BINDING PRIVATE RULING: BPR 179

DATE: 15 August 2014

ACT	**:**	**INCOME TAX ACT NO. 58 OF 1962 (the Act)**
SECTION	**:**	**SECTIONS 1(1) DEFINITION OF “GROSS INCOME” AND 7(1) AND PARAGRAPHS 11(1), 35(1), 40 AND 55 OF THE EIGHTH SCHEDULE TO THE ACT**
SUBJECT	**:**	**SINGLE PREMIUM LIFE INSURANCE POLICY ISSUED BY AN OFF-SHORE INSURER**

1. Summary

This ruling deals with an investment by a resident in a single premium unit linked life insurance policy with an insurer registered in Liechtenstein.

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 and paragraphs are to sections of the Act and paragraphs of the Eighth Schedule thereto applicable as at 17 December 2013 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 1(1), definition of “gross income”;
- section 7(1); and
- paragraphs 11(1), 35(1), 40 and 55 of the Eighth Schedule.

3. Parties to the proposed transaction

The Applicant:	A natural person who is a resident of South Africa
The Insurer:	A duly registered long-term insurer incorporated in and a resident of Liechtenstein

4. Description of the proposed transaction

The Applicant wishes to invest an amount in a Unit Linked Life Insurance Policy (the policy). The policy will be for an indefinite term, subject to a minimum period of 5 years and will provide insurance cover in the event of death.

The Applicant proposes subscribing for the policy to:

- insure against a fortuitous event, being death. The insured amount will constitute less than 1% of the total amount invested, should an insured event transpire;

- protect the Applicant's funds and privacy and for wealth management purposes; and

- provide rand-hedging in the event that the currency continues to weaken.

The proposed transaction is as follows:

- The Applicant proposes to transfer a cash amount into a bank account (custodian account) controlled and nominated by the Insurer.

- A small fraction of the cash amount will be allocated to provide life insurance cover (risk premium amount), while the remaining portion of the cash amount is to be invested in the policy which holds money market, bonds, shares or other investments.

- The Insurer will deduct fees, which comprise an initial fee and an on-going insurance fee, from the risk premium amount on an annual basis. The risk premium amount depends on the age of the Applicant.

- The Insurer will deduct the initial costs and applicable taxes from the remaining portion of the cash amount, and the net cash amount will be allocated to the custodian account. The net cash deposited in the custodian account will be used to purchase investments.

- The custodian account will operate for the entire term of the policy and may only be changed by the Insurer.

- The Applicant bears the risks and reaps the rewards associated with gains and losses in value of the investment portfolio. The value of the investment portfolio may fluctuate and no premium guarantee will be given.

- An asset manager, appointed by the Insurer, will manage the investment portfolio, whilst the investment strategy will be defined by the Applicant. No high risk strategies will be allowed.

- The Applicant may change the aforementioned investment strategy, provided that the Applicant can prove exceptional circumstances that warrant such a change. The Applicant will have no direct investment control over the management of the assets, as this will be the responsibility of the asset manager.

- Fees for the management of the investments and all costs in connection with the investment transactions, safekeeping and management of the investments will be charged to the custodian account. The fees are calculated according to actuarial rules applicable to the policy.

- The Applicant may surrender the policy at any time in full or in part in writing, subject to one month's notice although not earlier than the end of the first year. No cancellation fee will be charged by the Insurer.

- The Applicant will have to prove to the Insurer's satisfaction "that there has been a change in intention" regarding the holding of the policy, if it is surrendered within a period of 5 years from inception.

- The surrender value of the policy shall correspond to the investment less any outstanding fees, costs and applicable taxes. All costs relating to liquidating the assets and transferring the surrender value will also be deducted from the surrender value.

- The Applicant can also, when surrendering the policy, request that the investment portfolio not be liquidated but transferred to the Applicant in whole or in part.

- The Applicant may restrict the transferability of, collateralise or assign the rights arising from the policy. A collateralisation or assignment will only be effective *vis-à-vis* the Insurer if it is notified in writing. A restriction on transferability will require the Insurer's consent.

- The death benefit amount is linked to the performance of the defined investment strategy. The Insurer will guarantee, as a life coverage, a cash payment to the nominated beneficiary or the Applicant's estate, amounting to 1% of the value of the investments.

5. Conditions and assumptions

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

6. Ruling

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

- The investment assets are held on behalf of the Applicant. Any transfer of the investment assets to the Applicant upon the surrender of the policy will therefore not constitute a disposal for purposes of the Eighth Schedule.

- All amounts received or accrued in respect of the investments shall accrue to the Applicant.

- In the alternative, the provisions of section 7(1) will be applicable, on the basis that the amounts remain due and payable to the Applicant, whether the amounts will be credited in account or accumulated or capitalised or otherwise dealt with in the Applicant's name or on the Applicant's behalf.

- Any realisation or liquidation of the investment assets as a result of an election made by the Applicant upon the surrender of the policy will constitute a disposal of those assets on behalf of the Applicant in respect of which paragraph 35 will apply.

- In the event that the Applicant receives the 1% life cover payment, this pay-out will constitute proceeds and be taken into account when calculating a capital gain or loss for the Applicant. The provisions of paragraphs 40 and 55 will not be applicable.

7. Period for which this ruling is valid

This binding private ruling is valid for a period of 5 years from 17 December 2013.

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