

The income levels must be based on a minimum of five (5) per cent simple interest rate of return calculation and a maximum of twenty (20) per cent simple interest rate of return calculation, and must at all times produce a life annuity

Replaced by the insertion of the definition of "living annuity" in s.1 of the Income Tax Act, 1962, with effect from 1 March 2008

Retirement Fund Practice Notes

ADDENDUM A TO RF 1/96

CALCULATION OF FLEXIBLE ANNUITY BENEFITS

This Addendum addresses two matters, namely:

1. The effect of Directive 135A that was issued by the Financial Services Board and the conditions of the South African Revenue Service (SARS) in this regard; and
2. The duty of an annuity administrator to decrease the rate at which a compulsory linked annuity policy is paid in certain circumstances.

Directive 135A

The Registrar of Long - term Insurance issued Directive 135A with an effective date of 1 January 2003 . This Directive, read together with Directive 135, provides an annuitant with an option to transfer his or her compulsory linked annuity policy to another long-term insurer.

Retirement funds are permitted by the South African Revenue Service (SARS) to purchase compulsory linked annuity policies for the benefit of retiring members in fulfilment of their obligation to provide a pension to a retiring member. Some of the conditions (from a tax point of view) applicable to such a policy are prescribed in General Note GN18 (also available on the SARS website at www.sars.gov.za). Any such annuity policy that does not comply with the requirements of GN18 is not recognised by SARS and a retirement fund that permits retirees or other beneficiaries to benefit from such a policy will not be approved by SARS

For SARS to continue to recognise such an annuity policy after a transfer as envisaged under Directive 135A, the following conditions apply:

- The conditions prescribed in terms of RF1/96 must continue to apply, in particular the requirement that annuity income levels may not be changed other than on the anniversary date of the annuity;
- In circumstances where the administrative systems of an insurer are incapable of accepting the original anniversary date of the annuity as the anniversary date in terms of the new policy contract, the anniversary date may be changed to the date of transfer of the annuity between the two insurers. In this regard:
 - Where the anniversary date remains the same as under the transferor contract, the annuity can next be reviewed on the anniversary date as normal;
 - Where the anniversary date is changed to the date on which the transfer is made the annuity cannot be reviewed on the date of transfer, and can only next be reviewed 12 months after the date of transfer.
- The frequency of payment may not be changed;
- The annuity may not be split so that more than one annuity is payable subsequent to the transfer.

Reducing the rate of payment of an annuity

One of the conditions prescribed by RF1/96 for recognising a compulsory linked annuity policy is as follows:

The requirement that the income level must at all times produce a life annuity means that the administrator of the annuity must ensure that the rate at which the annuity is currently paid can continue for at least the expected lifetime of the retiree. This places a duty on the administrator to reduce the rate at which the annuity is paid whenever the underlying capital becomes insufficient to guarantee a life annuity. The ongoing monitoring of the underlying capital by the administrator in respect of each annuity policy is therefore also a requirement. It is not a requirement for an administrator to ask permission from SARS for an annuity to be reduced in these circumstances.

No other provision is made for such an annuity to be increased or reduced, and no authority exists in terms of which SARS can approve a request for a change other than on the anniversary date.

ISSUED BY THE SOUTH AFRICAN REVENUE SERVICE

24 MARCH 2004

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