

BINDING PRIVATE RULING: 156

DATE: 03 October 2013

ACT : **INCOME TAX ACT NO. 58 OF 1962 (the Act)**
SECTION : **SECTION 1(1), DEFINITION OF “GROSS INCOME” PARAGRAPHS (a) AND (e)**
SUBJECT : **PENSION BENEFITS ACCRUING TO A NON-RESIDENT FROM A RESIDENT PENSION FUND**

1. Summary

This ruling deals with the question as to whether and to what extent a pension annuity and a retirement fund lump sum benefit, received by or accrued to a person who is not a resident of South Africa from a pension fund registered in South Africa, will be taxable in South Africa.

2. Relevant tax laws

This is a binding private ruling issued in accordance with section 78(1) and published in accordance with section 87(2) of the Tax Administration Act No. 28 of 2011.

In this ruling all references to sections are to sections of the Act applicable as at 13 August 2010 and 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 the provisions of section 1(1), definition of “gross income” paragraphs (a) and (e).

3. Parties to the proposed transaction

The Applicant: An individual who is not a “resident” as defined in section 1(1)

The Pension Fund: A pension fund registered in South Africa and approved in terms of the Act

4. Description of the proposed transaction

The Applicant was employed by a company which is a resident of South Africa and forms part of a group of companies. In 1999 his employment with the company was terminated. He left South Africa to join another company, within the same group of companies, situated outside South Africa and became ordinarily resident in that other country. He subsequently moved to two further countries. While working in South Africa he contributed to the Pension Fund, and continued to contribute, although he stopped being a resident of South Africa.

5. Conditions and assumptions

This ruling is subject to the following additional condition and assumption:

- The Applicant is not a resident of South Africa on the date that the pension annuity and retirement fund lump sum benefit from the pension fund accrues.

6. Ruling

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

- The portion of the pension annuity and retirement fund lump sum benefit received or accrued from a South African source, that is, which relates to services rendered in South Africa, will be included in the Applicant's gross income in South Africa.

7. Period for which this letter is valid

This binding private ruling is valid for a period of 5 years from 13 August 2010.

Issued by:

**Legal and Policy Division: Advance Tax Rulings
SOUTH AFRICAN REVENUE SERVICE**