

BINDING CLASS RULING: BCR 057

DATE: 24 July 2017

ACT : INCOME TAX ACT 58 OF 1962 (the Act)
SECTION : SECTIONS 12J AND 24H
SUBJECT : SECTION 12J(2) DEDUCTION BY PARTNERS

1. Summary

This ruling determines a commanditarian partner's eligibility to claim a deduction under section 12J(2) in respect of venture capital shares acquired by a partnership and whether the proposed investor certificates to be issued to the commanditarian partners will be acceptable for purposes of section 12J(4).

2. Relevant tax laws

This is a binding class ruling issued in accordance with section 78(2) and published in accordance with section 87(2) of the Tax Administration Act 28 of 2011.

In this ruling references to sections are to sections of the Act applicable as at 30 June 2017. Unless the context indicates otherwise any word or expression in this ruling bears the meaning ascribed to it in the Act.

This is a ruling on the interpretation and application of –

- section 12J; and
- section 24H.

3. Class

The class members to whom this ruling will apply are the commanditarian partners of the partnership described in **4**.

4. Parties to the proposed transaction

The Applicant: A company incorporated in and a resident of South Africa

The partnership: An *en commandite* partnership to be formed between the Applicant as general or managing partner and the class members as commanditarian partners

The class members: The commanditarian partners of the partnership

Manco: A company incorporated in and a resident of South Africa that is a manager of venture capital companies.

5. Description of the proposed transaction

The Applicant is engaged in the provision of trust services and it is the general or managing partner of the partnership, an *en commandite* partnership to be formed between the Applicant as general or managing partner and between ten and twenty commanditarians partners.

The partnership is formed to invest exclusively in “venture capital companies” as defined in section 12J(1) that have been approved as such under section 12J(5). The class members will contribute cash to the partnership. There will be no third party borrowings by the partnership. A class member’s proportionate share in the income and capital of the partnership will be *pro rata* to that class member’s contribution to the capital of the partnership.

The partnership proposes to invest initially in two venture capital companies managed by Manco. The Applicant and Manco will arrange that, notwithstanding that the investment will be made by the partnership in each venture capital company, each individual class member will be entered into the register of investors in the books of the relevant venture capital company, and each individual class member will be issued a certificate contemplated in section 12J(4) (investor certificates), based on that class member’s proportionate investment in the partnership. For this purpose, the identity of the class members will be disclosed to Manco.

6. Conditions and assumptions

This binding class ruling is subject to the additional condition and assumption that the investor certificates must indicate that the investment was made by the partnership and held by the class members as partners in the partnership.

7. Ruling

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

- a) Subject to section 12J(3) and (3A), each class member will be entitled to claim the deduction under section 12J(2) read with section 24H, *pro rata* to that class member’s proportionate share of the investment in the partnership. The proposed investor certificates to be issued to the class members will be acceptable for purposes of section 12J(4).

8. Period for which this ruling is valid

This binding class ruling is valid for a period of five years from 30 June 2017.