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Dear Sirs / Mesdames

BINDING CLASS RULING: HIGHER EDUCATION SOUTH AFRICA

This is a Binding Class Ruling issued in accordance with section 78(2) of the Tax Administration Act, No. 28 of 2011 (TA Act).

1 BINDING CLASS RULING

1.1 Persons to whom this ruling applies

This ruling letter has been applied for by the Applicant, Higher Education South Africa ("HESA"), with income tax reference number 9031/765/15/0 and the following class members:

- The higher education institutions represented by HESA listed in Annexure A.

1.2 Relevant tax laws

The ruling has been requested on the interpretation and application of section 10(1)(q) as contained in the Income Tax Act No. 58 of 1962 ("the Act").

1.3 Description of the proposed transaction

1.3.1 The Applicant is a statutory body, established in terms of section 38(1) of the Higher Education Act, which represents a number of different higher education institutions, including universities and universities of technology.



- 1.3.2 The launch of the Applicant was in part driven by the restructuring of the higher education sector, and the need for a strong, unified body of leadership within the higher education system. The Applicant represents all 26 public universities and universities of technology in South Africa (the Class Members) and is a non-profit company.
- 1.3.3 The Class Members, represented by the Applicant, award PDRFs to post-doctoral research fellows. These PDRFs are awarded to enable the fellows to continue their post-doctoral studies in a particular field of expertise and are, therefore, used to enhance their knowledge, intellect and expertise.
- 1.3.4 The Applicant has adopted a best practice policy pertaining to PDRFs. The PDRF Policy contains the rules and procedures to be followed by the Class Members in respect of the funding and advertising of PDRFs, the requirements and application process for PDRFs, and the process to be followed in awarding, accepting, payment and extension of a PDRF. The Class Members have indicated that they will grant PDRFs based on the PDRF policy at all times.

1.4 Conditions and assumptions

Section 78(3) of the TA Act provides that a binding class ruling may be made subject to the conditions and assumptions prescribed in the ruling. This binding class ruling is not made subject to additional conditions and assumptions.

1.5 Ruling

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

- 1.5.1 The bursary awards provided for in the PDRF policy document satisfy all the statutory requirements of a *bona fide* bursary as contemplated in section 10(1)(g) of the Act.

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1.5.2 If a fellow is considered to be an “employee”, as defined, at the time the PDRF is awarded, or if a relative of an employee receive a bursary or scholarship, the PDRF award will only be exempt to the extent of the limitations, as stated in section 10(1)(q)(i) and (ii).

1.6 Period for which this ruling letter is valid

This binding class ruling will be valid for a period of 5 (five) years from the date of the ruling.

2 STANDARD CONDITIONS AND ASSUMPTIONS

2.1 Basis of the ruling(s) given in this letter

This ruling letter and the ruling(s) set forth herein are based upon the following:

2.1.1 The information, documents, representations, facts considered and assumptions presented being true and accurate;

2.1.2 Any legal agreements or contracts entered into (or proposed to be entered into) in connection with the proposed transaction being legally valid and enforceable in accordance with their stated terms, the parties to those agreements timeously satisfying their obligations under those agreements, and those agreements otherwise being carried out in accordance with their terms; and

2.1.3 The interpretation and application of tax laws, regulations, binding general rulings, and case law in effect as of the date of this binding class ruling.

The ruling(s) set forth in this ruling letter only apply to the provisions of the tax laws identified in this binding class ruling in connection with the proposed transaction described herein.



2.2 The understanding of the South African Revenue Service (SARS) of the proposed transaction

This ruling letter and the ruling(s) set forth herein are based upon the understanding of SARS of the proposed transaction as described herein.

Please note that if you believe that this understanding is incorrect, inaccurate or incomplete, it is your obligation to notify SARS immediately. The failure to rectify a misunderstanding of a material fact may result in the ruling being withdrawn or modified.

2.3 Subsequent changes in tax law

2.3.1 This binding class ruling letter will cease to be effective in any of the following circumstances:

- The provisions of the tax laws that are the subject of this binding class ruling are repealed or amended; or
- A court overturns or modifies an interpretation of the provisions of the tax laws on which the rulings set forth herein are based unless—
 - the decision is on appeal;
 - the decision is fact-specific and the general interpretation upon which the rulings were based is unaffected; or
 - the references in the decision to the interpretation upon which the rulings were based are *obiter dicta*.

2.3.2 In any of these circumstances, the ruling letter will cease to be effective immediately upon—

- the effective date of the repeal or amendment of the provisions in question, or
- the date of the reasons for judgment.

SARS is not obliged to notify the Applicant, or any Co-Applicant(s) if applicable, or any Class Member(s), or to otherwise publish a notice of withdrawal or modification.

2.4 Fraud, misrepresentation or non-disclosure

2.4.1 This binding class ruling letter is void *ab initio* in any of the following circumstances:

- The proposed transaction is materially different from the transaction actually carried out;
- There is fraud, misrepresentation or a non-disclosure of a material fact; or
- Any condition or assumption prescribed in this binding class ruling is not satisfied or carried out.

2.4.2 A fact is considered material if it would have resulted in a different ruling had SARS been aware of it when issuing this binding class ruling letter.

2.5 Other requirements and limitations

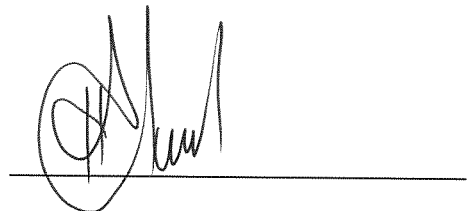
This ruling letter and the ruling(s) set forth herein are also subject to any other requirements and limitations set forth in Chapter 7 of the TA Act, as well as any requirements and limitations set forth in any general binding ruling issued under section 90 of the TA Act.

This ruling letter and the specific ruling(s) set forth in it only apply to the Applicant and any Co-Applicant(s) and the Class Members identified herein. This ruling letter may not be cited in any proceeding, including court proceedings, other than a proceeding involving the Applicant or any Co-Applicant(s) or the Class Members identified herein.

Yours faithfully



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