

BINDING CLASS RULING: BCR 065

DATE: 14 August 2018

ACT : INCOME TAX ACT 58 OF 1962 (the Act)
SECTION : PARAGRAPH 1 – DEFINITIONS OF “REMUNERATION” AND “EMPLOYER” OF THE FOURTH SCHEDULE TO THE ACT AND PARAGRAPHS 1 – DEFINITION OF “ASSOCIATED INSTITUTION”, 2(I), 4 AND 12D OF THE SEVENTH SCHEDULE TO THE ACT
SUBJECT : POST-RETIREMENT MEDICAL AID BENEFITS

Preamble

This binding class ruling is published by consent of the applicant(s) to which it has been issued. It is binding as between SARS and the applicant(s), and the class members only and published for general information. It does not constitute a practice generally prevailing.

1. Summary

This ruling determines the tax consequence of the intra-fund allocation of an amount from an employer surplus account to a member's fund credit.

2. Relevant tax laws

In this ruling references to paragraphs are to paragraphs of the Fourth Schedule and Seventh Schedule to the Act applicable as at 10 May 2018. Unless the context indicates otherwise any word or expression in this ruling bears the meaning ascribed to it in the Act.

This is a ruling on the interpretation and application of –

- paragraph 1 – definitions of “remuneration” and “employer” of the Fourth Schedule;
- paragraph 1 – definition of “associated institution”,
- paragraph 2(I),
- paragraph 4, and
- paragraph 12D of the Seventh Schedule.

3. Class

The class members to whom this ruling will apply are the provident fund members referred to in **5**.

4. Parties to the proposed transaction

The applicant: A company incorporated in and a resident of South Africa

The class members: The affected members of a provident fund, who are employees of the applicant

5. Description of the proposed transaction

The class members, who are members of a defined contribution provident fund, are entitled to a post-retirement medical aid lump sum benefit on retirement (including ill-health retirement) or death. The trustees of the fund wish to negotiate a voluntary transfer of the benefit. The transfer will entail allocating an amount from the employer surplus account to the fund credit of each affected member, *in lieu* of the benefit that would have been payable as at retirement (or death). Therefore, in return for a certain amount allocated to each member's fund credit, the affected member will give up his or her right to claim the benefit from the applicant.

6. Conditions and assumptions

This binding class ruling is not subject to any additional conditions and assumptions.

7. Ruling

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

- The intra-fund allocation of an amount from the employer surplus account to a member's fund credit will trigger a taxable fringe benefit for the class members.

8. Period for which this ruling is valid

This binding class ruling is valid for a period of three years from 10 May 2018.

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