

BINDING PRIVATE RULING: BPR 290

DATE: 24 January 2018

ACT : INCOME TAX ACT 58 OF 1962 (the Act)
SECTION : PARAGRAPH 38 OF THE EIGHTH SCHEDULE
SUBJECT : DISTRIBUTION OF SHARES TO EMPLOYEE SHARE SCHEME PARTICIPANTS

1. Summary

This ruling determines the tax consequences for the Participants in an employee share scheme on the distribution to them of shares by a share scheme 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 paragraph are to a paragraph of the Eighth Schedule to the Act applicable as at 28 August 2017. 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 paragraph 38.

3. Parties to the proposed transaction

The applicant:	A trust registered in and a resident of South Africa
Company A:	A listed company incorporated in and a resident of South Africa
Company B:	A company incorporated in and a resident of South Africa
Participants:	Beneficiaries of the applicant

4. Description of the proposed transaction

The applicant was established for purposes of a broad based BEE initiative that was implemented by Company A in order to facilitate the participation of historically disadvantaged employees of Company A and its subsidiaries in the BEE Initiative by way of a Staff BEE scheme. The scheme is regulated by the provisions of the trust deed of the applicant as well as the scheme rules.

Company B, another special purpose vehicle through which the BEE Initiative was implemented, acquired and held shares in Company A ("BEE shares") for the ultimate benefit of its BEE shareholders, which included the applicant. Following a lock-in period and the repayment by Company B of all funding for the acquisition

of the BEE shares, Company B distributed the remaining BEE shares to its shareholders, including the applicant. In terms of the scheme rules, the Applicant is obliged to distribute those remaining BEE shares received by it from Company B to the participants on certain vesting dates. The proposed transaction relates to the distribution of the remaining BEE shares by the Applicant to the participants.

Upon distribution of the remaining BEE shares, an amount equal to the market value of the shares at the time of vesting will be included in the income of the relevant participants in accordance with the provisions of section 8C.

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:

- paragraph 38(1) will not apply to the disposal of the remaining BEE shares by the applicant to the scheme participants in accordance with the scheme rules.

7. Period for which this ruling is valid

This binding private ruling is valid for a period of five years from 28 August 2017.

**Legal Counsel: Advance Tax Rulings
SOUTH AFRICAN REVENUE SERVICE**