

BINDING PRIVATE RULING: BPR 215

DATE: 22 December 2015

ACT : INCOME TAX ACT NO. 58 OF 1962 (the Act)
SECTION : SECTIONS 1(1) – DEFINITION OF “GROSS INCOME”, 51A – DEFINITION OF “SERVICE FEE” AND 51B
SUBJECT : SOURCE AND NATURE OF SATELLITE CAPACITY FEES

1. Summary

This ruling determines the source of satellite capacity fees and whether those fees, when they are paid, are subject to the withholding tax on service fees.

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 10 November 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 –

- section 1(1) – definition of “gross income”;
- section 51A – definition of “service fees”; and
- section 51B.

3. Parties to the proposed transaction

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

The Co-Applicant: A company that is not a resident of South Africa

4. Description of the proposed transaction

The Applicant is a distributor of satellite services in Africa (excluding South Africa) and the Co-Applicant is the owner and operator of satellites. The Applicant and Co-Applicant are members of the same group of companies.

The Applicant will conclude contracts directly with its customers in Africa (excluding South Africa) to provide satellite capacity services to them. The Applicant will receive fees from its customers for the use of the satellite capacity.

The Applicant will contract with and pay the Co-Applicant fees to provide the satellite capacity to the Applicant’s customers.

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 source of the satellite capacity fees will not be within South Africa.
- The satellite capacity fees to be paid by the Applicant to the Co-Applicant will not be subject to the withholding tax on service fees as contemplated in section 51B.

7. Period for which this ruling is valid

This binding private ruling is valid for a period of 5 years from 10 November 2015.

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