

BINDING PRIVATE RULING: BPR 142

DATE: 04 April 2013

ACT : INCOME TAX ACT NO. 58 OF 1962 (the Act)
SECTION : SECTION 24J
SUBJECT : DEDUCTION OF INTEREST EXPENDITURE

1. Summary

This ruling deals with the tax treatment of interest expenditure incurred by a subsidiary in a group of companies (the group) on amounts borrowed and on-lent to other subsidiaries within the group.

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 12 November 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 24J.

3. Parties to the proposed transaction

The Applicant: A private company incorporated in and a resident of South Africa

4. Description of the proposed transaction

The Applicant proposes to fund the capital investment in various operations of the group through a loan facility from a financier. The loan facility will be advanced directly to the Applicant. In turn the Applicant will on-lend the funds to other subsidiaries within the group at no margin.

The Applicant has in the past met the short term and long term funding needs of the other subsidiaries in the group. Unlike the other subsidiaries, the Applicant has assets which it will use as collateral for the loan facility.

The proposed funding will be used by the subsidiaries in respect of the –

- new development of operational infrastructure;
- replacement of operational infrastructure;
- development of supporting structure; and
- upgrade of existing operational structure.

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:

- The interest payable by the Applicant on the loan facility will be allowed as a deduction under section 24J.
- The ruling does not express a view in respect of other costs, for example funding costs, and is limited to the interest expenditure to be incurred by the Applicant.

7. Period for which this ruling is valid

This binding private ruling is valid for a period of 5 years from 12 November 2012.

Issued by:

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