



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

TCT LEISURE (PTY) LTD v THE COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICES

The Holiday Club, which sells holiday accommodation commonly termed time-share to members of the public, was restructured in 1995. Shares were thereafter sold by TCT Leisure (Pty) Ltd, one of the entities forming part of The Holiday Club after it was restructured, to members of the public. TCT argued that the shares were equity securities and therefore the turnover from the sales of the shares was exempt from VAT. The SCA rejected this argument, holding that it was not the shares which conferred an entitlement to occupy time-share accommodation, but the points rights sold with the shares. The court reasoned that the fact that TCT sold both at the same time as part of one indivisible transaction did not mean that rights of accommodation were conferred on shareholders. It was the points rights that conferred this right. The court accordingly confirmed the decision of the Durban Tax Court that the turnover from the sales was subject to VAT.

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