

SOUTH AFRICAN REVENUE SERVICE

BINDING PRIVATE RULING: BPR 046

DATE: 01 October 2009

ACT : INCOME TAX ACT, NO. 58 OF 1962 (the Act)
SECTION : SECTION 1, DEFINITION OF "GROSS INCOME" AND PARAGRAPH 2 OF THE FOURTH SCHEDULE TO THE ACT
SUBJECT : ACCRUAL OF AN UNCLAIMED RETIREMENT FUND (LUMP SUM) BENEFIT

1. Summary

This ruling deals with the time of accrual of a retirement fund lump sum benefit which is payable to a pensioner by election.

2. Relevant tax laws

This is a binding private ruling issued in accordance with section 76Q of the Act.

In this ruling legislative references to sections and paragraphs are to sections of the Act and paragraphs to the Fourth Schedule to the Act applicable as at 24 January 2008 and unless the context indicates otherwise, any word or expression in this ruling bears the meaning ascribed to it in the Act.

This ruling has been requested under the provisions of –

- section 1, definition of "gross income"; and
- paragraph 2 of the Fourth Schedule.

3. Parties to the proposed transaction

The Applicant: A pension fund of an employer

Pensioners: Retired members of the Applicant

4. Description of the proposed transaction

Pensioners, who were employees that retired from an employer, will become entitled to annuity benefits payable to them by the Applicant. Each Pensioner is entitled to elect to commute a portion of his or her annuity benefits in favour of a lump sum benefit.

This ruling is concerned with pensioners who have not yet claimed their pension benefits or made an election to commute a portion of their annuity benefits in favour of a lump sum benefit.

The Applicant requests confirmation that a lump sum benefit does not accrue for income tax purposes until such time the retired member of the pension fund has elected to commute a portion of his or her annuity in favour of a lump sum. As a result, a lump sum will not accrue for purposes of deducting employees' tax in terms of the Fourth Schedule, until the election has been made.

5. Conditions and assumptions

This ruling is made subject to the following conditions and assumptions –

- in order for a Pensioner to receive a lump sum benefit on retirement, he or she must elect to commute a portion of his or her annuity benefit in favour of a lump sum benefit; and
- the rules of the Applicant should not deem a commutation of a portion of the annuity benefit in favour of a lump sum benefit on retirement.

6. Ruling

The ruling made in connection with the proposed transaction is as follows:

- A Pensioner who has not elected to commute a portion of his or her annuity benefit in favour of a lump sum benefit has accordingly not become entitled to claim a lump sum benefit and such lump sum benefit will not accrue to him or her. Accordingly, the provisions of paragraph 2 of the Fourth Schedule will not be applicable on the Applicant in respect of a lump sum benefit until such time an election has been made by the Pensioner.

7. Period for which this ruling is valid

This binding private ruling is valid for a period of three (3) years from the date of this ruling, until 23 January 2011.

Issued by:

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