

BINDING PRIVATE RULING: BPR 203

DATE: 17 August 2015

ACT : SECURITIES TRANSFER TAX ACT NO. 25 OF 2007 (the STT Act)
**SECTION : SECTIONS 1 – DEFINITION OF “SECURITY” AND “TRANSFER”,
2 AND 5**
SUBJECT: RENUNCIATION OF A USUFRUCT OVER SHARES

1. Summary

This ruling deals with whether securities transfer tax is payable on the renunciation of a usufruct over shares.

2. Relevant tax laws

This is a binding private ruling issued in accordance with section 78(1) 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 STT Act applicable as at 21 May 2015 and unless the context indicates otherwise, any word or expression in this ruling bears the meaning ascribed to it in that Act.

This is a ruling on the interpretation and application of the provisions of –

- section 1, the definition of “security” and “transfer”;
- section 2; and
- section 5.

3. Parties to the proposed transaction

The Applicant: A natural person who is a resident of South Africa

The Co-Applicants: Three separate trusts formed in and residents of South Africa

4. Description of the proposed transaction

The Applicant was married to N, who is deceased. The last will and testament of N bequeathed a share portfolio to the three children born of the marriage, with a life-long usufruct in favour of the Applicant.

The three children each transferred their bare dominium in the shares to three separate trusts (the Co-Applicants).

All the shares over which the Applicant has the usufruct are currently administered by a broker in one account in the name of the Applicant.

The Applicant intends to renounce the usufruct over the shares, so that full ownership of the shares of the children will vest in the respective Co-Applicants and that the shares must be transferred by the broker into accounts in the name of each of the Co-Applicants.

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:

- Securities transfer tax will not be payable by the Applicant on the renunciation of the usufruct over the shares.

7. Period for which this ruling is valid

This binding private ruling is valid for a period of 2 years from 21 May 2015.

**Legal and Policy Division: Advance Tax Rulings
SOUTH AFRICAN REVENUE SERVICE**