

GENERAL NOTE 9A

GENERAL SUBJECT: DEFINITIONS OF PENSION, PROVIDENT AND RETIREMENT ANNUITY FUND IN SECTION 1 OF THE INCOME TAX ACT, No 58 of 1962 (the Act)

SPECIFIC ASPECT: PURCHASE OF ANNUITIES AND TRANSFER TO RETIREMENT ANNUITY FUND AT RETIREMENT

STATUS: OPINION

BACKGROUND: Concern was raised that the omission of a reference to *retirement annuity funds* in General Note 9 could be interpreted to mean that *retirement annuity funds* are excluded from the application of the contents of the Note.

OPINION: Paragraph (a) of the definition of a “retirement annuity fund” in section 1 of the Act requires such a fund to be established with the sole purpose of providing life annuities for its members or annuities for the dependants or nominees of deceased members.

As in the case of pension and provident funds, this is accepted to mean that a retirement annuity fund may either pay the annuity itself or purchase the annuity at a registered South African long-term insurer, and that such a fund may not permit a transfer of any part of the interest of a retiring member, dependent or nominee who became entitled to an annuity from the fund, to another pension, provident or retirement annuity fund. This aspect is confirmed by the provisions of paragraph (b)(xii) of the definition of “retirement annuity fund” in section 1 of the Act, which permits a transfer to another

retirement annuity fund only prior to the member becoming entitled to the payment of an annuity.

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