



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

DATE: 27 NOVEMBER 2008

STATUS: Immediate

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

R F Maguire v Commissioner for the South African Revenue Service

The Supreme Court of Appeal today allowed an appeal by Mr Robin Frank Maguire against a finding by the Tax Court for the Transvaal that payments he received under two restraint of trade agreements from his former employers Macmed Group were part of his gross income and accordingly taxable.

The Tax Court had found that because before the payments were made he had already received a payment under a previous restraint of trade agreement for agreeing not to compete with companies in the group after leaving its employ he had not given up on additional resource in exchange for the later payments and that the payments were accordingly part of his gross income.

The Supreme Court of Appeal disagreed with this finding. It pointed to the fact that Mr Maguire was able to buy his release from the restraints imposed upon him by the earlier agreements for the amounts he had received and that his value as an individual free of the restraints was substantially in excess of the release consideration payable in each case. By agreeing to further restraints at higher amounts he had in fact exchanged what amounted to capital assets for the payments he received.

The judgment of the Tax Court was accordingly set aside.