

**BINDING PRIVATE RULING: BPR 174**

DATE: 29 July 2014

Some of the guidance contained in this ruling is affected by subsequent law changes. Refer to BPR 354.

**ACT : INCOME TAX ACT NO. 58 OF 1962 (the Act)**  
**SECTION : SECTION 1(1), DEFINITION OF “GROSS INCOME” AND PARAGRAPH 11(1)(d) READ WITH PARAGRAPHS 20(1)(h)(i) AND 80(1) OF THE EIGHTH SCHEDULE TO THE ACT**  
**SUBJECT : RECEIPTS OF AN INCENTIVE TRUST AND VESTING OF SHARES IN QUALIFYING EMPLOYEES**

**1. Summary**

This ruling deals with the income tax and capital gains tax consequences arising from cash contributions received by a share incentive trust and the vesting of shares, acquired by it, for the benefit of qualifying employees.

**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 Act and paragraphs of the Eighth Schedule thereto applicable as at 11 June 2014 and 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 the provisions of –

- section 1(1), the definition of “gross income”; and
- paragraph 11(1)(d) read with paragraphs 20(1)(h)(i) and 80(1) of the Eighth Schedule.

**3. Parties to the proposed transaction**

The Applicant: A resident share incentive trust

The Co-Applicant: A company incorporated in and a resident of South Africa

Qualifying Employees: Senior management who will participate in a share incentive scheme

**4. Description of the proposed transaction**

The Applicant will administer and facilitate a long-term employee incentive scheme for the Co-Applicant. The Co-Applicant will make cash grants to the Applicant which will be used to purchase shares of the Co-Applicant on the open market. The shares

will be awarded in tranches to the Qualifying Employees over time and at the relevant vesting dates the Applicant will transfer the shares to them.

**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 cash contributions received by the Applicant from the Co-Applicant will not constitute “gross-income” as defined in section 1(1) in the hands of the Applicant.
- The vesting of the shares by the Applicant in the Qualifying Employees will constitute a disposal under paragraph 11(1)(d). The provisions of paragraph 20(1)(h)(i) will result in no capital gain being taken into account by the Applicant and the Qualifying Employees for purposes of paragraph 80(1).

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

This binding private ruling is valid for a period of 5 years from 11 July 2014.

Issued by:

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