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CONDITIONS FOR PENSION PRESERVATION FUNDS

SOUTH AFRICAN REVENUE SERVICE (SARS) RETIREMENT FUND PRACTICE NOTE RF 1/2011

Withdrawal of Note

This Retirement Fund Practice Note (RF 1/2011) replaces Retirement Fund Practice Note RF 1/98 and its addenda with effect from 30 September 2010.

Purpose

The purpose of this Note is to confirm two additional conditions for the approval of rules of pension preservation funds for purposes of the Income Tax Act, No 58 of 1962 (the Act). These conditions are prescribed under the discretionary power granted to the Commissioner for the South African Revenue Service in terms of the definition of a “pension preservation fund” in section 1 of the Act.

Conditions

The additional conditions are the following:

1. ***Benefits paid or transferred into a pension preservation fund***

Amounts or unclaimed benefits referred to in paragraph (b) of the definition of a “pension preservation fund” that are derived from a pension fund or pension preservation fund may not be paid or transferred in such a way that it is split between more than one pension preservation fund.

2. ***Benefits paid or transferred from a pension preservation fund***

Amounts or unclaimed benefits referred to in paragraph (b) of the definition of “pension preservation fund” derived from a pension preservation fund may not be paid or transferred in such a way that it is split between more than one pension preservation fund or more than one retirement annuity funds or between more than one combination of one pension preservation fund and one retirement annuity fund. The aforementioned condition applies separately to each payment or transfer to the pension preservation fund from which the amount or unclaimed benefit is now derived.

Transfer from a preservation fund to a retirement annuity fund

It should be noted that a transfer from a preservation fund to a retirement annuity fund is currently not tax-free. Such a transfer is not regarded by SARS as the member’s one and final withdrawal from the preservation fund.

Rules that require amendments

The trustees of a preservation fund must ensure that the rules of the fund comply with the requirements of this Note, failing which the approval of the rules will be withdrawn. Rules that require amendments to comply with the aforementioned conditions must be submitted on or before 31 October 2011 for approval, with an effective date of the date of this Note.

Issued by

Legal and Policy Division

SOUTH AFRICAN REVENUE SERVICE

1 March 2011

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