

BINDING PRIVATE RULING: BPR 197

DATE: 1 July 2015

**ACTS : INCOME TAX ACT NO. 58 OF 1962 (the Act)
ESTATE DUTY ACT NO. 45 OF 1955 (the Estate Duty Act)**

**SECTION : SECTION 56(1)(g)(ii) OF THE ACT
SECTION 4(e)(ii)(aa) AND (iii) OF THE ESTATE DUTY ACT**

**SUBJECT : EXEMPTION FROM DONATIONS TAX AND NET VALUE OF AN
ESTATE**

1. Summary

This ruling deals with the donations tax consequences arising from the onward or subsequent donation of funds received by way of a donation from a foreign source (foreign sourced funds). In addition, it also deals with the estate duty consequences should any of the foreign sourced funds be retained or used to acquire “property”, as defined in section 3(2) of the Estate Duty Act, that is located and will remain outside South Africa.

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 Acts applicable as at 19 March 2015 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 56(1)(g)(ii) of the Act; and
- section 4(e)(ii) and (iii) of the Estate Duty Act.

3. Parties to the proposed transaction

The Applicant: An individual who is a resident of South Africa

Foreign Trust: A trust formed in a foreign country

Donees: Individual persons

4. Description of the proposed transaction

The Applicant is, and always has been, a “resident”, as defined in section 1(1) of the Act. The Applicant is one of a number of beneficiaries of the Foreign Trust. The funds held by this trust consist only of funds which have been sourced outside South Africa.

The Trustees have agreed to award a certain amount of the funds held by the Foreign Trust to the Applicant, following which the Applicant will be removed as a beneficiary. After the award has been transferred to the Applicant’s offshore bank account, the Applicant intends to donate an amount thereof to each of the Donees.

The Applicant will invest and retain the balance of the award offshore.

The Applicant intends to acquire property located outside South Africa, with the remaining portion of the award.

5. Conditions and assumptions

This ruling is subject to the additional condition and assumption that the property that the Applicant intends to acquire, will be located outside South Africa, and will remain outside South Africa.

6. Ruling

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

- The award by the Foreign Trust to the Applicant will not be subject to income tax in the hands of the Applicant.
- The donations made by the Applicant to the Donees will be exempt from donations tax under section 56(1)(g)(ii) of the Act.
- The remaining portion of the award received and/or the property acquired using the proceeds of the award from the Foreign Trust will be excluded from the net value of the Applicant’s estate for Estate Duty purposes under section 4(e)(ii)(aa) or (iii) of the Estate Duty Act.

7. Additional Note

Whether or not this proposed transaction is connected with any arrangement implemented, or to be implemented for the avoidance of tax is outside the scope of this ruling.

8. Period for which this ruling is valid

This binding private ruling is valid until 28 February 2025.