

SOUTH AFRICAN REVENUE SERVICE

BINDING PRIVATE RULING: BPR 012

DATE : 6 March 2008

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

SECTION : SECTION 1: DEFINITION OF GROSS INCOME

SUBJECT : DETERMINATION OF GROSS INCOME OF A LIVESTOCK AUCTIONEER AND AGENT

1. Summary

The issue considered in this ruling is whether the total amount on the invoice issued by a livestock auctioneer and agent, constitutes “**gross income**” as defined in section 1 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 at 11 July 2007 and unless the context otherwise indicates, any word or expression in this ruling bears the meaning ascribed to it in the Act.

The relevant provision of the Act is section 1.

3. Parties to the transaction

Applicant: A resident company incorporated in South Africa and trading as an auctioneer and agent

Seller: Seller of livestock, either by way of private transaction with the Applicant as agent or by way of an auction

Buyer: Buyer of livestock, either by way of private transaction with the Applicant as agent or by way of an auction.

4. Description of the proposed transaction

- **Private Transactions**

The Applicant facilitates a transaction for the sale and purchase of livestock between the Seller and the Buyer. The Applicant finds a willing Buyer based on livestock available from the Seller. Other than acting as agent, the Applicant is not a party to the transaction. The livestock is delivered directly from the Seller to the Buyer.

The livestock is weighed and the Applicant draws up an invoice between the Applicant and the Seller and between the Applicant and the Buyer. The Applicant deducts its commission/service fee as well as other compulsory deductions to be paid to third parties, on the Seller's invoice.

The Applicant collects the funds from the Buyer, deducts its commission/service fee and other charges and pays the balance to the Seller.

- **Auction Transactions**

The Sellers bring their livestock to the auction. The livestock is auctioned. The highest bidder buys the livestock and the ownership of the livestock is transferred, on the fall of the hammer, from the Seller to the Buyer, subject to the approval of the Seller.

The Applicant draws up an invoice to the Buyer and also makes out an invoice from the Seller to the Applicant. On the invoice from the Seller, the Applicant deducts its commission/service fee as well as other compulsory charges to be paid to third parties.

The Applicant collects the funds from the Buyer, deducts its commission/service fee and other charges and pays the balance to the Seller.

5. Specific conditions and assumptions

This binding private ruling is made subject to the following conditions and assumptions:

- The Applicant does not obtain ownership of the livestock.
- The Applicant acts only as an agent or auctioneer in the transaction.

6. Specific ruling

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

- Only its commission/service fee and costs recovered according to the transaction constitute “**gross income**” as defined in section 1.

7. Period for which this ruling letter is valid

This binding private ruling is valid until the year of assessment ending 29 February 2012.

Issued by:

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