BINDING PRIVATE RULING: BPR 153

DATE: 30 August 2013

Refer to paragraph 2 read with paragraph 2.1.5 of Public Notice 5533 in Government Gazette No. 51526 of 8 November 2024.

ACT : INCOME TAX ACT NO. 58 OF 1962 (the Act)
SECTION : SECTION 1(1) DEFINITION OF "RESIDENT"
SUBJECT : RESIDENCY STATUS OF A NON-RESIDENT WHO APPLIES FOR A TEMPORARY RESIDENCE PERMIT

1. Summary

This ruling deals with the residency status of a non-resident natural person who intends applying for a temporary residence permit in the Republic of South Africa (South Africa) and whether the application for such a permit will result in the person becoming ordinarily resident for South African tax purposes.

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 18 December 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 1(1), definition of "resident".

3. Parties to the proposed transaction

The Applicant: An individual who is a national of a foreign country (Country X)

4. Description of the proposed transaction

The Applicant is currently resident in Country X and a registered taxpayer with Country X's tax authorities.

The Applicant retired recently and has been spending time in South Africa on extended visits. The Applicant is contemplating retiring to South Africa and intends applying to the Department of Home Affairs for temporary residence in the form of a retired person's permit.

5. Conditions and assumptions

This binding private ruling is made subject to the additional condition and assumption that the Applicant is not a "resident" as defined in section 1(1).

6. Ruling

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

- An application for a retired person's permit will not, in itself, be sufficient for the Applicant to become ordinarily resident in South Africa provided the Applicant does not indicate to the Department of Home Affairs on the relevant application form(s) that the intention is to settle in South Africa on a permanent basis.

7. Period for which this ruling is valid

This binding private ruling is valid for the year of assessment in which the proposed transaction is executed.

Issued by:

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