

BINDING PRIVATE RULING: BPR 306

DATE: 28 June 2018

ACT : INCOME TAX ACT 58 OF 1962 (the Act)

SECTION : SECTIONS 54 AND 55

SUBJECT : DONATION TO A SPECIAL TRUST

1. Summary

This ruling determines the donations tax consequence of a cash transfer made to a special trust.

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 28 of 2011.

In this ruling references to sections are to sections of the Act applicable as at 21 February 2018. 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 sections 54 and 55.

3. Parties to the proposed transaction

The applicant: A resident adult suffering from a debilitating malady

Trust: A discretionary *inter vivos* trust created by the applicant and registered as a special trust

4. Description of the proposed transaction

The applicant suffers from an early onset of dementia, but is currently still lucid and has the capacity to contract. The applicant will transfer an amount to the trust in order to provide for her future upkeep and wellbeing. This amount does not represent the applicant's entire estate. The trust provides for primary and secondary beneficiaries. The applicant is the primary beneficiary, and her descendants are the secondary beneficiaries.

Both the primary and the secondary beneficiaries are contingent beneficiaries as their rights to receive income or assets are subject to the exercise of the trustees' discretion. The trustees may only exercise their discretion in respect of the secondary beneficiaries on the passing of the primary beneficiary.

The purpose of the trust is to take care of the applicant when she becomes debilitated by her medical condition, by providing for her care and maintenance.

5. Conditions and assumptions

This binding private ruling is not subject to any additional conditions or assumptions.

6. Ruling

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

- The amount to be contributed by the applicant will not constitute a donation as contemplated in sections 54 and 55, and, as a result, no donations tax will be levied.

7. Period for which this ruling is valid

This binding private ruling is valid for a period of three years from 21 February 2018.

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SOUTH AFRICAN REVENUE SERVICE