

PAYMENT OF ANNUITIES IN ARREAR

SOUTH AFRICAN REVENUE SERVICE PRACTICE NOTE RF 1/2004

The purpose of this practice note is to reconfirm the conditions for approval of retirement funds in relation to the payment of annuity benefits annually (or otherwise) in arrear. The contents of this practice note replace the contents of the correspondence to the Institute of Retirement Funds and the Life Offices' Association of South Africa dated 4 July 1991. The contents of this practice note reconfirm the contents of the earlier correspondence, and apply to retirement funds that pay pension benefits (annuities).

Retirement funds and their members enjoy substantial tax concessions. The tax dispensation of retirement funds is currently structured on a tax deferral basis. Any undue postponement of the collection of tax upsets the current structure and cannot be supported by the South African Revenue Service.

While members and former members of retirement funds who have retired are free to elect the frequency of pension payments (i.e. monthly, quarterly, annually etc) and to vary their choice, a retirement fund is not permitted to postpone the entitlement of a pension benefit to a date later than the end of the month following the month in which the member retired from employment. In other words, the rules of a fund must be drafted in such a way that a member who retires, for example, on 31 July 2004 unconditionally becomes entitled to at least the first month's pension on or before 31 August 2004 and the pension for the rest of the six months left in respect of the year of assessment, whether or not the payment of the benefit occurs later.

The prohibition on a postponement of the accrual of a pension benefit is a condition of approval. The approval of any fund that fails to comply with this requirement will be withdrawn with effect from the date on which the fund commenced with this practice or with effect from a date that is appropriate in the circumstances of the case.

It should also be noted that the provisions of section 104 of the Income Tax Act are likely to be applicable in respect of an administrator the trustees of a fund that is involved in a practice of this nature.

ISSUED BY THE SOUTH AFRICAN REVENUE SERVICE

24 MARCH 2004