

REPUBLIEK
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SUID-AFRIKA



REPUBLIC
OF
SOUTH AFRICA

Staatskoerant Government Gazette

Verkoopprijs • Selling price
(AVB uitgesluit/GST excluded)

Plaaslik **60c** Local
Buitelands **85c** Other countries
Posvry • Post free

As 'n Nuusblad by die Poskantoor Geregistreer

Registered at the post office as a Newspaper

Vol. 296

PRETORIA, 13 FEBRUARIE
FEBRUARY 1990

No. 12298

PERSVERKLARING

deur die

Kommissaris van Binnelandse Inkomste

IN VERBAND MET PLANTASIESKEMAS VIR DIE VERMYDING VAN INKOMSTEBELASTING

Dit het onder my aandag gekom dat 'n aantal skemas reeds bemark of in die proses van bemarking is wat persone in staat stel om deur middel van lidmaatskap in 'n vennootskap 'n belegging in plantasies te maak. Vanweë 'n ondersoek van verskeie van hierdie skemas, blyk dit egter asof die voorgehoue belastingvoordele die ekonomiese opbrengs op so 'n belegging by verre oortref en op die oog af wil dit dus voorkom asof die hoofdoel van hierdie skemas die vermyding van belasting is. Die samestelling van hierdie skemas is uiteenlopend. Sommige van die kenmerke van die skemas en die belastingvoordele waarop aanspraak gemaak word is die volgende:

- Die bepalinge van die Eerste Bylae by die Inkomstebelastingwet (die Wet) wat spesifiek vir plantasioeboere verorden is, word benut deur persone wat geensins by boerderybedrywighede betrokke is nie.
- Uitgawes waarvan melding gemaak word in ooreenkomste wat die skemas reguleer kan geëis word in die jaar waarin die ooreenkoms gesluit word ten spyte daarvan dat die boerderyuitgawes nog nie werklik gespandeer is nie.
- Rente op uitstaande bedrae verskuldig deur 'n skema-vennootskap kan gekapitaliseer word vir tydperke solank as 15 jaar deur middel van promesses en ander instrumente.
- Uitkeerpolisie, wat beweer word "standaard"-polisie soos bedoel in die Sesde Bylae by die Wet te wees, kan gebruik word om belastingvrye beleggings te maak.
- Belange in die skema-vennootskappe kan verkoop word om te verseker dat die opbrengste wat beleggers toeval, van 'n kapitale aard is.

PRESS STATEMENT

by the

Commissioner for Inland Revenue

IN CONNECTION WITH PLANTATION SCHEMES FOR THE AVOIDANCE OF INCOME TAX

It has come to my attention that a number of schemes have been and are being marketed which permit persons to invest in plantations by way of membership in a partnership. From an examination of a number of the schemes, it would seem that the tax benefits promised far outweigh the economic return on the investment, and on the face of it, it would appear that the main purpose of the schemes is tax avoidance. The structures of the schemes vary widely. Some of the features of the schemes and the tax advantages it is claimed will accrue to investors are the following:

- The provisions of the First Schedule to the Income Tax Act (the Act) which were enacted specifically for plantation farmers will be enjoyed by persons wholly unconnected to the farming operations.
- Expenditure mentioned in the contracts governing the scheme can be claimed in the year the contract is concluded even though the farming expenditure has not actually been expended.
- Interest on outstanding amounts owed by the scheme partnership can be capitalised for periods of up to 15 years by means of promissory notes and other instruments.
- Endowment insurance policies, which it is claimed are "standard" policies as contemplated in the Sixth Schedule to the Act, can be used to make tax-free investments.
- Interests in the scheme partnerships can be sold to ensure that the proceeds accruing to investors are of a capital nature.

- Baie van hierdie skemas is, volgens my mening, hoogs kunsmatig en die beloofde belastingvoordele is nie noodwendig ingevolge bestaande wetsbepalings beskikbaar nie. 'n Skema wat onlangs ondersoek is, beloof byvoorbeeld aan beleggers dat op 'n belegging van R3,5-miljoen hulle 'n aftrekking van R20-miljoen in die eerste jaar sal geniet.

Ek het ontvangers van inkomste derhalwe opdrag gegee om skemas van hierdie aard en beleggers daarin te identifiseer met die oog daarop om eise om belastingvoordele waarop beleggers nie geregtig is nie, ingevolge bestaande wetgewing te betwis.

In hul eie belang word persone wat beleggings in hierdie skemas oorweeg, aangeraai om hulself tevrede te stel dat hulle werklik op die belastingvoordele wat deur bemerkers van hierdie skemas belowe word, geregtig is.

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Datum: 9 Februarie 1990.

- Many of the schemes are, in my opinion, highly artificial and the promised tax benefits are not necessarily available under present law. For example, a scheme recently examined promises investors that for an investment of R3,5 million they will enjoy a deduction in the first year of an amount of R20 million.

I have, therefore, instructed my receivers of revenue to identify the schemes and investors in the schemes with a view to challenging any claims for tax benefits to which investors are not entitled under existing legislation.

In their own interests persons who are considering investments in these schemes, are advised to satisfy themselves that they are genuinely entitled to the tax benefits which are promised by the marketers of these schemes.

Issued by: The Commissioner for Inland Revenue
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Date: 9 February 1990.

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