

## General Notes - Second Schedule to the Income Tax Act

### General Note 13

GENERAL SUBJECT: DEFINITION OF PROVIDENT FUND: SECOND SCHEDULE TO THE INCOME TAX ACT

SPECIFIC ASPECT: RETIREMENT FROM EMPLOYMENT

STATUS: OPINION

BACKGROUND: Some approved provident funds are permitting members who retire from employment to elect, directly or indirectly through the trustees of such funds, for the payment of an annuity in lieu of a lump sum benefit in circumstances where the lump sum benefit has already accrued for income tax purposes.

OPINION: If the rules of a provident fund provide for the payment on a member's retirement from or termination of employment of a benefit in the form of a lump sum benefit as defined in the Second Schedule to the Income Tax Act, the benefit will accrue to the member in the form of a lump sum on his retirement from or termination of employment, as the case may be. Where a member, in the circumstances described above, elects for the accrued benefit to be paid in the form of an annuity, the benefit is a lump sum benefit for purposes of the Second Schedule to the Act. If, in such circumstances, the provisions of section 10A of the Act do not apply, the member may be liable for tax on both the lump sum benefit and the annuity.

Should, however, the rules of the fund provide for the payment of an annuity on retirement from employment which may be commuted by the member for a lump sum, only the commuted portion of the benefit will be a lump sum benefit for purposes of the Second Schedule to the Act.

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