



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

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Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal

THE COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE v
BRUMMERIA RENAISSANCE (PTY) LTD & OTHERS

1. Three companies, Brummeria Renaissance (Pty) Ltd, Palms Renaissance (Pty) Ltd and Randpoort Renaissance (Pty) Ltd developed retirement villages. The companies obtained interest-free loans in order to build units in exchange for granting life occupation rights of the units to the lenders. The Commissioner, SARS assessed the companies to tax, contending that the right to use the loans interest-free had a money value and therefore formed part of the companies' taxable income. The Commissioner's contention was dismissed by the Johannesburg Tax Court but upheld on appeal. The SCA held that although a loan was not income, the value of the right to use a loan interest-free was.

2. The SCA also held that where the Commissioner had raised an original assessment, and thereafter a revised assessment to which the taxpayer had

successfully objected in full, the Commissioner could not raise a further assessment more than three years after the original assessment (absent fraud, misrepresentation or non-disclosure of material facts).

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