



South African Fiscal Association

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31 October 2007

Newsletter 6/2007

Dear members

SEMINAR: SARS v Brummeria Renaissance (Pty) Ltd [2007] SCA 99 (RSA)

We confirm that the third seminar discussing the recent abovementioned judgment and collateral issues will take place on the dates and at the venues set out hereunder. You may place your reservations with the ladies mentioned hereunder. Please note that this seminar is strictly limited to members and staff of corporate members.

A lot has been said about the Brummeria decision and much uncertainty remains around its full extent and reach. SAFA is proud to have arranged a panel of experts to analyse the decision in-depth. Firstly, there are two tax experts, Henry Vorster and Marius van Blerck (Marius was on the bench in the Tax Court) who will conduct a detailed tax analysis. Secondly, we have Professor Andreas van Wyk (former Dean of the Law Faculty of Stellenbosch and internationally recognised legal expert) to discuss wider issues surrounding this case as well as other aspects of tax legislation as detailed hereunder.

SARS was also invited to participate in the seminar but indicated that they would prefer to comment at a later stage. Hopefully, there will be an opportunity to air a hearing on their perspective, early 2008.

The speakers and their topic of discussion will be as follows:

Marius van Blerck

1. Is the initial shock reaction justified?
2. Contrasts between the findings of the SATC and the SCA.
3. Does a loan of funds carry an inherent right to interest?
4. The capital nature of rights, and how capital can become revenue.

Henry Vorster

1. Were there tactical errors by the taxpayer?
2. Lessons for litigants

Prof Andreas van Wyk

1. Brummeria: Substance versus form: a legal critique of the case and its aftermath, including
 - The SCA's view that the interest free loan was a quid pro quo for right of occupation, and the *pactum antichreseos* concept
 - An aside: The nature of conditionally repayable loans.
2. Current tax proposals – a tendency to retroactivity?

Charl du Toit

1. Summing up the three speakers.
2. Recent international tax cases – Feedback from the Kyoto IFA congress

Dates, venues and booking details:

Date: 27 November 2007
Place: Johannesburg
 KPMG Auditorium, 85 Empire Road, Parktown
Time: 18h00 to 19h30
Topic: SARS v Brummeria Renaissance (Pty) Ltd [2007] SCA 99 (RSA)
Speakers: Marius van Blerck, Henry Vorster, Prof Andreas van Wyk, Charl du Toit
Bookings: Tania.Bezuidenhout@kpmg.co.za Tel no: 011 - 647 5700

Date: 20 November 2007
Place: Cape Town
 PricewaterhouseCoopers
 No 1 Waterhouse Place
 Century City
Time: 18h00 to 19h30
Topic: SARS v Brummeria Renaissance (Pty) Ltd [2007] SCA 99 (RSA)
Speakers: Marius van Blerck, Henry Vorster, Prof Andreas van Wyk, Charl du Toit
Bookings: jolandie.james@za.pwc.com Tel no: 021- 529 2368

Regards
Charl du Toit
President: SAFA