BINDING CLASS RULING: BCR 002

DATE: 12 May 2009

ACT   :   INCOME TAX ACT, NO. 58 OF 1962 (the Act)
SECTION :   SECTIONS 11(*a*) AND 23(*g*)
SUBJECT :   EXPENDITURE   INCURRED   ON   CORPORATE   SOCIAL
                    INVESTMENT PROGRAMMES

1.   **Summary**

        This ruling deals with the deductibility of expenditure incurred on Corporate Social Investment (CSI) programmes.

2.   **Relevant tax laws**

        This is a binding class ruling issued in accordance with section 76R of the Act.

        In this ruling legislative references to sections are to sections of the Act applicable at 31 July 2008 and unless the context indicates otherwise, any word or expression in this ruling bears the meaning ascribed to it in the Act.

        This ruling has been requested under the provisions of section 11(*a*) read with section 23(*g*).

3.   **Class**

        The Class members to whom this ruling will apply will be the wholly owned subsidiaries of the Applicant.

4.   **Parties to the transaction**

        The Applicant: A South African resident holding company

        Class members: Wholly owned subsidiaries of the Applicant

5.   **Description of the proposed transaction**

        The Executive Committee (EXCO) of the Applicant took a policy decision at a Board meeting to enhance its CSI programme in order to meet the requirements of the Black Economic Empowerment (BEE) scorecard. As a result of this policy decision there would need to be a shift from the existing CSI programme to socio-economic development by means of educational assistance through bursaries.

In line with the Applicant's policy decision and the resulting shift in the CSI programme the intention of Class members will be to spend at least 1% of their net profit after tax on future CSI programmes which is the minimum requirement under the socio-economic development category of the BEE Codes of Good Practice.

In keeping with that intention the proposed transaction will essentially involve the provision of bursaries to needy recipients from underprivileged backgrounds to be used by them for the payment of fees for their schooling (including tertiary education).

In terms of the proposed transaction the Applicant or a class member, (referred to as G) will conclude bursary agreements with successful candidates who may, or may not, include employees of a class member.

The Applicant, through designated members of staff, will undertake the task of firstly locating communities deserving of the assistance, receiving applications from needy recipients therein, deciding on the quantum of the financial assistance to be provided and finally making recommendations as to which applications should be approved. Final approval in this regard will be granted by EXCO.

The Applicant or G, will recharge the respective Class members for their respective share of the CSI programme expenditure prior to the financial year-end. The basis of the allocation will be at the discretion of EXCO, but it is expected that the contribution to group profit before tax will be the measurement used to determine the respective share of the CSI programme costs.

6. **Conditions and assumptions**

This ruling is made subject to the following conditions and assumptions:

- Each Class member which will claim a deduction for expenditure incurred in respect of the CSI programme will have actually incurred such expenditure for purposes of its own BEE-rating and not for that of the group as a whole.

- Each Class member which will claim a deduction for expenditure incurred in respect of the CSI programme does in fact carry on a trade as envisaged in section 11(*a*).

7. **Ruling**

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

- Expenditure incurred in respect of the CSI programmes for purposes of earning BEE scorecard points will be deductible under section 11(*a*) read with section 23(*g*).

8. **Period for which this ruling is valid**

This binding class ruling is valid for a period of five (5) years as from 28 August 2008 until 27 August 2013.

Issued by:

Legal and Policy Division: Advance Tax Rulings
SOUTH AFRICAN REVENUE SERVICE