

BINDING PRIVATE RULING: BPR 229

DATE: 14 April 2016

ACT : INCOME TAX ACT NO. 58 OF 1962 (the Act)
SECTION : PARAGRAPHS 2(a) AND 5(1), (2) AND (3A) OF THE SEVENTH SCHEDULE TO THE ACT
SUBJECT : EMPLOYER PROVIDED ACCOMMODATION TO EMPLOYEES

1. Summary

This ruling determines whether vacant stands to be acquired by qualifying employees from their employer will constitute “immovable property” as contemplated in paragraph 5(3A) of the Seventh Schedule to the Act.

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 paragraphs are to paragraphs of the Seventh Schedule to the Act applicable as at 15 October 2015. 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 –

- paragraph 2(a); and
- paragraph 5(1), (2) and (3A).

3. Parties to the proposed transaction

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

4. Description of the proposed transaction

The Applicant is a mining company that is subject to the Mineral and Petroleum Resources Development Act No. 28 of 2002 (the MPRDA) and the Broad-Based Socio-Economic Empowerment Charter for the South African Mining and Minerals Industry (the Mining Charter). It follows that the Applicant is required to comply with its obligations under the MPRDA and the Mining Charter to improve the housing standards of its employees.

The Applicant intends to sell vacant stands (stands) to certain of its employees (qualifying employees) on terms that, amongst others, oblige each qualifying employee purchaser to erect a house on the stand at the employee's own cost within a specified time period.

The purchase price of each stand will be less than the market value of the stand.

5. Conditions and assumptions

This binding private 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 stands constitute “immovable property” as envisaged in paragraph 5(3A). No value will be placed on a stand so acquired by a qualifying employee if –
 - the market value of the stand does not exceed R450 000 on the date of acquisition;
 - the remuneration proxy of the employee does not exceed R250 000 in relation to the year of assessment during which the stand is so acquired; and
 - the employee is not a connected person in relation to the Applicant.

7. Period for which this ruling is valid

This binding private ruling is valid for a period of 5 years from the year of assessment commencing 1 March 2015.