

**DRAFT**

**SOUTH AFRICAN REVENUE SERVICE**

**No.**

**2026**

**REJECTION OF AN APPLICATION FOR A DTA ADVANCE PRICING AGREEMENT IN TERMS OF SECTION 76I(b) OF THE INCOME TAX ACT, 1962 (ACT NO. 58 OF 1962)**

In terms of section 76I(b) of the Income Tax Act, 1962, I, Edward Christian Kieswetter, Commissioner for the South African Revenue Service, hereby prescribe in the attached Schedule, the additional requirements that may lead to the rejection of an application for a DTA advance pricing agreement.

**E C KIESWETTER**  
**COMMISSIONER: SOUTH AFRICAN REVENUE SERVICE**

## Schedule

### 1. General

Any term or expression in this notice to which a meaning has been assigned in a “tax Act” as defined in section 1 of the Tax Administration Act, 2011 (Act No.28 of 2011), has the meaning so assigned, unless the context indicates otherwise.

### 2. Additional requirements for the rejection of an application for a DTA advance pricing agreement.

In addition to section 76I(a) of the Income Tax Act, SARS may reject an application for a DTA advance pricing agreement in the following circumstances:

- 2.1 The proposed DTA advance pricing agreement would not reflect the economic reality of the transaction.
- 2.2 The application requires SARS to consider the legal form of an affected transaction without taking the substance of the transaction into account.
- 2.3 The proposed advance pricing agreement would not ensure that there is alignment between economic activities and the profit outcomes in the Republic.
- 2.4 An affected transaction appears to lack commercial substance or is entered into primarily to avoid tax.
- 2.5 The application involves the interpretation of a general or specific anti-avoidance provision or doctrine.
- 2.6 The application is in respect of an issue that is the same as, or substantially similar to, an issue that is subject to—
  - 2.6.1 a proposed amendment to a tax Act that has been published;
  - 2.6.2 dispute resolution under Chapter 9 of the Tax Administration Act or an Article in an agreement for the avoidance of double taxation; or
  - 2.6.3 a voluntary disclosure program application by the applicant.
- 2.7 The application pertains to the tax consequences of transactions contained in any other agreement which has already been concluded with SARS.
- 2.8 The application differs materially from the details provided during the pre-application consultation stage.
- 2.9 The application is submitted for academic purposes.
- 2.10 The application is in respect of a frivolous or vexatious issue.
- 2.11 The applicant fails or refuses to provide additional information requested by SARS.
- 2.12 The applicant does not pay the prescribed fees in section 76D of the Income Tax Act.
- 2.13 The competent authority of the other country does not want to be party to the DTA advance pricing agreement.

2.14 The applicant is not tax compliant to the extent referred to in section 256(3) of the Tax Administration Act.

### **3. Commencement**

This Notice will apply to all applications received on or after the date of publication of this Notice in the *Government Gazette*.

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