

REGULATION AND TAXATION OF PUTS

PUTs are regulated by the Collective Investment Schemes Control Act, 2002, under the auspices of the Registrar of Collective Investment Schemes, a Financial Services Board entity.

PUT management companies are governed by the Trust Deed established between the company and the PUT trustees.

As PUTs are listed on the JSE Securities Exchange, they must also comply with JSE listing requirements.

PUTs are a tax-transparent form of investment:

1. Tax within the trust

Retained net income is taxed within the PUT (irrespective of whether the property is held by a fixed-property company or the trust itself). Any income which flows directly into the hands of unitholders is not taxed at the corporate level. For this reason, it is industry practice for all income to be paid out to unitholders, by way of bi-annual or quarterly distributions.

2. Capital Gains Tax

A PUT is a vesting trust and the receipts and accruals vest in the unitholder, meaning that the trust is not liable for tax, rather the unitholder is.

This means that, for tax purposes, all capital gains and losses are deferred until the unit holder disposes of the units. In this respect, PUT investors are treated in the same way as equity unitholders.

There is an annual exclusion for individuals, with tax being payable only for capital gains in excess of it.

3. Tax on Income

PUT distributions are treated as interest for tax purposes. Tax is levied according to each unitholder's dispensation. If the investor is an individual, the distribution forms part of their total interest income and the interest exemption applies and the individual would pay tax on the balance at their marginal tax rate. If the investor is a company, then company tax applies; if a CIS, nil if it distributes essentially all that is received by it; if a retirement fund, currently nil; and so on.

Investors and potential investors should consult their tax advisor or practitioner for further information on any tax implications for them specifically, and to establish current exclusions and exemptions.

Ends