

BINDING PRIVATE RULING: BPR 184

DATE: 11 November 2014

ACT : INCOME TAX ACT NO. 58 OF 1962 (the Act)
SECTION : SECTIONS 24BA, 42, 54 AND 58 AND PARAGRAPH 38 OF THE EIGHTH SCHEDULE TO THE ACT
SUBJECT : ASSET-FOR-SHARE TRANSACTION

1. Summary

This ruling deals with the disposal by a trust of its shareholding in a company to another company, also wholly owned by the trust, in exchange for an additional equity share to be issued by the transferee company.

2. Relevant tax laws

This is a binding private ruling issued in accordance with section 78(1) and published in accordance with section 87(2) of the Tax Administration Act No. 28 of 2011.

In this ruling references to sections and paragraphs are to sections of the Act and paragraphs of the Eighth Schedule thereto applicable as at 5 September 2014 and 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 the provisions of –

- section 24BA;
- section 42;
- section 54;
- section 58; and
- paragraph 38.

3. Parties to the proposed transaction

The Applicant: A resident family trust

The Co-Applicant: A private company incorporated in and a resident of South Africa that is wholly owned by the Applicant

Company A: A private company incorporated in and a resident of South Africa that is wholly owned by the Applicant

4. Description of the proposed transaction

The Applicant holds all the issued shares in the Co-Applicant and Company A. The Co-Applicant and Company A hold the issued shares of various other subsidiary companies.

The Applicant proposes to dispose of its entire interest in Company A to the Co-Applicant in order to simplify the group of companies to which the Applicant and the Co-Applicant belong.

The Co-Applicant will issue an additional equity share to the Applicant in exchange for the disposal by the Applicant of its entire interest in Company A to the Co-Applicant. The current market value of the entire interest which the Applicant holds in Company A will exceed the base cost of such interest.

The additional equity share will be issued by the Co-Applicant to the Applicant solely in order to bring the proposed transaction within the ambit of section 42.

The effect of the proposed transaction will be that the Applicant will hold all the issued shares of the Co-Applicant, who will in turn hold all the issued shares of Company A.

5. Conditions and assumptions

This ruling is not subject to any additional conditions and assumptions.

6. Ruling

The ruling made in connection with the proposed transaction is as follows:

- The proposed transaction will fall within the ambit of section 42.
- Section 24BA will not be applicable to the proposed transaction: section 24BA(4)(a)(ii) will apply.
- Sections 54 and 58 will not be applicable to the proposed transaction.
- Paragraph 38 will not be applicable to the proposed transaction.

7. Period for which this ruling is valid

This binding private ruling is valid for a period of 5 years from 5 September 2014.

Issued by:

**Legal and Policy Division: Advance Tax Rulings
SOUTH AFRICAN REVENUE SERVICE**