

Insertion of section 64EB in Act 58 of 1962

xx. (1) The Income Tax Act, 1962, is hereby amended by the insertion after section 64EA of the following section:

“Deemed dividends *in specie*”

64EB (1) Where a company that is a resident acquires the right to a dividend by way of cession after that dividend is declared, so much of any amount paid in respect of that cession as does not exceed the amount of the dividend declared is deemed to be a dividend paid by that company to the person ceding that right.

(2) Where a company that is a resident borrows a share from another person after a dividend is declared in respect of that share, so much of any amount paid in respect of that borrowed share as does not exceed the amount of the dividend declared is deemed to be a dividend paid by that company to that other person.

(3) Where—

(a) a company that is a resident acquires a share (or any right in respect of that share) from another person after a dividend is declared in respect of that share; and

(b) that company is under a fixed or contingent contractual obligation to sell (or has an option to sell) that share or a share of the same kind or of the same or equivalent quality to that other person (or to a connected person in relation to that other person), so much of any amount paid by that company to that other person (or to a connected person in relation to that other person) as does not exceed the amount of the dividend declared is deemed to be a dividend paid to that other person (or connected person in relation to that other person).

(4)(a) So much of any amount paid by a company that is a resident to another person in respect of a share derivative, determined directly or indirectly with reference to a dividend declared is deemed to be a dividend paid to that other person.

(b) For the purposes of paragraph (a), “share derivative” means any arrangement between one person and another person that gives rise to a right of one of those persons and to a corresponding obligation of the other person, where the value of that right and the amount of that obligation is determined directly or indirectly with reference to the value of a share (or any right in respect of a share).

(5) Any amount that is deemed to be a dividend paid in terms of subsection (1), (2), (3) or (4) is deemed to consist of a distribution of an asset *in specie*.”.

(2) Subsection (1) is deemed to have come into operation on 31 August 2012 and applies to amounts paid on or after that date.