

BINDING PRIVATE RULING: BPR 141

DATE: 28 March 2013

**ACT : INCOME TAX ACT NO. 58 OF 1962 (the Act)
SECURITIES TRANSFER TAX ACT NO. 25 OF 2007 (the STT Act)**

**SECTION : SECTIONS 41 AND 45 OF THE ACT
SECTION 8(1)(a)(iii) OF THE STT ACT**

**SUBJECT : TRANSFER OF SECURITIES FROM AN UNTAXED POLICYHOLDER
FUND OF A LONG-TERM INSURER TO AN UNTAXED
POLICYHOLDER FUND OF ANOTHER LONG-TERM INSURER**

1. Summary

This ruling deals with the question as to whether the transfer of securities from an untaxed policyholder fund (UPF) of one long-term insurer to a UPF of another long-term insurer will be exempt from securities transfer tax.

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 relevant Act applicable as at 18 December 2012 and 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 –

- sections 41 and 45 of the Act; and
- section 8(1)(a)(iii) of the STT Act.

3. Parties to the proposed transaction

The Applicant: A registered long-term insurance company that is a resident of South Africa

The Co-Applicant: Another registered long-term insurance company that is a resident of South Africa

4. Description of the proposed transaction

The Applicant and Co-Applicant are wholly owned subsidiaries of Holdco. As part of restructuring of the group, Holdco proposes to transfer the business of the Applicant to the Co-Applicant in terms of section 38 of the Long-Term Insurance Act No. 52 of 1998 on the following basis:

- The business of the Applicant will be transferred at net asset value, on loan account, to the Co-applicant under section 45 of the Act.
- The transfer will include the transfer of securities from the UPF of the Applicant to the UPF of the Co-applicant.
- Section 45 of the Act will not be applicable to the transfer of assets from the UPF of the Applicant to the UPF of the Co-applicant by virtue of section 41(3) of the Act.

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 transfer of securities from the UPF of the Applicant to the UPF of the Co-applicant will qualify for exemption from STT, as contemplated in section 8(1)(a)(iii) of the STT Act, irrespective of the fact that section 45 of the Act will not be applicable to the transfer by virtue of section 41(3) of the Act.

7. Period for which this ruling is valid

This binding private ruling is valid for a period of 2 years from 18 December 2012 provided the transaction is concluded within 2 years from 18 December 2012.

Issued by:

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