

Media Releases 2007

Aggressive tax structuring

PRETORIA, 10 January 2007 - South Africa has recently experienced a growing number of corporate reorganisations involving large South African entities. It is acknowledged that these transactions serve as an indication of growing investor confidence and provides substantial benefits for the economy in the form of capital inflows and positive sentiment created amongst both domestic and foreign investors. However, on occasion these transactions can, unfortunately, be structured in such a way that they also result in significant negative implications for the country.

The South African Revenue Service has become aware of certain transactions which are structured in such a way that they show complete and reckless disregard for tax morality and South African tax law. Through elaborate structuring, these deals seek to deliberately avoid the tax consequences that should flow from the associated transactions thereby robbing not only the fiscus of tax revenue, but all South Africans.

The South African Revenue Service gives notice that it intends to carefully examine these transactions in order to ensure that no impermissible tax loss occurs. The architects of certain tax aggressive structures will not be permitted to abuse South Africa's tax provisions in ways clearly unintended by the legislature. They will be vigorously challenged.

In certain instances, the South African Revenue Service will be engaging with the relevant stakeholders (including shareholders, investors and their advisors) involved in particular deals to obtain an understanding of the stakeholders' intentions and commitment to poverty alleviation and the overall development of South Africa, and details of how the particular structuring of their transaction supports this.

The South African Revenue Service calls upon corporate leaders to take greater responsibility to ensure that the advice that they pursue does not undermine South Africa's tax base and the compliance morality that we are successfully building in the country.

We once again urge institutions involved in designing aggressive tax schemes intended to abuse the law and deprive the fiscus of its fair share of revenue to desist from such schemes. These are the activities that lead to complexity in our tax law.

Issued by:

Pravin Gordhan: Commissioner – SA Revenue Service

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