



South African Fiscal Association

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Newsletter 3/2008

Dear members

Further to Newsletter 2/2008 we have had to postpone the second seminar due to unforeseen circumstances. New dates will be as follows:

26 August - Cape Town
28 August - Johannesburg

The topic will be a discussion on the most important International tax cases:

We are quite excited about this seminar, seeing that the primary focus of SAFA is on international tax and the past year or so has been quite fruitful as far as international tax cases on important tax issues are concerned. Bear in mind that, although dealing with international tax law, international tax cases on issues such as the meaning of beneficial ownership and the place of effective management, may also have a bearing on the domestic meaning of such terms.

We will include further detail in the next Newsletter however at present we plan to deal with the following:

Wood and another v Holden (HMIT) [2006] EWCA Civ 26 Court of Appeal (Civil Division), United Kingdom, 26 January 2006.

- a landmark case in England, dealing with the meaning of “central management and control” and the similarity with “place of effective management”.

Prévost Car Inc. v Her Majesty the Queen [unreported] Toronto Tax Court, Canada, 22 April 2008.

- another landmark case in Canada, dealing with the meaning of “beneficial ownership”.

Roche Products Pty Ltd v Commissioner of Taxes [2008] AATA 261 Administrative Appeals Tribunal, Australia, 2 April 2008.

- an Australian case dealing with the important concept of comparability with reference to the application of transfer pricing methodologies.

Her Majesty the Queen v MIL (Investments) S.A. 2007 FCA 236 Federal Court of Appeal, Canada, 13 June 2007; *Lorraine Kinsella v The Revenue Commissioners* [2007] IEHC 250 Irish High Court, 31 July 2007.

- two cases dealing with the issue of the tax avoidance schemes and the abuse of tax treaties.

In addition to the cases discussed at the seminars the hand-out material will also provide information on other recent important tax cases.

At this stage we plan to deal with the new Companies Bill during the third round of SAFA seminars planned for : Johannesburg the 27 November 2008 and Cape Town 25 November 2008.

Subscriptions:

If you have not have settled your subscriptions for 2008, please do so as soon as possible as we will shortly be paying your pro rata subscriptions to IFA and following up with an audit. Those members who have received a communication and fail to respond are likely to find their membership terminated as we simply cannot afford to carry anyone against the cost of the Euro.

Regards

Charl du Toit
President : SAFA