



SOUTH AFRICAN REVENUE SERVICE

BINDING PRIVATE RULING: BPR 006

Policy guidance on the subject provided in Interpretation Note No. 78 Allowance for future expenditure on contracts.

DATE : 6 March 2008

ACT : **INCOME TAX ACT, 58 OF 1962 (“the Act”)**
SECTION : **SECTION 24C**
SUBJECT : **THE APPLICATION OF SECTION 24C IN THE CONTEXT OF A REPAIR AND MAINTENANCE CONTRACT**

1. Summary

The issue considered in this ruling is whether the provisions of section 24C of the Act will be applicable, in relation to a repair and maintenance contract (“the Contract”) entered into by the Applicant with Customers, on the basis that the Applicant will be obliged to incur expenditure in relation to such contract which is directly linked to the income which the Applicant earns pursuant to such contract.

2. Relevant tax laws

This ruling is a binding private ruling which was requested by the Applicant in accordance with the requirements of section 76E of the Act and issued by the Legal and Policy Division: Advance Tax Rulings in accordance with section 76Q of the Act.

All legislative references are to sections of the Act applicable as at 31 July 2007 and unless the context otherwise indicates, any word or expression in this ruling bears the meaning ascribed to it in the Act.

The relevant provision of the Act is section 24C.

3. Parties to the transaction

Applicant: A limited liability company resident in South Africa for income tax purposes

Customers: End-user customers

4. Description of the proposed transaction

The Applicant manufactures assets that require repairs and maintenance and in this regard wishes to offer the Contract to Customers to obtain a competitive edge in the market. The pertinent provisions of the Contract to be entered into with Customers are set out hereunder:

- A separate Contract is entered into for the repair and maintenance of each asset.
- The Contract provides for the provision of the repair and maintenance service to be delivered by the Applicant, based on the repair and maintenance option chosen by the Customer.
- The Contract further provides that such repair and maintenance service does not constitute a warranty, but covers the known and anticipated repairs and maintenance costs of the said asset that needs repairs and maintenance for the agreed price.
- A monthly fee is payable. The fee is calculated based on a formula which takes into account, *inter alia*, the specific application of such asset, the extent of usage of such asset and various benchmarked variables which could impact the repair and maintenance of such asset in a particular month, subject to a minimum monthly payment. Thus, the monthly fee is calculated based on the anticipated costs of repairs and maintenance which the Applicant is obliged to perform in relation to such asset in terms of the Contract.
- The Contract provides that, subject to the terms of the Contract, the Applicant will bear the costs of the repair and maintenance of such asset as per the repair and maintenance option chosen by the Customer.

The purpose of the Contract is to give the Applicant a competitive edge in the market and it is not intended that the Contract will give rise to a profit. That is, the Applicant has priced the monthly fee based on the anticipated repair and maintenance costs in terms of the Contract and has not built in a margin.

5. Specific conditions and assumptions

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

- This ruling will only be applicable to repair and maintenance Contracts entered into by the Applicant containing substantially the same terms as the specimen Contract made available to the Legal and Policy Division: Advance Tax Rulings for review.
- This ruling will only be applicable to repair and maintenance Contracts entered into after 31 May 2007.
- This ruling does not extend to the calculation of the section 24C allowance in a given year of assessment.

6. Specific ruling

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

- The Applicant will be entitled to a section 24C allowance in respect of the fees accruing to it under the repair and maintenance Contract to be concluded with Customers.

7. Period for which this ruling letter is valid

This binding private ruling, issued in July 2007, will be valid for a period of three years.

Issued by:

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