



South African Revenue Service

BINDING CLASS RULING: BCR 076

DATE: 25 November 2020

ACT : INCOME TAX ACT 58 OF 1962 (the Act)
SECTION : PARAGRAPHS 1 – DEFINITION OF “DISPOSAL”, 11(1)(b), 20(1) AND 35(1) OF THE EIGHTH SCHEDULE TO THE ACT
SUBJECT : CANCELLATION OF UNITS IN FOREIGN COLLECTIVE INVESTMENT SCHEMES PURSUANT TO THEIR CORPORATE RE-DOMICILIATION

Preamble

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

1. Summary

This ruling determines the capital gains tax implications arising out of the exchange of units issued by an undertaking for collective investment schemes in transferrable securities in country A for units issued by an undertaking for collective investment schemes in transferrable securities in country B as part of the process of re-domiciling the applicant’s investment business from country A to country B.

2. Relevant tax laws

In this ruling references to paragraphs are to paragraphs of the Eighth Schedule to the Act applicable as at 4 November 2020. 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 –

- paragraph 1 – definition of “disposal”;
- paragraph 11(1)(b);
- paragraph 20(1); and
- paragraph 35(1).

3. Class

The class members to whom this ruling will apply are the investors referred to in **4**.

4. Parties to the proposed transaction

The applicant: A company incorporated in and a resident of country A which is the appointed manager of the country A fund

The country A fund:	An undertaking for collective investment schemes in transferrable securities incorporated in and a resident of country A
The country A sub-funds:	Seven collective investment schemes in property and securities managed under the country A fund
The country B fund:	A new undertaking for collective investment schemes in transferrable securities established in country B
The country B sub-funds:	Seven new collective investment schemes in property and securities established in country B and managed under the country B fund
The investors:	The South African investors of the country A sub-funds, comprising companies and individuals who invest directly into the sub-funds by way of subscriptions for units

5. Description of the proposed transaction

The applicant is re-domiciling the country A fund to country B by means of a merger of each of the existing sub-funds with a corresponding equivalent or mirror sub-fund that has been established in country B.

The procedure by which the proposed transaction will be effected is undertaken in accordance with Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009.

The proposed implementation steps are as follows:

- The investment assets held and the liabilities of the country A sub-funds will be transferred to the country B sub-funds and the country B sub-funds will directly issue units to the former investors of the country A sub-funds.
- The country A sub-funds will cancel the units which were previously held by investors.

The result will be that the class members will hold units in the country B sub-funds and the country B sub-funds will hold the assets and undertake the liabilities which were previously for the account of the country A sub-funds. The country A sub-funds will be terminated.

6. Ruling

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

- a) The exchange by each class member of an interest in a country A sub-fund for an equivalent interest in a country B sub-fund, in accordance with the merger process as determined by the relevant Undertaking for Collective Investment in Transferrable Securities regulation, will constitute a disposal of an asset as defined in paragraph 1 read with paragraph 11(1)(b).

- b) The proceeds from the disposal of a unit in the country A sub-fund by each investor will, in accordance with paragraph 35(1), be equal to the market value of the equivalent unit in the country B sub-fund received by each investor.
- c) The base cost for a class member of a unit in the country B sub-fund will, in accordance with paragraph 20(1), be equal to the market value of the equivalent unit in the country A sub-fund on the date of disposal.

7. Period for which this ruling is valid

This binding class ruling is valid for a period of one year from the effective date of the ruling letter.

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