

BINDING CLASS RULING: BCR 064

DATE: 6 July 2018

ACT : SECURITIES TRANSFER TAX ACT 25 OF 2007 (STT Act)
SECTION : SECTION 1 – DEFINITION OF “SECURITY” AND SECTIONS 2(1)(a) AND 8(1)(f)
SUBJECT : TRANSFER OF A SECURITY THAT CONSTITUTES A PARTICIPATORY INTEREST IN A COLLECTIVE INVESTMENT SCHEME

1. Summary

This ruling determines security transfer tax consequences of the transfer of a security that constitutes a participatory interest in a collective investment scheme, regulated by the Collective Investment Schemes Control Act 45 of 2002 (CISCA).

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 28 of 2011.

In this ruling references to sections are to sections of the STT Act applicable as at 14 September 2017. Unless the context indicates otherwise any word or expression in this ruling bears the meaning ascribed to it in the STT Act.

This is a ruling on the interpretation and application of –

- section 1 – definition of “security”
- section 2(1)(a); and
- section 8(1)(f).

3. Class

The class members to whom this ruling will apply are the holders of the Class B Shares.

4. Parties to the proposed transaction

The applicant: A resident company

The class members: The holders of class B shares

Company X: A non-resident company

The fund: A fund of Company X, which has been duly approved as a foreign collective investment scheme (CIS)

The nominee: A non-resident company

5. Description of the proposed transaction

The applicant is the South African investment manager of a fund of Company X. Company X is an open-ended umbrella type investment company with segregated liability between its funds. It is authorised as an undertaking for collective investment in transferable securities. The Fund has been duly approved as a foreign CIS in terms of section 65 of CISCA. The fund proposes to list the class B shares on the JSE.

The objective of the fund is to replicate the performance of global equity markets. Investments may be marketed to members of the public in South Africa.

The class B shares will be linked to the fund and the economic performance of those shares will be determined by the economic performance of the investment portfolio held by the fund.

The class B shares will be issued to a nominee company as the registered shareholder which will keep a register of the South African Investors (the class members).

The class members will acquire beneficial ownership in the shares and will from time to time dispose of their interests to realise their investments.

6. Conditions and assumptions

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

7. Ruling

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

- a) The transfer of the class B shares from and to the class members will not attract STT under section 8(1)(f) of the STT Act.

8. Period for which this ruling is valid

This binding class ruling is valid for a period of five years from 14 September 2017.