



South African Revenue Service
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ENGAGEMENT LETTER

**APPLICATION REFERENCE
NUMBER:** _____

SECTION ONE: DETAILS OF APPLICANT AND ESTIMATED FEE

Name: _____

ID or tax reference number: _____

Residential or business address: _____

Postal address: _____

Agent of the Applicant (if applicable): _____

Estimated fee range: R0 000 – R00 000

Date of estimate: _____

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SECTION TWO: INTERPRETATION

- 2.1 References to “you” and “your” refer to the applicant or applicants for the binding private ruling.
- 2.2 Unless the context otherwise indicates, other terms used in this engagement letter have the same meanings as defined in section 75 of the Tax Administration Act, No. 28 of 2011 (the Act) or the *Comprehensive Guide to Advance Tax Rulings* (“the CGATR”) available on the SARS website as the case may be.

SECTION THREE: FEES

- 3.1 Your application is subject to an application fee referred to in section 81(1)(a) which must be paid through SARS eFiling when you file your application. If your application fee is not received within ten (10) days of the date of filing, your application will be rejected.
- 3.2 In addition to the application fee referred to in 3.1, you are liable for a further fee (“estimated fee range” referred to in SECTION ONE (B) of this Engagement Letter) which represents the cost recovery fee referred to in section 81(1)(b) of the Act. By signing this engagement letter, you hereby confirm your acceptance of this estimated fee range.
- 3.3 You must make an advance payment of a maximum of 20% of the higher value of the estimated fee range within fifteen (15) days of the date of estimate as indicated in SECTION ONE (B) of this Engagement Letter. If you fail or refuse to do so, your application will be rejected without any refund of the application fee already paid by you.
- 3.4 The cost recovery fee generally may not exceed the estimated fee range unless:
- you amend your application; or
 - a new issue is discovered during the course of the ruling process.
- 3.5 If at any time during this engagement a revision appears necessary, you will be notified of the proposed revision and be given the opportunity to discuss this issue with the ruling specialist assigned to your application. If you fail or refuse to accept the revised estimated fee range within fifteen (15) days of the date of the revised estimate, your application will be rejected.
- 3.6 You may be invoiced periodically for work performed and costs incurred in connection with your application. All invoices are payable within 30 days. Interest will be levied, in accordance with section 80 of the Public Finance Management Act No 1 of 1999, on any amounts in arrears. Arrear

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accounts may be referred to an external debt collection agency for further action. Furthermore no new applications will be accepted from you or any co-applicant(s) until such time as the outstanding amount is settled.

- 3.7 You will be responsible for the payment of the full amount of any outstanding fees, interest and costs incurred in the collection of such outstanding amounts.
- 3.8 A ruling letter in response to your application will not be issued unless and until all invoices have been paid in full.

SECTION FOUR: GENERAL TERMS AND CONDITIONS

PART A: APPLICATION

- 4.1 You have filed an application for a binding private ruling in accordance with the provisions of Chapter 7 of the Act. Your application and the specific rulings set forth in the ruling letter are subject to any other requirements and limitations set forth in this part of the Act, as well as any requirements and limitations set forth in any binding general ruling issued by the Commissioner pursuant to section 90 of the Act, including, without limitation, the CGATR.
- 4.2 Failure to comply with the requirements of these provisions may result in the rejection of your application or in any binding private ruling issued to you being withdrawn, modified or rendered void *ab initio*.
- 4.3 The Commissioner may reject your application at any time if it is determined that an exclusion applies. The decision to refund any fee paid by you in such a case lies solely in the discretion of the Commissioner and will be determined on a case-by-case basis. No interest is payable on the amount refunded to you.
- 4.4 Every application is assigned a unique application reference number. You must use this application reference number in all further communications in connection with your application.
- 4.5 The Commissioner may request additional information in connection with your application at any time. If you fail or refuse to provide the additional information required within the time period prescribed, your application may be rejected without any refund of the application fee and any cost recovery fee already paid by you. You will also remain liable for any cost recovery fee incurred but not yet paid up to and including the date of rejection.
- 4.6 You are solely and exclusively responsible for ensuring that any information you submit is complete and accurate. Failure to do so may result in the rejection of your application or in the subsequent withdrawal, modification or invalidation of any binding private ruling you may receive.

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- 4.7 With the consent of the Commissioner, you may amend your application to reflect a change or modification to your proposed transaction. Such an amendment will generally result in an amendment of the estimated fee range. Consent will not be granted if the amendment relates to a new proposed transaction. In such a case, you must file a new application.
- 4.8 You may also amend your application at any time in order to request the Commissioner to cease work in connection with your application and not issue a binding private ruling (amendment to discontinue). This amendment must be in writing. All work in connection with your application will cease immediately upon receipt of the amendment to discontinue. If you subsequently wish to pursue the matter again, you must file a new application. The decision as to whether or not to issue a binding private ruling in response to your application lies within the Commissioner's sole discretion. Should you discontinue with your application, you will also remain liable for any cost recovery fee incurred but not yet paid up to and including the date of withdrawal.
- 4.9 Your binding private ruling may be withdrawn or modified by the Commissioner in accordance with the provisions of section 86 of the Act.
- 4.10 The Commissioner may, at his sole discretion condone non-compliance with any of the preceding terms and conditions and may accept an application on such additional terms and conditions that he deems fit.
- 4.11 By signing this engagement letter, you hereby agree that should paragraph 4.10 apply, you will –
- pay all the fees listed above in such manner and form as the Commissioner may prescribe; and
 - submit all information listed above in such manner and form as the Commissioner may prescribe.

PART B: RULING

- 4.1 Any ruling letter or specific ruling issued to you is based solely upon –
- the information, documents, representations, facts and assumptions that are submitted to SARS being true and accurate;
 - any legal agreements or contracts that are entered into (or proposed to be entered into) in connection with the proposed transaction being legally valid and enforceable in accordance with their stated terms, the parties to those agreements timely satisfying their obligations under them, and the agreements otherwise being carried out in accordance with their terms; and

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- the tax laws as referred to in the CGATR, regulations, binding general rulings and judgments in effect as of the date of any ruling letter that may be issued to you. In particular, any specific rulings that may be made are based solely upon the interpretation and application of the tax laws as amended and in effect as of the date of this ruling letter, as well as any applicable regulations, binding general rulings or judgments, in effect as of that date.
- 4.2 Any specific ruling that is made only applies to the provisions of the tax laws identified in the final ruling letter in connection with the proposed transaction described herein.
- 4.3 Any ruling letter and the specific ruling that may be issued are based upon the Commissioner's understanding of the proposed transaction as described in the ruling letter itself. If you believe that this understanding is incorrect, inaccurate or incomplete, it is your obligation to notify the Commissioner immediately. The failure to rectify a misunderstanding of a material fact may result in the ruling letter being withdrawn, modified or rendered void *ab initio*.
- 4.4 Any specific ruling that may be made will cease to be effective upon the occurrence of any of the following circumstances –
- the provisions of the tax laws that are the subject of the ruling letter are repealed or amended; or
 - a court overturns or modifies an interpretation of the provisions of the tax laws on which the specific ruling set forth in the ruling letter are based unless –
 - the decision is under appeal;
 - the decision is fact-specific and the general interpretation upon which the specific ruling was based is unaffected; or
 - the reference in the decision to the interpretation upon which the specific ruling was based is obiter dicta.
- 4.5 In any of these situations, the ruling letter and any specific ruling set forth therein will cease to be effective immediately upon –
- the effective date of the repeal or amendment of the provisions in question; or
 - the date of the judgment,
- whichever is applicable. The ruling letter ceases to be effective automatically upon the occurrence of any of these events. The Commissioner is not obligated to notify you or to otherwise publish a notice of withdrawal or modification.
- 4.6 Any ruling letter and the specific ruling set forth therein are void *ab initio* if any of the following circumstances exist or occur –
- any facts stated in your application regarding the proposed transaction are materially different from the transaction actually carried out;

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- there is fraud, misrepresentation or nondisclosure of a material fact; or
- any condition or assumption stipulated by the Commissioner in the ruling letter is not satisfied or carried out.

(A fact is considered material if it would have resulted in a different specific ruling had the Commissioner been aware of it when issuing the ruling letter.)

4.7 You must consent to the publication of your binding private ruling in such form as does not reveal the identity of the parties to the transaction or any information that would constitute a clearly unwarranted invasion of privacy. Your application will not be accepted unless and until you provide this consent. Furthermore, you will be provided with a sanitised version of the binding private ruling prior to publication thereof in order to ensure that you are in agreement with the final version for publication. You must confirm your agreement with the sanitised version within five (5) days of receipt thereof.

4.8 It is a condition precedent to any binding private ruling that it does not raise an issue that is the same as or substantially similar to an issue that is currently before the Commissioner in connection with an audit, examination, investigation or other proceeding involving you or any related person in connection with you. If this condition precedent is not satisfied, any ruling letter issued to you will be rendered void *ab initio*.

SECTION FIVE: ADDITIONAL TERMS AND CONDITIONS

5.1 The terms and conditions contained in this engagement letter apply *mutatis mutandis* to any co-applicant(s) listed in **Annexure A** (if applicable).

5.2 Should there be any differences between these terms and conditions and any of the terms and conditions as prescribed for in sections 75 to 90 of the Act then the Act will take preference.

SIGNATURES

Applicant: _____ **ATR Manager:** _____

Name: _____ **Name:** _____

Capacity: _____

Date: _____ **Date:** _____

DETAILS OF CO-APPLICANT(S) TO THE BINDING PRIVATE RULING

Name: _____

ID or tax registration number: _____

Business or residential address: _____

Postal address: _____

