

BINDING PRIVATE RULING: BPR 333

DATE: 12 November 2019

ACT : INCOME TAX ACT 58 OF 1962 (the Act)
SECTION : SECTION 12J(1) – PARAGRAPH (a) OF THE DEFINITION OF “IMPERMISSIBLE TRADE”
SUBJECT : VENTURE CAPITAL COMPANY – INVESTMENT IN FARMING OPERATIONS

Preamble

This binding private ruling is published by consent of the applicant(s) to which it has been issued. It is binding as between SARS and the applicant and any co-applicant(s) only and published for general information. It does not constitute a practice generally prevailing.

1. Summary

This ruling determines whether an operating company will be regarded as carrying on any impermissible trade in respect of immovable property as contemplated in paragraph (a) of the definition of that term in section 12J(1).

2. Relevant tax laws

In this ruling references to sections are to sections of the Act applicable as at 30 July 2019. 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 paragraph (a) of the definition of “impermissible trade” in section 12J(1).

3. Parties to the proposed transaction

The applicant: A resident company which has been approved under section 12J(5) as a “venture capital company” as defined in section 12J(1)

Operating company: A resident company

4. Description of the proposed transaction

The applicant proposes to subscribe for shares in the operating company which will undertake farming operations consisting of planting, growing, harvesting, packing, transportation and distribution of blueberries. Vacant land required to undertake the farming operations will either be purchased or leased by the operating company. Upon securing the land, the farming operations will be established which will include fencing, netting, a drip irrigation system, cold rooms, equipment and the planting of the blueberry bushes.

5. Conditions and assumptions

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

6. Ruling

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

- The farming of blueberries by the operating company will not constitute a trade in respect of immovable property for purposes of paragraph (a) of the definition of “impermissible trade” in section 12J(1).

7. Period for which this ruling is valid

This binding private ruling is valid for a period of five years from 30 July 2019.

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