

BINDING CLASS RULING: BCR 039

DATE: 24 April 2013

The guidance contained in this ruling is affected by subsequent law changes.

ACT : INCOME TAX ACT, NO. 58 OF 1962 (the Act)
SECTION : SECTIONS 64G, 64H AND 64J
SUBJECT : REDUCTION OF AN STC CREDIT; AND SECTIONS 64G(2)(a) AND 64H(2)(a) DECLARATIONS

1. Summary

This ruling deals with the obligation of a company or a regulated intermediary to notify a beneficial owner of a dividend to be paid in cash or distributed *in specie* of the amount by which the dividend will reduce the STC credit of the company paying the dividend and the publication of that notice.

2. Relevant tax laws

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

In this ruling references to sections are to sections of the Act applicable as at 1 August 2012 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 64G;
- section 64H and
- section 64J.

3. Class

The class members to whom this ruling will apply will be the beneficial owners of dividends paid or distributed from time to time.

4. Parties to the proposed transaction

The Applicant: A public company incorporated in and a resident of South Africa

Class Members: The beneficial owners of the dividends associated from time to time with the Applicant's shares and the regulated intermediaries through whom those dividends are to be paid or distributed

5. Description of the proposed transaction

The Applicant proposes to pay cash or *in specie* dividends on its shares from time to time. Payments are to be made via regulated intermediaries, as defined in section 64D.

Those payments or distributions will for some time not exceed the Applicant's STC credit, as determined under section 64J(2).

The Applicant's issued share capital consists of ordinary shares and "B" class ordinary shares. The ordinary shares are listed and traded on the JSE.

The Applicant customarily declares an interim dividend and a final dividend each year. From time to time it also declares special dividends which can take the form of cash payments or distributions *in specie*.

All declarations of dividends are communicated via the JSE Ltd's news service SENS, as well as via the Applicant's website. Information on dividends is also communicated to shareholders who hold their shares in electronic (dematerialised) format via the central securities depository system of Strate Ltd. Those shareholders have an option to indicate whether or not they want to receive electronic communications from the Applicant (or any other company).

Information on all dividends for the year is also published with the interim and annual financial results of the Applicant in the national press.

As at the date of the application, the Applicant and its subsidiaries have available STC credits. Although this balance will be reduced by dividends declared, it is anticipated that certain dividends the Applicant will receive will be added to the available STC credit balance as contemplated by section 64J(2)(b), read with section 64J(3).

6. Conditions and assumptions

This ruling is subject to the following additional conditions and assumptions:

- Nothing contained in this ruling discharges the obligation to submit returns under the provisions of section 64K(1)(d) or section 69(1) or the obligation to keep records under section 73C, or any provision substituted for these provisions by the Tax Administration Act No. 28 of 2011, promulgated on 4 July 2012 in GG 35491, when they come into operation, in particular the provisions of sections 25, 29(1) and 30(2) of the last mentioned Act.
- This ruling is not made in the exercise of any of the Commissioner's powers to prescribe the form and contents of returns to be rendered.

7. Ruling

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

Provided that the Applicant pays dividends that do not exceed its STC credit:

- Dividends to be declared and paid by the Applicant will be payable in full to their beneficial owners without dividends tax being withheld if the dividends are paid in cash, or without the Applicant being liable to pay dividends tax if the distributions are *in specie*.

- The Applicant, or any regulated intermediary that is to pay dividends, need not obtain any declaration contemplated in section 64G(2)(a) or section 64H(2)(a) that qualifies any beneficial owner to obtain any benefit from the STC credit, and beneficial owners need make no declarations to qualify for the benefit.
- Prior to paying a dividend to a beneficial owner who is a company, the Applicant, or the relevant regulated intermediary (as the case may be), must comply with the notice requirements prescribed by section 64J(2)(b).
- The following methods of publication by the Applicant of the notice contemplated in section 64J(1)(b), together with the publication of the details of a dividend declared, will serve as sufficient notice to the person to whom the dividend is paid of the amount by which the dividend reduces the STC credit–
 - communication via SENS;
 - communication via the Applicant's Internet website;
 - communication to shareholders holding shares in electronic format via the central securities depository system of Strate Ltd; and
 - publication of full details on all dividends paid during the year at the time that the Applicant's interim and annual results are published in the national financial press.

8. Period for which this ruling is valid

This binding class ruling is valid for a period of 3 years from 1 August 2012.

Issued by:

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