

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

### **General Note 4**

GENERAL SUBJECT: SECOND SCHEDULE TO THE INCOME TAX ACT

SPECIFIC ASPECT: RETIREMENT FROM EMPLOYMENT

STATUS: DECISION

BACKGROUND: Some administrators of retirement funds are marketing pension funds on a basis which seems to indicate that the pension funds are also providing the benefits of a provident fund. The marketing material states that a member may, when nearing retirement from employment, choose to withdraw from the fund under the pretence of resigning from service. The member's share of fund then becomes payable either in the form of a lump sum benefit which is taxable at an (reduced to the minimum) average rate of tax or transferred to a retirement annuity fund.

DECISION: The definition of "retire" in paragraph 1 of the Second Schedule to the Income Tax Act (the Act) requires the termination of employment on retirement from employment and the payment of an annuity in terms of the rules of the fund. The definition of "pension fund" in section 1 of the Act also requires such a fund to provide annuities to members on retirement from employment.

If the rules of a pension fund, directly or indirectly, provides a withdrawal benefit to a member under the pretence described above or under a similar situation where the member is actually retiring from service, it will be regarded that the fund was not established for the purpose of providing annuities for members on retirement from employment and it will be followed by the withdrawal of the fund's approval for income tax purposes.

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