

**BINDING PRIVATE RULING: BPR 377**

DATE: 8 September 2022

**ACT : INCOME TAX ACT 58 OF 1962 (the Act)**  
**SECTION : SECTIONS 64D AND 64G(3)**  
**SUBJECT : WITHHOLDING OF DIVIDENDS TAX AT A REDUCED RATE**

***Preamble***

This binding private ruling is published with the consent of the applicant(s) to which it has been issued. It is binding 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 the dividends withholding tax consequences resulting from the declaration of a dividend by a company to a trust where certain non-resident beneficiaries of that trust are the beneficial owners of these dividends.

**2. Relevant tax laws**

In this ruling references to sections are to sections of the Act applicable as at 5 May 2022. 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 64D; and
- section 64G(3).

**3. Parties to the proposed transaction**

The applicant: A resident company

The co-applicant: A resident trust

Beneficiaries: Non-resident beneficiaries of the co-applicant

**4. Description of the proposed transaction**

The applicant intends to pay dividends in the 2023 tax year. The co-applicant is the shareholder of the applicant. The co-applicant's trust deed confers a discretion on the trustees to award income and capital to its beneficiaries. No limitation is placed on when such discretion may be exercised.

On a date preceding the actual declaration of such dividend, the trustees of the co-applicant will take a resolution to vest any dividend declared by the applicant in that year, in the beneficiaries.

The beneficiaries are residents of another tax jurisdiction. This jurisdiction has entered into a treaty with the Republic of South Africa for the avoidance of double taxation and the prevention of fiscal evasion, which provides for a reduced dividend withholding tax rate.

The co-applicant will obtain the required declarations as required by section 64G(3) and submit these to the applicant before the date of payment.

**5. Conditions and assumptions**

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

**6. Ruling**

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

- a) The applicant will be required to withhold dividends tax at a reduced rate as contemplated in section 64G(3), provided that the declarations and written undertakings contemplated in section 64G(3)(a) and (b) will be submitted before payment of the dividend.

**7. Period for which this ruling is valid**

This binding private ruling is valid for a period of one year from 5 May 2022.