

SOUTH AFRICAN REVENUE SERVICE

BINDING PRIVATE RULING: BPR 029

DATE: 13 May 2009

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

SECTION : PARAGRAPHS 2(c) AND 8(3) OF THE SEVENTH SCHEDULE TO THE ACT

SUBJECT : PROVISION OF FREE MEALS AND REFRESHMENTS TO EMPLOYEES

1. Summary

This ruling deals with the provision of meals and refreshments free of charge by way of a monetary value credited to an employee's meal and refreshment card (meal card) by an employer and whether this will constitute a taxable benefit in the hands of the employee. The meal card will be used by the employee for purchasing meals and refreshments at a canteen on the employer's business premises

2. Relevant tax laws

This is a binding private ruling issued in accordance with section 76Q of the Act.

In this ruling legislative references to paragraphs of the Seventh Schedule are to paragraphs of the Seventh Schedule to the Act applicable at 12 January 2009 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 paragraphs 2(c) and 8(3) of the Seventh Schedule.

3. Parties to the transaction

The Applicant: A company which is an employer with approximately 1 100 full time Employees

Employees: Fulltime employees of the Applicant

The Caterer: An outsourced third party catering company which currently operates a canteen on the Applicant's premises and who will enter into a new contract to operate that canteen on behalf of the Applicant

4. Description of the proposed transaction

- The Applicant will contract the Caterer to operate a canteen on the Applicant's premises and on its behalf to provide meals and refreshments exclusively to its Employees during business hours and extended working hours.
- The Applicant proposes to provide meals and refreshments free of charge up to a determined monetary value by way of a meal card system to be implemented. Each Employee's meal card will be loaded monthly with a certain credit amount provided by the Applicant, which the Employee can use to purchase meals and refreshments at the canteen. The amount of credit provided by the Applicant will vary marginally based on the Employee's position in the company.
- Once an Employee has exhausted his/her credit on the meal card, he/she will be required to make a direct contribution on the meal card at his/her own expense, using a cash-loading machine available in the canteen, in order to make further purchases on the meal card in that month.
- The Applicant will pay the Caterer directly on a monthly basis for the value of purchases made by the Employees using the credit provided by the Applicant.

5. Conditions and assumptions

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

- The credit value provided by the Applicant on the meal card cannot be converted into cash.
- When an Employee leaves the employ of the Applicant, the credit balance provided by the Applicant on the meal card will be forfeited. The unused monetary value loaded by the Employee may be refunded, provided the unused credit can be verified.
- The meal cards can only be used to purchase meals and refreshments at the canteen.
- The Applicant will enter into a contract with the Caterer to provide meals and refreshments to its Employees on its behalf in the canteen.
- The Applicant will pay the Caterer directly on a monthly basis for the value of purchases made by the Employees using the credit provided by the Applicant
- Meals and refreshments supplied at the canteen at the business premises of the Applicant during business hours and extended working hours are to be provided wholly or mainly to the Employees of the Applicant.

6. Ruling

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

- The provision of meals and refreshments, referred to in paragraph 2(c) of the Seventh Schedule, by way of a monetary value credited to an Employee's meal card provided by the Applicant for purchasing meals and refreshments at the canteen on the Applicant's business premises, will have a nil value in accordance with paragraphs 8(3)(a) and (b) of the Seventh Schedule.

7. Period for which this ruling is valid

This binding private ruling is valid for the period as from the date on which the Applicant provides free meals to its employees by using the said meal card system until 12 January 2014.

Issued by:

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