

**General Notes**  
**Second Schedule to the Income Tax Act, 1962**  
**General Note 18**  
**(Issue 2 with effect from 1 September 2008)**

**GENERAL SUBJECT:      DEFINITIONS OF PENSION FUND AND PROVIDENT FUND**

**SPECIFIC ASPECT:      PROVIDING ANNUITIES ON RETIREMENT FROM EMPLOYMENT**

**STATUS:                    DECISION**

**BACKGROUND:**      General Note 12 conveyed the South African Revenue Service's requirements relating to the termination of the liability of a pension or provident fund (retirement fund) to provide an annuity on a member's retirement from service. Following upon discussions with representatives of the pensions industry, an agreement has been concluded in terms of which retirement funds may terminate their continued liability in respect of a retiring member once an annuity has been purchased for him or her.

**DECISION:**           In terms of the agreement General Note 12 is replaced by this General Note so as to allow retirement funds to purchase an annuity from a South African registered insurer in the name and on the life of a member who is retiring from employment (a member owned annuity).

The annuity so purchased, as is the case with an annuity purchased in the name of a retirement fund or paid directly by such a fund, must be compulsory, non-commutable, payable for and based on the lifetime of the retiring member and may not be transferred, assigned, reduced, hypothecated or attached by creditors as contemplated by the provisions of sections 37A and 37B of the Pension Funds Act, 1956.

No retirement fund may purchase a member owned annuity unless its rules specifically provide for the purchase of an untied annuity in the name of the member from a registered insurer and the concomitant transfer of the liability to the insurer, and unless the annuity is purchased with the full value of the retiring member's benefit that is available for the provision of an annuity.

Retirement funds are, as a result, permitted to provide an annuity to a retiring member by paying the annuity directly, or by purchasing the annuity in the name of the fund, or by purchasing the annuity in the name of a retiring member. While the aforementioned methods may be provided for in the rules of a retirement fund, a member may select only one of them and not a combination.

The approval of a retirement fund which does not comply with the aforementioned requirements will be withdrawn.

Reviewed by the  
Legal and Policy Division  
**SOUTH AFRICAN REVENUE SERVICE**  
Date: 1 September 2008