

BINDING PRIVATE RULING: BPR 341

DATE: 30 April 2020

ACT : INCOME TAX ACT 58 OF 1962 (the Act)
SECTION : SECTION 47 AND PARAGRAPH 43A OF THE EIGHTH SCHEDULE TO THE ACT
SUBJECT : DISTRIBUTION OF A BANK ACCOUNT AS DIVIDEND *IN SPECIE*

Preamble

This binding private ruling is published by consent of the applicant(s) to which it has been issued. It is binding as between SARS and the applicant and any co-applicant(s) only and published for general information. It does not constitute a practice generally prevailing.

1. Summary

This ruling determines whether the disposal of the co-applicant's only asset, a bank account, to the applicant as a dividend *in specie* in anticipation of the co-applicant's winding-up, will constitute a liquidation distribution.

2. Relevant tax laws

In this ruling references to sections and paragraphs are to sections of the Act and paragraphs of the Eighth Schedule to the Act applicable as at 11 November 2019. 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 –

- section 47; and
- paragraph 43A.

3. Parties to the proposed transaction

The applicant: A listed company and a resident

The co-applicant: A resident company that is a wholly-owned subsidiary of the applicant

4. Description of the proposed transaction

The co-applicant was an investment holding company that invested in listed and unlisted real estate, as well as directly in fixed property that was developed and sold, or leased out prior to being sold.

The co-applicant disposed of its investments and ceased all trading activities during 2018 and declared an extraordinary dividend to the applicant during March 2019.

The co-applicant will, within a period of 18 months from the mentioned dividend payment dispose of its rights, title and interest in its bank account to the applicant as a dividend *in specie* in anticipation of its liquidation.

5. Conditions and assumptions

This binding private ruling is subject to the additional condition and assumption that the co-applicant will comply with the steps contemplated in section 41(4) within 36 months from the date of the liquidation distribution, or such further period as the Commissioner may allow under section 47(6)(c)(i).

6. Ruling

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

- a) The proposed transaction will qualify as a “liquidation distribution” as defined in paragraph (a) of the definition of that term in section 47(1).
- b) The co-applicant will be entitled to the relief provided for in section 47(2)(a).
- c) The applicant will be entitled to the relief provided for in section 47(5).
- d) Paragraph 43A will not apply to the proposed transaction due to the proposed transaction constituting a “deferral transaction” as defined in paragraph 43A(1).

7. Period for which this ruling is valid

This binding private ruling is valid in respect of the year of assessment ending 31 December 2020.