

BINDING CLASS RULING: BCR 026

DATE: 07 February 2011

ACT : INCOME TAX ACT, NO. 58 OF 1962 (the Act)

SECTION : SECTION 10(1)(g)

SUBJECT : TAX STATUS OF BURSARIES AWARDED TO STUDENTS

1. Summary

This ruling deals with the question as to whether a best practice bursary policy (the bursary policy) will satisfy the requirements of section 10(1)(g) of the Act.

2. Relevant tax laws

This is a binding class ruling issued in accordance with section 76R of the Act.

In this ruling legislative references to sections are to sections of the Act applicable as at 15 January 2010 and unless the context indicates otherwise, any word or expression in this ruling bears the meaning ascribed to it in the Act.

This ruling has been requested under the provisions of section 10(1)(g).

3. Class

The Class members to whom this ruling will apply will be the Institutions as described in point 4 below.

4. Parties to the proposed transaction

The Applicant: An association registered as a company under section 21 of the Companies Act, No. 61 of 1973

The Institutions: Institutions that award bursaries to students

5. Description of the proposed transaction

The Applicant is a national structure, representing the Institutions. The Institutions award bursaries to students to enable them to continue their studies at a recognized educational or research institution in a particular field of expertise to enhance the knowledge, intellect and

expertise of the students. The granting of these bursaries is based on the bursary policy which can be summarised as follows:

- The availability of a bursary is advertised by an Institution in at least one Public forum other than the Institution's intranet or on its internal bulletin boards to attract applications from students at other institutions.
- Bursaries will be funded by the host Institution or external funders.
- Bursaries will be granted to students to study at a recognised educational or research institution in order to expand their research skills, knowledge, intellect and expertise.
- These bursaries will be competed for by or are awarded on merit to, anyone who applies for them and are not, to any extent, confined to the employees or relatives of employees of a particular employer, organisation or other institution.

Should they be interested, the students may on a voluntary basis offer their services for a maximum of up to 12 hours per week for which they can receive remuneration. Such remuneration will be subject to employees tax (PAYE).

5. Conditions and assumptions

This ruling is made subject to the conditions and assumptions that –

- the students are not employees. (see “employee” as defined in paragraph 1 of the Seventh Schedule to the Act read together with the said definition in paragraph 1 of the Fourth Schedule to the Act) when the bursaries or scholarships are granted. However, if a student is an employee, he/she will not be precluded from receiving a bursary subject to the conditions as stipulated in section 10(1)(q)(i);
- the bursary policy does not require a student to perform any services, other than research, in respect of the bursary granted; and
- the student must comply with the conditions stipulated in section 10(1)(q)(i) if –
 - the term of the bursary or scholarship is extended;
 - the student receives a subsequent bursary award; or
 - the student receives “remuneration” as defined in paragraph 1 of the Fourth Schedule to the Act.

6. Ruling

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

- The bursary policy satisfies the statutory requirements of a tax exempt bursary as contemplated in section 10(1)(q).

7. Period for which this ruling is valid

This binding private ruling is valid for a period of five (5) years as from January 2010.

Issued by:

Legal and Policy Division: Advance Tax Rulings

SOUTH AFRICAN REVENUE SERVICE