

DRAFT

Draft regulations relating to the granting of loans in terms of paragraphs 1(p)(iii) and 3(f) of Part I and paragraph 1(p)(iii) of Part II the Ninth Schedule of the Income Tax Act, 1962, are hereby released for public comment.

It would be appreciated if comments on the draft legislation could be furnished by **Friday, 19 August 2005**.

Comments must be submitted to:

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SOUTH AFRICAN REVENUE SERVICE

No. R

JULY 2005

DRAFT REGULATIONS ISSUED IN TERMS OF PARAGRAPHS 1(p)(iii) AND 3(f) OF PART I AND PARAGRAPH 1(p)(iii) OF PART II OF THE NINTH SCHEDULE TO THE INCOME TAX ACT, 1962 (ACT NO. 58 OF 1962), TO PRESCRIBE THE CONDITIONS ON WHICH LOANS MAY BE GRANTED AS CONTEMPLATED IN THOSE PARAGRAPHS

By virtue of the power vested in me by paragraphs 1(p)(iii) and 3(f) of Part I and paragraph 1(p)(iii) of Part II of the Ninth Schedule to the Income Tax Act, 1962 (Act No. 58 of 1962), I, Trevor Andrew Manuel, Minister of Finance, hereby prescribe in the Schedule hereto the conditions for the granting of loans as contemplated in the aforementioned paragraphs.

T. A. MANUEL

MINISTER OF FINANCE

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SCHEDULE

1. In these regulations, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the Income Tax Act, 1962, bears the meaning so assigned thereto.

2. The granting of a loan by a public benefit organisation, as contemplated in paragraph 1(*p*)(iii) or 3(*f*) of Part I and paragraph 1(*p*)(iii) of Part II of the Ninth Schedule to the Income Tax Act, 1962, is subject to the following conditions:—

- (a) The total finance cost (including all interest, related finance charges and administration fees) incurred by a borrower in terms of any such loan may not exceed the amount which would be payable by that borrower had simple interest been charged at prime rate plus nine percentage points per annum;
- (b) the total amount of all loans granted by that public benefit organisation to any emerging micro enterprise, as contemplated in paragraph 1(*p*)(iii) of Part I and paragraph 1(*p*)(iii) of Part II of the Ninth Schedule, may not exceed R30 000 per enterprise; and
- (c) no loan may be granted to any person who is in a fiduciary capacity responsible for the management or control of the income and assets of that public benefit organisation or to any connected person in relation to that person.

3. The constitution or written instrument of a public benefit organisation granting any loan, as contemplated in paragraph 1(*p*)(iii) of Part I and paragraph 1(*p*)(iii) of Part II of the Ninth Schedule to the Income Tax Act, 1962, must expressly provide that the organisation will, in addition to the granting of loans to emerging micro enterprises, provide training and capacity building with respect to financial awareness and responsibility on either a no cost or a cost recovery basis.