

SOUTH AFRICAN REVENUE SERVICE

BINDING PRIVATE RULING: BPR 042

DATE : 28 August 2009

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

SECTION : SECTION 24F

**SUBJECT : DETERMINATION OF WHO QUALIFIES AS A “FILM OWNER”
FOR PURPOSES OF SECTION 24F**

1. Summary

This ruling deals with whether investors in a film partnership will qualify as film owners for purposes of section 24F, and when the section 24F allowance may be claimed.

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 sections are to sections of the Act applicable as at 12 February 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 –

- section 24F(1), the definition of a “film owner”;
- section 24F(2); and
- section 24F(3).

3. Parties to the proposed transaction

The Applicant: The creative producer of a film to be made

Filmco: A company, which will be a special purpose vehicle, through which the production of the film will be effected

Co-applicants: Investors who will invest in the film to be produced by Filmco through a film partnership and who will own, finance and benefit from the exploitation of the film

4. Description of the proposed transaction

The Co-applicants are to form a film partnership and will contribute capital to the film partnership for the purpose of purchasing the film rights and the production of the film. Each partner's proportionate participation interest in the partnership will confer on each partner a share of the joint ownership of the film. Filmco will produce the film on behalf of the partnership and will incur all the necessary costs for the production of the film. Upon completion of the film, the partnership will generate revenue from the distribution of the film through various mediums.

5. Conditions and assumptions

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

- the film to be produced must qualify as a “film” as defined in section 24F(1);
- the expenses that Filmco will incur in the production of the film will qualify as “production cost” or “post-production cost” as defined in section 24F(1); and
- a valid partnership must be constituted between the parties that will form the film partnership.

6. Ruling

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

- Each Co-applicant, as partner in the film partnership, will qualify as a “film owner” as defined in section 24F(1).
- The Co-applicants will be entitled to claim the section 24F(2) allowance as from the year of assessment in which the film is completed as provided for in section 24F(3).

7. Period for which this ruling is valid

This binding private ruling is valid for a period of five (5) years as from the date of this ruling until 12 February 2014.

Issued by:

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