

BINDING PRIVATE RULING: BPR 123

DATE: 11 October 2012

ACT : INCOME TAX ACT NO. 58 OF 1962 (the Act)
SECTION : SECTION 12D, DEFINITION OF “AFFECTED ASSET”
SUBJECT : FIBRE OPTIC CABLE TO BE USED FOR ELECTRONIC COMMUNICATIONS

1. Summary

This ruling deals with the question of whether a fibre optic cable to be used for electronic communications will constitute an “affected asset” as defined in section 12D(1) of the Act.

2. Relevant tax laws

This is a binding private ruling issued in accordance with section 78(1) and published in accordance with section 87(2) of the Tax Administration Act No. 28 of 2011.

In this ruling references to sections are to sections of the Act applicable as at 12 May 2012 and 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 the provisions of section 12D, definition of “affected asset”.

3. Party to the proposed transaction

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

4. Description of the proposed transaction

The Applicant has been granted the right under an agreement to build and operate a fibre optic broadband cable communications network. This network will transmit telephone and information technology communications (that is, internet, email, etc) to end-users at a commercially determined fee.

5. Conditions and assumptions

This ruling is not subject to any conditions and assumptions.

6. Ruling

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

- The fibre optic cable to be used for the transmission of electronic communications will qualify as an 'affected asset' as defined under section 12D(1).

7. Period for which this ruling is valid

This binding private ruling is valid for a period of 5 years from 12 May 2012.

Issued by:

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