

BINDING PRIVATE RULING: BPR 217

DATE: 21 January 2016

ACT : ESTATE DUTY ACT NO. 45 OF 1955 (the Estate Duty Act)
SECTION : SECTIONS 2, 3, AND 4A
SUBJECT : ESTATE DUTY IMPLICATIONS FOR NON-RESIDENT INDIVIDUAL INVESTORS

1. Summary

This ruling determines the estate duty implications for non-resident individual investors who invest in a linked investment plan in Country X with exposure to, amongst others, underlying South African assets.

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 Estate Duty Act applicable as at 14 October 2015. 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 2;
- section 3; and
- section 4A.

3. Parties to the proposed transaction

The Applicant: A company incorporated and resident in Country X carrying on the business of life insurance

Contracting Party: Any individual investor resident in Country X

4. Description of the proposed transaction

The Applicant offers traditional insurance risk based products (e.g. death and disability cover) and investment products to individuals who are resident in Country X.

The Applicant proposes to offer each Contracting Party a linked investment plan with exposure to South African assets and to assets located in Country X. South African unit trust funds will be offered as underlying asset options to Contracting Parties under the linked investment plan.

The proposed linked investment plan will –

- be a discretionary savings vehicle;
- allow each Contracting Party to have complete liquidity and earn dividends and interest from either or both the Country X and South African assets;
- be a single premium discretionary (non-compulsory) product held under Linked Investment Service Providers; and
- be a single contract with the Applicant to purchase multiple underlying unit trust products in Country X or South Africa, or both.

The Contracting Party will be the beneficial owner of the underlying investment funds or unit trust funds, which will be held in the name of an independent nominee of the Applicant on behalf of the Contracting Party.

Upon the death of a Contracting Party, the investment policy will fall into the Contracting Party's estate and be dealt with by his/or her executor.

5. Conditions and assumptions

This binding private ruling is subject to the additional condition and assumption that there is no treaty between South Africa and Country X in respect of taxes on estates of deceased persons.

6. Ruling

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

- Estate duty, levied under the Estate Duty Act, will be applicable to the estate of the deceased Contracting Party in respect of any underlying South African assets held under the linked investment plan.
- The South African investments held in the name of an independent nominee of the Applicant on behalf of the Contracting Party will constitute property of the Contracting Party's deceased estate for estate duty purposes.
- The Contracting Party's deceased estate will be able to claim any rebates provided for under section 4A in determining the dutiable amount of the estate.
- Estate duty will be levied on the dutiable amount of the estate in respect of investment proceeds relating to the South African assets at the rate set out in the First Schedule to the Estate Duty Act from time to time.

7. Period for which this ruling is valid

This binding private ruling is valid for a period of 5 years from 14 October 2015.