

## **BINDING PRIVATE RULING: BPR 151**

DATE: 13 August 2013

**ACT** : **INCOME TAX ACT NO. 58 OF 1962 (the Act)**  
: **ESTATE DUTY ACT NO. 45 OF 1955 (the Estate Duty Act)**  
**SECTION** : **SECTION 55(1), DEFINITION OF “DONATION” AND**  
**PARAGRAPHS 11 AND 67(2) OF THE EIGHTH SCHEDULE TO THE**  
**ACT**  
: **SECTION 4(q) OF THE ESTATE DUTY ACT**  
**SUBJECT** : **RENUNCIATION OF AN INHERITANCE**

### **1. Summary**

This ruling deals with the donations tax, capital gains tax and estate duty consequences of the renunciation by a testator's descendants of their rights to benefit under a will under which the testator's surviving spouse also benefits.

### **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 and paragraphs are to sections of the relevant Act and paragraphs of the Eighth Schedule to the Act applicable as at 30 April 2013 and unless the context indicates otherwise, any word or expression in this ruling bears the meaning ascribed to it in the relevant Act.

This is a ruling on the interpretation and application of the provisions of –

- section 55(1) of the Act, definition of “donation”;
- paragraphs 11 and 67(2) of the Eighth Schedule; and
- section 4(q) of the Estate Duty Act.

### **3. Parties to the proposed transaction**

The Applicant: The executor of a deceased estate

The Co-Applicants: The surviving spouse and the two descendants of the testator

### **4. Description of the proposed transaction**

The descendants of the testator are the designated residuary heirs under the will of the deceased. The will also bequeaths certain legacies to the surviving spouse of the deceased. The Applicant anticipates that estate duty will become leviable on the net value of the estate. The descendants propose to renounce their inheritances.

## 5. Conditions and assumptions

This ruling is subject to the following additional conditions and assumptions:

- The ruling will apply only if the Master of the High Court accepts as valid the proposed renunciations of their inheritances by the descendants.
- The Applicant must, pursuant to section 2C of the Wills Act No. 7 of 1953, allocate those inheritances to the surviving spouse in the liquidation and distribution account in the course of the administration of the deceased estate.

## 6. Ruling

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

- The renunciations will not result in the levying of any donations tax.
- The renunciations will not be “disposals” for purposes of paragraph 11 of the Eighth Schedule.
- Section 4(*q*) of the Estate Duty Act will apply to the inheritances that will accrue by operation of law to the surviving spouse by virtue of the proposed renunciations.
- Paragraph 67(2)(*a*) of the Eighth Schedule will apply to the inheritances that will accrue by operation of law to the surviving spouse by virtue of the proposed renunciations.

## 7. Period for which this ruling is valid

This binding private ruling is valid from 30 April 2013 for the remainder of the duration of the administration of the estate.

Issued by:

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