

No Rulings List for purposes of Advance Tax Rulings

The Advance Tax Ruling System, provided for in Part IA of Chapter III of the Income Tax Act, No. 58 of 1962 (the Act), enables the Commissioner to issue rulings on proposed transactions. Section 76G(3) of the Act authorises the Commissioner to publish a list of issues for which applications for advance tax rulings may be rejected. This **No Rulings List** is supplementary to the exclusions, refusals and rejections contained in sections 76G(1) and (2), and apply to the following issues:

1. Income Tax

- 1.1. The deductibility of expenditure relating to the taking over of liabilities and/or provisions upon the acquisition of a business.
- 1.2. The Secondary Tax on Companies implications relating to the acquisition of shares in a holding company by a connected person in relation to that holding company, where the shares are subsequently cancelled by the holding company.
- 1.3. The qualifying allowance, contemplated in section 24C of the Act, in respect of future expenditure relating to warranties or guarantees.
- 1.4. The validity of amounts treated on a 'salary sacrifice' basis for remuneration purposes.
- 1.5. Requests for directives if special mechanisms are already in place requiring the Commissioner to issue a directive. For example, this exclusion will apply to directives as provided for in paragraphs 11 and 11B of the Fourth Schedule and paragraph 3 of the Seventh Schedule to the Act.
- 1.6. The interpretation and application of the exemption under section 10(1)(c)(v) of the Act in relation to any agreement entered into before 1 January 1990.
- 1.7. The tax deductibility of any amounts incurred by an employer in order to transfer or extinguish, in whole or in part, its post-retirement medical aid obligations towards past and present employees (excluding section 12M), specifically including, but not limited to –
 - a) Lump sum contributions to pension, provident or benefit funds;
 - b) Lump sum settlement payments made directly to employees; and
 - c) Premiums paid by the employer to acquire annuity policies.
- 1.8. The deductibility, in terms of sections 11(a) or 24J(2) of the Act, of interest incurred by a company on debt used to finance the acquisition of shares in another company for the purpose of acquiring the underlying assets or business.
- 1.9. The determination of the place of effective management for purposes of the definition of "resident" in section 1 of the Act.
- 1.10. The tax implications of transactions that involve a purpose trust.

2. Value Added Tax (VAT)

- 2.1. The VAT implications of an amount received as compensation or damages for early termination of a distribution agreement and whether such amount constitutes consideration for a supply as contemplated in the VAT Act.

- 2.2. The supplier of goods or services is not the applicant or a co-applicant where the application pertains to the VAT liability of a supply of goods or services made by that supplier.
- 2.3. The entitlement to deduct input tax in respect of the VAT incurred on services acquired from local suppliers in respect of a restructuring transaction. Furthermore, whether the recipient has a liability to declare VAT on "imported services". where these services are acquired from off-shore suppliers.
- 2.4. Confirmation that a person is acting as an agent or principal in respect of a supply of goods or services.
- 2.5. The application of section 8(15) of the VAT Act and whether a supply of goods or services constitutes a single supply.

3. Donations Tax

- 3.1. Considering the price or amount that would constitute "fair market value" under section 55(1) of the Act.
- 3.2. Any exercise in advance of the Commissioner's discretion under section 58(1) of the Act concerning the adequacy of consideration for the disposal of property.

4. General

- 4.1. The attribution, allocation or apportionment of expenditure or input tax (from an income tax and VAT perspective), excluding a request for an alternative apportionment method in terms of section 41B of the VAT Act.
- 4.2. The application of the substance over form doctrine.
- 4.3. Pertaining to the tax consequences of transactions in respect of agreements which have already been concluded, except a request for a VAT ruling or a VAT class ruling in terms of section 41B of the VAT Act.
- 4.4. Relating to or involving transactions which, in the opinion of the Commissioner, could be subject to any specific or general anti-avoidance provisions in the various Acts administered by the Commissioner. Should the applicant be uncertain whether this item will apply to an application, a draft application can be submitted before registering it on e-Filing and paying the application fee. This application should clearly indicate 'No Rulings List' in the subject line and be sent to Atrinfo@sars.gov.za.

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

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