

BINDING PRIVATE RULING: BPR 145

DATE: 08 May 2013

ACT : INCOME TAX ACT NO. 58 OF 1962 (the Act)
SECTION : SECTION 11(e)
SUBJECT : ALLOWANCES – ASSETS FORMING PART OF A SALE AND LEASEBACK ARRANGEMENT

1. Summary

This ruling deals with the write-off period under section 11(e) of assets forming part of a sale and leaseback arrangement and the deductibility thereof.

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 legislative references to sections are to sections of the Act applicable as at 12 December 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 11(e).

3. Parties to the proposed transaction

The Applicant: A company incorporated in and a resident of South Africa whose receipts and accruals are taxable

Company X: A company incorporated in and a resident of South Africa whose receipts and accruals are taxable

4. Description of the proposed transaction

The Applicant intends to provide financing to Company X by way of a sale and leaseback arrangement (arrangement) in relation to certain plant and machinery (specified assets) currently owned and used in a process of manufacture by Company X.

In terms of the arrangement:

- The Applicant will purchase the specified assets from Company X. The purchase price to be paid by the Applicant will be determined with reference to a valuation conducted by an independent third party.
- The specified assets will be leased back to Company X for a period of 7 years.

- Company X shall, within 30 days after the termination of the lease for whatever reason, be entitled to purchase the specified assets from the Applicant at their market value at that time.

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 Applicant may deduct allowances under section 11(e) in respect of the specified assets which form part of the sale and leaseback arrangement over each individual asset's expected useful life.

7. Period for which this ruling is valid

This binding private ruling is issued for a period of 7 years from 12 December 2012.

Issued by:

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