

**BINDING PRIVATE RULING: BPR 192**

DATE: 28 May 2015

**ACT : INCOME TAX ACT NO. 58 OF 1962 (the Act)**  
**SECTION : SECTION 31 AND SECTION 50B READ WITH SECTION 50E**  
**SUBJECT : CROSS BORDER INTEREST-FREE LOAN AND WITHHOLDING TAX ON INTEREST**

**1. Summary**

This ruling deals with the question as to whether an adjustment made to taxable income or tax payable under section 31 can trigger withholding tax on interest levied under section 50B read with section 50E 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 11 May 2015 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 31; and
- section 50B read with section 50E.

**3. Parties to the proposed transaction**

The Applicant: A company incorporated in and a resident of a foreign country which does not carry on business through a permanent establishment in South Africa

The Co-Applicant: A company incorporated in and a resident of South Africa which is a connected person to the Applicant

**4. Description of the proposed transaction**

The Applicant and the Co-Applicant will enter into an agreement in terms of which the Applicant will advance a loan to the Co-Applicant. The loan will be interest-free, unsecured and repayable on demand.

**5. Conditions and assumptions**

This ruling is not subject to any additional conditions and assumptions.

**6. Ruling**

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

- In the event that an adjustment is made to taxable income or tax payable under section 31 –
  - the Applicant will not be liable for withholding tax on interest under section 50B; and
  - the Co-Applicant will have no obligation to withhold an amount of withholding tax on interest under section 50E.

**7. Period for which this ruling is valid**

This binding private ruling is valid for a period of 5 years from 11 May 2015.

**8. General note**

The potential deemed dividend implications that may arise under section 31 have not been considered for purposes of this ruling.

Issued by:

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