



SOUTH AFRICAN REVENUE SERVICE

BINDING PRIVATE RULING: BPR 016

The guidance contained in this ruling is affected by subsequent law changes.

DATE : 14 July 2008

ACT : INCOME TAX ACT, 58 OF 1962 (“the Act”)

SECTION : SECTION 64C(2)(g) and (4)(d)

SUBJECT : LOANS FROM A SUBSIDIARY COMPANY TO A HOLDING COMPANY

1. Summary

This ruling provides guidance on whether the loans by a subsidiary company to a holding company will be deemed to be dividends if the loans are granted at a rate less than the “**official rate of interest**” as defined in paragraph 1 of the Seventh Schedule to the Act.

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 and paragraphs of the Seventh Schedule to 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 them in the Act.

The relevant provisions of the Act are section 64C(2)(g) and (4)(d).

3. Parties to the transaction

Applicant: A subsidiary which is a South African resident (“Subco”) and a holding company which is a foreign company (“Holdco”).

4. Description of the proposed transactions

These transactions concern the advance of three-month loans by Subco to Holdco. The loans will be granted if the interest rate offered by Holco to Subco on the loans, is above the market-related interest rate that Subco can obtain in the South African market. These loans will be rand denominated loans unless the interest rate charged is below the “**official rate of interest**” as defined in paragraph 1 at the time the loans are granted, in which event the loans will be foreign denominated loans.

5. Specific condition and assumption

This binding private ruling is made subject to the following condition and assumption:

- The rate of interest charged in respect of the three-month loans will not be less than the “**official rate of interest**” as defined in paragraph 1.

6. Specific ruling

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

- The loans by Subco to Holdco will be deemed to be dividends in terms of section 64C(2)(g) but the provisions of section 64C(2)(g) will not apply, in terms of section 64C(4)(d), to the loans of which the rate of interest is not less than the “**official rate of interest**” as defined in paragraph 1.
- The interest rate in respect of these loans must be determined when each loan is entered into.

7. Period for which this ruling letter is valid

This binding private ruling is valid for a period of three (3) years as from 31 July 2007.

Issued by:

Legal and Policy Division: Advance Tax Rulings

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