As part of South Africa’s reform of taxation of trusts, to limit the use of trusts as vehicles to avoid Estate Duty or Capital Gains Tax, National Treasury has introduced section 7C of the Income Tax Act No 58 of 1962 (the Act). Section 7C of the Act effectively seeks to impose Donations tax on the difference between a market-related interest rate and the interest actually charged on loans or advances to trusts.

The new legislation is effective on 1 March 2017 and applies in respect of any amount owed by a trust in respect of a loan, advance or credit provided to that trust before, on or after the above mentioned date by a connected person that is either a natural person or at the instance of that person, a company connected person and no interest or interest below a market rate is charged on such a loan or advance.

Accordingly, any individual or company at the instance of an individual(s), who has a loan or advance to a trust as a connected person, should undertake a tax review as to whether these loans or advances are subject to the newly introduced section 7C of the Act and to assess whether they have interpreted and implemented these legislative changes correctly, considered all the options available and therefore remain tax compliant.
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EYG no. 00803-171Gbl
1508-1600216 NY
ED None

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