in appeal for both philanthropic organisations and asset managers alike.



Figure 1: The Spectrum of Impact Capital

(Source: Krutham)

The GIIN Impact Investing Guide describes **four core characteristics** of impact investing:

1. **Intentionality:** An investor's intention to have a positive social or environmental impact through investments is essential to impact investing.
2. **Investment with return expectations:** Impact investments are expected to generate a financial return on capital or, at minimum, a return of capital.
3. **Range of return expectations and asset classes:** Impact investments target financial returns that range from below market (sometimes called concessionary) to risk-adjusted market rates, and can be made across asset classes, including but not limited to cash equivalents, fixed income, venture capital and private equity.

4. Impact measurement and management: A hallmark of impact investing is the commitment of the investor to measure and report the social and environmental performance and progress of underlying investments, ensuring transparency and accountability while informing the practice of impact investing and building the field.

Legal Nature of the Problem

South Africa's tax legislation recognises the role played by non-profit organisations in the social fabric of society, exempting those which qualify under the public benefit organisation regime from income tax and, through the VAT Act, allowing them to become VAT vendors. Donations to registered PBOs can also be exempt from donations tax and be made from the pre-tax income of companies and individuals, subject to limitations based upon a percentage of taxable income of the donor.

The operating model underpinning the PBO regime in South Africa is suitable on the one hand for a traditional donor-funded charity model and on the other for the traditional generation of passive investment income from endowment assets.

But it contains restrictions, ambiguities and gaps in its laws and regulations that are hampering the wider adoption of impact investing. As noted by the Davis Tax Committee in 2018: "... donors who are seeking to commit to sustainable, longer-term philanthropy through the setting up of a funding foundation / organisation are dis-incentivised to do so."

Furthermore, the operating model upon which the current PBO regime is based sees non-profit entities functioning essentially as providers of services to communities using funds largely gathered from donations by well-meaning individuals and companies. Alternatively, the PBO has an already established endowment that is invested in "well-understood" public market assets generating a predictable but passive income for the entity to either spend on its programmes or to donate to another non-profit that will deliver a particular programme.

This model – while still relevant in many parts of the non-profit sector – is being challenged by the emergence and potential of impact investing and the desire of philanthropic investors (sometimes working with commercial investors) who wish to use their capital *collaboratively* towards blended returns of social and financial outcomes.

In a country with such stark inequality, crippling poverty, growing levels of unemployment and ever-growing dependence on a revenue-constrained fiscus for welfare grants, initiatives that can encourage financial sustainability for non-profits, and channel existing capital into new forms of impact-orientated investments that enhance social benefits, should be encouraged by the tax system, not be constrained by it.

With significant levels of dependency on the South African state for poverty relief through social grants, initiatives that can unlock private capital to fund socially beneficial activities represents an obvious "win" for the country. Substantial public good can arise from stimulating the impact investing market, and a trade-off with other policy objectives of the government need not be the outcome.

For foundations and other non-profit entities (PBOs and SBFs) who are looking to achieve a blend of social and financial impact by deploying their investment capital to *actively* build the instruments and the market itself for impact investing, the existing taxation regime for PBOs does not provide sufficient clarity nor flexibility for the widespread adoption of impact investing either for "mission-related investing", nor for "programme-related investing". Many potential participants in this nascent market are reluctant to pursue either of these routes because of this, and from the fear of losing their tax exempt status.

Factual Description

The sections below set out the areas of the ITA most affected by the problem statement. There are additional, more conceptual aspects to the current approach of the ITA related to impact investing and Krutham will submit these to the Tax Policy Unit under separate cover.

1. Section 10(1) (cN) and partial taxation rules

Numerous studies and reports have highlighted the issues with the interpretation of the partial taxation regime, both conceptually and with respect to the thresholds that have remained unchanged for many years (these studies are referenced in our Accelerating Impact report).

Let's take an impact investor – say a corporate foundation (with PBO status) – wishing to diversify some of its investment portfolio and “do more” with a small portion of its assets, for example 5%. Even a small move of endowment assets into a more actively structured portfolio could be regarded as no longer generating “passive” income. And while the returns would be taxed only if they exceed the current 5%/R200,000 limit, the danger is that such investment management activities may be deemed by SARS to no longer be “core” and could result in the PBO losing its tax exempt status.

Yet in the current investing climate, many endowments are seeking to better align how they invest with their core purpose – with what they do. The diagram on page 2 depicts this shift in sentiment. The ability for some portion of an endowment to be “mission aligned” and placed into businesses or other investment vehicles (such as a loan structure that provides concessional debt to a group of small businesses) may well fall foul of the “core purpose” rules, even if any financial returns were to be reinvested by the non-profit concerned, and if the ultimate purpose of the investments was to achieve the public benefits that are core.

Equally, for a PBO that wishes to diversify its revenue sources to protect itself from fluctuations in or a loss of donations, for example by offering its expertise and services to other foundations, such a move carries high risk as SARS may view this as a “loss of focus” from its core purpose even though this would be done to strengthen financial resources and the long-term viability of its core purpose. Given the current volatility in international aid, this need for income diversification is all the more acute for many non-profit entities.

Given the significant role in society played by many non-profit entities, the dated monetary threshold (5%/R200,000, last amended in 2011) and restrictive interpretation of the partial taxation rules in both sets of examples are hindering both the financial sustainability of many non-profit entities looking to diversify their income sources and the development of impact investing initiatives that could channel a portion of passively held investment funds into social impact-type structures.

2. Section 18A

The 50% distribution requirement for PBOs (per section 18A (2A) (b) (i)), carries an anomaly with the SBFE's (more recent) 25% distribution requirement; yet both seek to achieve a similar public good. In a similar vein, the 50% distribution rule makes it very difficult for like-minded impact investors to work together for example to establish an endowment from scratch for a new PBO (by collectively contributing funds towards its establishment from donations made over a period of time, such as over a period of 10 years).

Similarly, the five-year distribution rule on investment income earned from non-distributed donations (per section 18A (2D)) not only creates an administrative burden for PBOs to track and time all such income earned within five yearly cycles, but it also removes the ability of a PBO to reinvest or simply retain (as reserves) such income when it may be financially prudent and beneficial to do so.

Effectively forcing a PBO to distribute such monies could be viewed as overly paternalistic and deprives the PBO of the ability to judge when and how to adapt and adjust its programme (spend) and investment strategy based on prevailing circumstances.

3. Regulations for loans – 9th Schedule

The 9th Schedule (both Part I and Part II) under the section for Welfare and Humanitarian activities makes provision for community development support for the poor and needy and anti-poverty initiatives, including under subsection (p)(iii):

“The provision of training, support or assistance to emerging micro enterprises to improve capacity to start and manage businesses which may include the granting of loans on such conditions as may be prescribed by the Minister by way of regulation.”

The regulations for the granting of loans under p(iii) have never been published by the Minister of Finance, more than 20 years after the introduction of this part of the 9th Schedule. Apparently attempts have been made by some financial institutions to prepare the wording of possible draft regulations and discuss these with National Treasury, in order to be able to set up small and micro business lending vehicles and apply for PBO status using this particular PBA.

Several commentators have suggested that were these regulations to be published, and widening the base activities away from “Welfare and Humanitarian” section of the 9th Schedule, they would likely stimulate the provision of more funding to qualifying SMEs.

4. Small business funding entities - Section 30C

Provision of forms of business support and concessionary loans to SMEs (as a form of impact investing) by SBFEs have a major role to play in filling the gap between early-stage business financing (grants-based) and commercial finance (eg, by banks). With the Section 12J Venture Capital Company regime having ended in 2021, it has become even more important to ensure that the SBFE regime functions optimally and is compatible and consistent with PBA 1(p)(iii) under the PBO regime (as referenced in 3 above).

The operating restrictions on an SBFE based upon the wording in Section 30C (sole and principal object) create some uncertainty about what is encompassed under the interpretation of “funding”. In reality the provision of funding (eg, by way of grant) is often intertwined with the simultaneous provision of business support services. Such services typically consist of mentoring, advice, access to incubator programmes and common shared workspaces to prototype ideas and business concepts. Clarity on whether an SBFE is permitted to provide ancillary services such as business support, mentoring and technical support to recipients of funding (by for example making this explicit in section 30C itself and the SARS SBFE Guide) would enhance the operating understanding of SBFEs and remove the risk of jeopardising their SBFE tax status by providing a combination of both funding and business support.

The premise of SBFE funding is that this is provided to SMMEs is either in the form of grants or interest-free/low interest loans. This type of funding is often used in the early stages of a business's growth. Yet businesses do also seek hybrid debt and equity funding as they grow and mature, but the regulations do not envisage the SBFE being able to provide alternative forms of finance (even though it may have the infrastructure and the financial resources to do so). The expectation in the tax design is that such businesses would graduate to banks or other providers of commercial finance. Yet the “funding gap” for small, growing businesses remains substantial (see FinFind, 2025). The SBFE regime could provide a valuable source of continuous, staged, small business funding to help fill this gap. The world of impact investing is creating new forms of financial instrument, such as convertible debt, revenue-based debt and grants-to-equity agreements. These instruments are today being more favourably structured for SMMEs (offering less restrictions and more flexibility to adapt to unpredictable business events than traditional debt instruments offered by banks).

The Income Tax Act contains special tax dispensations for small businesses themselves: these are the micro business and the Small Business Corporation. The ITA definitions of micro business and Small Business Corporation however only permit natural persons to be shareholders in such businesses. Hence, even if it wanted to, an SBFE could not provide funding in the form of a hybrid instrument that in time and based on various events converts to equity capital to a microbusiness or an SBC.

Once again, the emerging world of impact investing is highlighting that the well-intentioned definitions of microbusiness and SBC in the Income Tax Act create obstacles to such enterprises benefiting from investors using an SBFE, and that more tailored and flexible forms of financing to support business growth need to be facilitated by section 30C.

The nature of the business / persons impacted

This submission has proposed steps be taken to resolve the ambiguity existing in the Income Tax Act around impact investing and alternative revenue generation, by non-profit entities.

The underlying premise of how funding flows (or should flow) into the non-profit sector, and what such entities do with this funding, as manifested in sections 30, 18A and 10(1)(cN) and in the 9th Schedule of the Income Tax Act, present challenges for philanthropic organisations, whether these are **trusts or non-profit companies operating under the exemption granted by SARS as PBOs or alternatively, as SBFEs**.

Specific non-profit entities impacted are those entities:

- a. With endowment funds to invest (mission-aligned investing) or spend their money in ways other than grants (programme-aligned investing);
- b. That wish to build up endowments as a cushion against future fluctuations in funding; and
- c. That wish to use their skills and resources to earn alternative revenue streams to secure the financial futures of their operations.

The foregoing discussion makes extensive reference to and gives examples of the kind of persons impacted by the issues highlighted.

However it is clear that indirectly, many poor and needy South Africans would benefit from a more sustainable non-profit sector too, one that is able to draw in additional resources and generate alternative revenues sources and apply these internally without the fear of losing their tax exempt status. Accordingly, impact investing under a clearer and more conducive tax regime for PBOs and SBFEs can be the means to redirect financial assets into the social sector, thereby alleviating the significant financial burden placed upon the state to help meet the basic needs of the indigent by way of grants.

The recommendations that follow are therefore intended to permit greater flexibility and clarity from the tax regulations in respect of impact investing. The recommendations are grouped as follows:

1. Limits and threshold updates
2. Absent or missing regulations
3. Wording changes to elements of current legislation

Limits and thresholds updates - recommendations

1. Section 10 (1) (cN) (dd) and section 10 (1) (cQ) (dd): Increase the thresholds for business or trading activities to the **greater of R500,000 or 20%** of receipts and accruals in any year.

Absent or missing regulations

2. 9th Schedule: Draft and promulgate the regulations for lending activities under **Part 1 (1)(piii) of the 9th Schedule** and consider the extension of lending to activities other than poverty alleviation, to enable a wider target set of beneficiaries of concessional lending, including small businesses.

Wording changes to elements of current legislation

3. Section 18A (2A) (b)(i): Reduce the distribution requirement for a conduit PBO in section 18A from **50% to 25%** to align with the similar (25%) SBFE requirement.
4. Section 18A (2A) (b)(i): Extend the period in which the distributions from a Conduit PBO need to occur from **12 months to five years**, to provide PBOs with grate flexibility to mange their assets and reserves in response to a volatile financial environment.
5. Section 30C (1) (d)(v) Update the wording of this provision to confirm that "substantially the whole of its funds for its sole or principal object" includes the provision of related business support services to support the financial and operating viability of the target beneficiary".
6. Section 30C (1) (b) Amend the definition of eligible business that an SBFE can provide "funding" to, from the existing "small, medium and micro-sized enterprises" (effectively linking this to the definition of micro business and SBC, with an implied R1m turnover / R20m gross income limit) to "up to a R20m gross income for small and growing businesses". This would remove the prohibition on non-natural persons being shareholders in such businesses, thereby creating flexibility for future forms of hybrid debt-equity and equity finance to such firms.

Glossary of terms

Impact investing	Investments made with the intention to generate positive, measurable social and environmental impact alongside a financial return. <i>(as defined by the Global Impact Investing Network)</i>
Micro-business	A type of special taxpayer recognised under South African tax law where the primary qualification is turnover of less the R1 million pa, and which operates either as a company or a sole trader.
Mission-related investing (MRI)	Investments undertaken at the endowment level and involve allocating some (rarely all) of the foundation's investment portfolio to investments that deliver impact.
Programme-related investing (PRI)	Investments undertaken as part of a foundation's programmes alongside grant-making, such as small loans and grants to support businesses that can deliver impact aligned to the programme's objectives.
Small Business Corporation (SBC)	A type of special taxpayer recognised under South African tax law where the qualifying criteria include being a juristic entity (eg a company), with only natural persons as shareholders, and with gross income of less the R20 million pa.

Social enterprise	An organisation that uses commercial strategies to achieve social, environmental, or community objectives, prioritising social return ahead of financial profit.
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