

**BINDING PRIVATE RULING: BPR 369**

DATE: 5 November 2021

**ACT : INCOME TAX ACT 58 OF 1962 (the Act)**  
**SECTION : SECTIONS 11(a) AND 24J(2)**  
**SUBJECT : DEDUCTIBILITY OF INTEREST INCURRED PURSUANT TO LIQUIDATION OF COMPANY**

***Preamble***

This binding private ruling is published with the consent of the applicant(s) to which it has been issued. It is binding between SARS and the applicant and any co-applicant(s) only and published for general information. It does not constitute a practice generally prevailing.

**1. Summary**

This ruling determines that interest that arose, out of the investment proceeds of assets sold in the course of a liquidation and is paid to trade creditors in terms of sections 95 and 103 of the Insolvency Act 24 of 1936 (the Insolvency Act), is not deductible in the determination of taxable income.

**2. Relevant tax laws**

In this ruling references to sections are to sections of the Act applicable as at 23 June 2021. 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 –

- section 11(a); and
- section 24J(2).

**3. Parties to the proposed transaction**

The applicant: A resident company in liquidation and its liquidators

The creditors: Creditors with proved claims against the company

**4. Description of the proposed transaction**

The company ceased trading and the liquidators commenced with its winding-up and the realisation of its assets.

The resultant proceeds were invested and consequently earned interest.

The liquidators are legally required to apply the nett proceeds against the capital and interest of all proven claims. The proven claims all related to trade debt. Only one of the trade debts carried any provision for interest and hence no interest was incurred by the applicant in relation to the trade debts, with the exception of the one creditor.

The applicant will therefore actually incur interest in relation to the proved claims when the Master of the High Court (the Master) confirms the Liquidation and Distribution account.

**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:

- a) The interest payable by the applicant will be actually incurred in the year of assessment when the Master confirms the Liquidation and Distribution Account.
- b) The interest payable by the liquidators will not qualify for any deduction under sections 24J or 11(a) on the basis that it will not be incurred in the production of income.
- c) Practice Note 31 does not apply to the proposed transaction.

**7. Period for which this ruling is valid**

This binding private ruling is valid in respect of the year of assessment when the Master of the High Court confirms the Liquidation and Distribution account.