

*SOUTH AFRICAN REVENUE SERVICE*

**BINDING PRIVATE RULING: BPR 018**

**DATE : 14 July 2008**

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

**SECTION : SECTIONS 11(a) and 23H**

**SUBJECT : DEDUCTION OF LETTING COMMISSION PAID BY A  
PROPERTY INVESTMENT COMPANY TO A PROPERTY  
MANAGEMENT COMPANY**

**1. Summary**

The issues considered in this ruling are:

- Whether letting commission paid by a property investment company to a property management company for sourcing a tenant is deductible in terms of section 11(a) of the Act.
- If the letting commission is deductible, whether it is deductible upfront as and when incurred or should it be spread over the term of the lease agreement in terms of section 23H of 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 applicable as at 15 August 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 11(a);and
- section 23H.

**3. Parties to the transaction**

Applicant: A property investment company

Letting Agent: A property management company

**4. Description of the proposed transaction**

The Applicant is a property investment company that regularly enters into leases in respect of its properties. It has appointed a Letting Agent to source tenants for which a once-off letting commission is payable by the applicant to the Letting agent.

The parties agreed that the Letting Agent will be responsible for the letting of the properties. Letting commission will be paid by the Applicant to the Letting Agent to market these properties to potential tenants, negotiate for and on behalf of the Applicant the terms of the new leases and ensure that potential tenants qualify for such leases and facilitate the letting.

Leases are normally entered into for a period between three to five years.

**5. Specific condition and assumption**

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

- Letting commission is paid by the Applicant to the Letting Agent for a service rendered by the Letting Agent.
- No further service will be rendered by the Letting Agent in respect of the sourcing of a tenant over the period of the lease.

**6. Specific ruling**

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

- The letting commission payable by the Applicant to the Letting Agent pursuant to the sourcing of a tenant is deductible in terms of the provisions of section 11(a).

- The letting commission is deductible as and when the expense is incurred. The provisions of section 23H are not applicable.

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

This binding private ruling, issued in August 2007, is only valid for the year of assessment during which the transaction takes place.

Issued by:

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