South African Revenue Service

BINDING PRIVATE RULING: BPR 421

DATE: 26 November 2025

ACT : INCOME TAX ACT 58 OF 1962 (the Act)

SECTION : SECTION 1(1) - PARAGRAPH (*c*) OF THE DEFINITION OF "GROSS INCOME", SECTION 6*quat* AND PARAGRAPH 54(*b*) OF THE EIGHTH SCHEDULE TO THE ACT

SUBJECT : WITHDRAWAL FROM A SUPERANNUATION FUND SITUATED OUTSIDE SOUTH AFRICA

Preamble

This binding private ruling is published with the consent of the Applicant to which it has been issued. It is binding between SARS and the Applicant only and published for general information. It does not constitute a practice generally prevailing.

1. Summary

This ruling determines the tax consequences of a lump sum benefit paid to a resident from a superannuation fund situated outside South Africa.

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 5 June 2025. 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 1(1) - paragraph (*c*) of the definition of "gross income";
- section 6*quat*; and
- paragraph 54(*b*).

3. Parties to the proposed transaction

The Applicant: A resident individual.

4. Description of the proposed transaction

The Applicant is a resident and has never been a tax resident of Australia. The Applicant incorporated Company A in Australia in 1980 to act as a corporate trustee to an *inter vivos* trust (the Trust) and received distributions from the Trust from time to time. Company A is managed and controlled in Australia and regarded as an Australian tax resident.

The Applicant established a superannuation fund (the Personal Super Plan) situated in Australia in 2007.

Acting in the capacity as a director of Company A, the Applicant performed his directorship duties in South Africa for which he received both wages and superannuation contributions sponsored by Company A. The contributions by Company A for the Applicant's benefit were made to the Personal Super Plan in Australia (Employer Contributions). The Employer Contributions made by Company A were funded from administration fees charged to and distributions received from the Trust.

Contributions to the Personal Super Plan were also made by the Applicant in his personal capacity (the Applicant Contributions). The source of the Applicant's Contributions was from after tax income earned in South Africa. These amounts were transferred to Australia by the Applicant by making use of his annual "Approved International Transfer" allowances.

The Applicant left Australia in 2020, having contributed to the Personal Super Plan since *circa* 2007. The Applicant did not claim from the Personal Super Plan on departing from Australia in 2020.

As there was no claim made by the Applicant against the Personal Super Plan, the Personal Super Plan unclaimed benefits were transferred to the Australian Tax Office (ATO) on 20 March 2024, on a request from the ATO to the Personal Super Plan for such transfer.

The Applicant now wishes to take a full lump sum withdrawal benefit from his Personal Super Plan in the form of a "Departing Australian Superannuation Payment" (DASP). Resultant from the transfer on 20 March 2024, the Applicant will claim the DASP from the ATO.

The Personal Super Plan is a fund or arrangement situated outside South Africa which provides for similar benefits under similar conditions to a pension, pension preservation, provident, provident preservation or retirement annuity fund approved in terms of the Act.

5. Conditions and assumptions

This binding private ruling is subject to the additional condition and assumption that the Applicant has not become unconditionally entitled to any amount forming part of the DASP amount, to be paid in terms of the proposed transaction, at any time prior to the proposed transaction.

6. Ruling

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

a) The withdrawal by the Applicant from his superannuation fund, by way of a DASP, will constitute a disposal of an asset, as defined in the Eighth Schedule.

b) Any capital gain or loss determined in respect of the forementioned disposal will be disregarded in terms of paragraph 54(*b*) of the Eighth Schedule to the Act.

c) The “Employer Contribution” component of the DASP amount, plus the growth thereon, will fall into the ambit of paragraph (*c*) of the definition of “gross income” in section 1(1).

d) A section 6*quat* rebate will not be available in respect of the foreign taxes withheld relating to the “Employer Contribution” component of the DASP amount, plus the growth thereon.

7. Period for which this ruling is valid

This binding private ruling is valid for a period of three years from 5 June 2025.

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