

BINDING PRIVATE RULING: BPR 144

DATE: 07 May 2013

ACT : INCOME TAX ACT NO. 58 OF 1962 (the Act)
SECTION : SECTIONS 45(4)(b), 11(e), 12C AND 13
**SUBJECT : WRITE-OFF PERIOD IN RESPECT OF THE INCREASE IN EITHER
THE COST OR THE VALUE OF ASSETS PURSUANT TO A
SECTION 45(4) DE-GROUPING**

1. Summary

This ruling deals with the write-off period to be allowed in respect of the increase in either the cost or the value of assets initially acquired under section 45, as a result of a de-grouping of companies as contemplated in section 45(4).

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 the Act applicable as at 27 March 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 45(4)(b),
- section 11(e),
- section 12C, and
- section 13.

3. Parties to the proposed transaction

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

Company A: A company incorporated in and a resident of South Africa

4. Description of the proposed transaction

The Applicant is the holding company of Company A and both companies form part of the same group of companies. The Applicant and Company A previously entered into an intra-group transaction in terms of which Company A acquired certain assets from the Applicant under section 45.

The Applicant proposes to sell its shareholding in Company A. As a result of this sale Company A will, within six years of Company A having acquired the assets in terms of the intra-group transaction, cease to form part of the same group of companies as the Applicant.

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:

For purposes of calculating the allowances to be deducted under sections 11(e), 12C or 13 on either the increased cost or value of the assets, as contemplated in section 45(4)(b)(i) and (ii), the following will apply:

- An allowance may be claimed in respect of the increase in cost or value of the asset over the remaining write-off period of the asset, as determined by the relevant section.
- If an asset is fully written off at the time of de-grouping, the allowance may be deducted in full in the year of assessment during which the de-grouping takes place.

7. Period for which this ruling is valid

This binding private ruling is valid from the year of assessment in which the proposed transaction takes place.

Issued by:

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