

**BINDING CLASS RULING: BCR 023**

DATE: 29 October 2010

**ACT : INCOME TAX ACT, NO. 58 OF 1962 (the Act)**  
**SECTION : SECTION 1, DEFINITION OF “GROSS INCOME”, SECTION 22 AND PARAGRAPH 11 OF THE EIGHTH SCHEDULE TO THE ACT**  
**SUBJECT : TAX CONSEQUENCES RESULTING FROM THE DEMERGER OF A SWISS DEPOSITORY COMPANY**

**1. Summary**

This ruling deals with the tax consequences for investors (who are resident in South Africa) in a Swiss Depository Company, and who hold depository receipts either as capital investments or as trading stock, arising from the demerger of the company.

**2. Relevant tax laws**

This is a binding class ruling issued in accordance with section 76R read with section 76O(6) of the Act.

In this ruling legislative references to sections and paragraphs are to sections of the Act and paragraphs of the Eighth Schedule to the Act, applicable as at 1 September 2010 and unless the context indicates otherwise, any word or expression in this ruling bears the meaning ascribed to it in the Act.

This ruling has been requested under the provisions of –

- section 1, definition of “gross income”;
- section 22; and
- paragraph 11 of the Eighth Schedule.

**3. Class**

Holders of depository receipts in Compagnie Financiere Richemont SA and Reinet Investments SCA.

**4. Parties to the proposed transaction**

The Applicant: Richemont Securities AG, which is a depository company incorporated in Switzerland

Richemont Securities SA:	Depository company (1) to be incorporated in Switzerland
Reinet Securities SA:	Depository company (2) to be incorporated in Switzerland
CFR:	Compagnie Finanière Richemont SA, incorporated in Switzerland
Reinet:	Reinet Investments SCA, incorporated in Luxembourg
The Class members:	Investors who are resident (as defined in section 1) in South Africa holding depository receipts in CFR and/or Reinet

## 5. Description of the proposed transaction

The Applicant has issued two sets of depository receipts and each represents a claim by the relevant depository receipt holder against the Applicant in respect of underlying shares in CFR and/or Reinet. In order to simplify the administration of the depository receipt mechanism and to avoid confusion that may arise due to Reinet depository receipts being issued by a depository company with the word "Richemont" in its name, the parties have decided to separate the Applicant's functions under a Depository Agreement in respect of the CFR depository receipts and the Reinet depository receipts issued.

It is intended that CFR and Reinet use separate depositories in the future for purposes of their depository receipt programmes. In order to give effect to this endeavour, the Applicant will be replaced by two separate depositories in terms of a demerger under Swiss law. It is proposed that the demerger will take place as a "division" in the form of an 'asymmetrical demerger', under which the Applicant will be demerged into two new companies. The names of these two new companies will be Richemont Securities SA and Reinet Securities SA, hereinafter referred to as CFRCo and ReinetCo.

The CFR shares as well as the attendant liabilities will be transferred by operation of law to CFRCo, as will be the case for the Reinet shares and attendant liabilities, which will by operation of law be transferred to ReinetCo. CFR will become the exclusive shareholder of CFRCo which will hold the assets and liabilities relating to the CFR depository receipts, while Reinet will become the exclusive shareholder of ReinetCo, which will hold the assets and liabilities relating to the Reinet depository receipts.

The issuers (CFR and Reinet) and the depositories (CFRCo and ReinetCo) will, in a purely technical sense, respectively hold shares in each other, that

is, CFR in CFRCo and CFRCo in CFR. However, this does not amount to cross-shareholding. The current shareholders of the Applicant are CFR and Reinet, each in respect of 50% of the shares in the Applicant. Pursuant to the demerger of the Applicant, CFR and Reinet will have the same shareholder rights save for the fact that CFR will be the exclusive shareholder of CFRCo and Reinet will be the exclusive shareholder of ReinetCo.

The demerger will take legal effect upon its entry into the commercial registry in Switzerland. Upon registration, the relevant assets and liabilities of the original company (the Applicant) will be transferred by operation of law to the demerged entities (CFRCo and ReinetCo). The Applicant will also cease to exist at that point in time.

Since the CRF depository receipts and Reinet depository receipts will, by operation of law, be transferred to CFRCo and ReinetCo respectively, these entities will in law automatically become parties to the various agreements to which the Applicant was a party, without any action being required. However, as a matter of convenience and in order to facilitate a clear understanding of the legal result, the relevant agreements will be restated.

The Class members will remain in the same economic position as before and will retain the same beneficial interest in the underlying shares (that is, CFR or Reinet shares). The depository companies (CFRCo and ReinetCo) will own the shares in a fiduciary capacity only, without having any beneficial interest in such shares. The shares will remain pledged in favour of the Class members under Pledge Agreements.

## **6. Conditions and assumptions**

This ruling is not subject to any conditions and assumptions.

## **7. Ruling**

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

- The proposed transaction will not result in a disposal for capital gains tax purposes by the Class members holding the CFR and/or Reinet depository receipts on capital account.
- The proposed transaction will not result in a realisation or disposal by the Class members holding the CFR and/or Reinet depository receipts on revenue account, or as trading stock.

**8. Period for which this ruling is valid**

This binding class ruling, issued in September 2010, is valid for a period of five (5) years from the date of the ruling.

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