

**BINDING PRIVATE RULING: BPR 283**

DATE: 1 November 2017

**ACT : INCOME TAX ACT 58 OF 1962 (the Act)**  
**SECTION : SECTION 45(1)(a)**  
**SUBJECT : INTRA-GROUP DISPOSAL OF CAPITAL ASSET**

**1. Summary**

This ruling determines that the proposed disposal of an asset by a special purpose corporate vehicle to its Holding Company will constitute an intra-group transaction.

**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 28 of 2011.

In this ruling references to sections are to sections of the Act applicable as at 19 July 2016. 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 45

**3. Parties to the proposed transaction**

The applicant: A listed company incorporated in and a resident of South Africa

SPV: A special purpose vehicle, incorporated in and a resident of South Africa that is a wholly-owned subsidiary of the applicant

**4. Description of the proposed transaction**

The applicant will establish SPVs, each with the sole purpose of producing one asset for the applicant. The creation of the asset will be outsourced by the SPV to the applicant, and the cost will remain outstanding on loan account.

Once the asset is created by the SPV, it will sell the asset to the applicant at cost on loan account.

The loan account will be settled in cash. Until settlement, the loan account will be held by the SPV as an asset.

On settlement of the loan account the SPV will be liquidated.

The steps to implement the proposed transaction are as follows:

- The SPV will create the asset;
- The SPV will dispose of the asset to the applicant, the parties availing themselves of the relief contemplated in section 45.

**5. Conditions and assumptions**

This binding private ruling is not subject to any additional condition and assumption.

**6. Ruling**

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

- a) Section 45 will apply to the disposal of the asset. The disposal will be of a capital asset as between group companies. It will therefore constitute an “Intra Group Transaction”.
- b) Section 47 will accordingly not apply to the disposal, because it does not occur in anticipation of the liquidation.

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

This binding private ruling is valid for a period of five years from the date of this ruling.

**Legal Counsel: Advance Tax Rulings  
SOUTH AFRICAN REVENUE SERVICE**