

**BINDING PRIVATE RULING: BPR 200**

DATE: 3 August 2015

**ACT : INCOME TAX ACT NO. 58 OF 1962 (the Act)**  
**SECTION : SECTIONS 1(1), DEFINITION OF “GROSS INCOME”, 47A AND 51A**  
**SUBJECT : SOURCE OF INCOME OF COMMISSION PAYABLE TO NON-RESIDENT JUNKET AGENTS**

**1. Summary**

This ruling deals with the source of income of commission payable to non-resident junket agents by a resident casino operator.

**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 sections are to sections of the Act applicable as at 22 June 2015 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 1(1), definition of “gross income”;
- section 47A; and
- section 51A.

**3. Parties to the proposed transaction**

The Applicant: A company incorporated in and a resident of South Africa which is a casino operator

Junket Agents: Non-residents who promote junkets among non-residents

**4. Description of the proposed transaction**

The Applicant intends to engage with Junket Agents who are non-resident to arrange junkets in order to attract non-residents to conduct gaming activities at the Applicant’s various casino operations in South Africa.

The Junket Agents are to identify and persuade wealthy gamblers (VIP patrons) in their jurisdiction and other countries outside South Africa to go on a junket at a casino of the Applicant and to conclude a Buy-in Agreement (agreement) with the Applicant in terms of which –

- the VIP patron must commit to wager a specified minimum amount that is paid to the Applicant as a deposit; and
- the VIP patron will receive food and accommodation at a discount for the period of his or her stay at the casino.

Junket Representatives in the employ of the Junket Agents will accompany the VIP patron on the junket to facilitate the financial transactions at the casino, accompany them to the casino floor, monitor the turnover on behalf of the Junket Agent and generally assist the VIP patron on the junket.

The Applicant will pay a commission to the Junket Agents for services rendered, based on the aggregate of the bets wagered by the VIP patron (turnover) or as a share of the Casino's profits from the gaming.

## **5. Conditions and assumptions**

This binding private ruling is subject to the additional condition and assumption that the Junket Agents and the Junket Representatives are non-residents.

## **6. Ruling**

The rulings made in connection with the proposed transaction are as follows:

- For purposes of the definition of "gross income" in section 1(1), the commission earned by the Junket Agent will be partly sourced in South Africa.
- The commission payable to the Junket Agent will not be subject to withholding tax on foreign entertainers and sportspersons under section 47A or to withholding tax on service fees under section 51A.
- No ruling is made as to whether the activities of the Junket Agent and the Junket Representative will result in a permanent establishment having been created in South Africa.
- No ruling is made on whether or not the activities of the Junket Agent and the Junket Representative are carried on through a fixed base in South Africa.

## **7. Period for which this ruling is valid**

This binding private ruling is valid for a period of 5 years from 22 June 2015.