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No. 290

11 March 2009

NOTICE IN TERMS OF PARAGRAPH (b) OF THE DEFINITION OF “LIVING ANNUITY” IN SECTION 1 OF THE INCOME TAX ACT, 1962 (ACT No. 58 OF 1962)

I, Trevor Andrew Manuel, Minister of Finance, hereby withdraw all previous notices issued in terms of paragraph (b) of the definition of “**living annuity**” in section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962) and replace these prior notices with this notice.

1. I hereby prescribe that the amount referred to in paragraph (b) of the definition of “**living annuity**” in section 1 of the Income Tax Act, 1962, must be determined to be—
 - (a) not less than 2,5 per cent and not greater than 17,5 per cent of the value of assets referred to in paragraph (a) of that definition if the living annuity contract was concluded on or after 21 February 2007; and
 - (b) not less than 5 per cent and not greater than 20 per cent of the value of assets referred to in paragraph (a) of that definition if the living annuity contract was concluded before 21 February 2007, provided that these percentages may be adjusted to the percentages described in paragraph (a) above if the annuitant agrees to be bound by these income levels and by any subsequent adjustments of the rates.

2. At inception of the living annuity the percentages indicated in paragraph 1 above are applied to the investment amount net of costs. The annuitant may then elect a draw-down percentage within these limits at inception. On the anniversary date of inception, the revised fund value will be required to be determined in order to calculate the minimum and maximum annuity benefits payable. The annuitant may elect a different draw-down percentage at the anniversary date provided that this draw-down is within the set limits. The annuitant may not elect a different draw-down percentage at any other time.

3. Where living annuity contracts are transferred from one insurer to another in terms of Directive 135 and 135A issued by the Registrar of Long-Term Insurance, or from a retirement fund to an insurer in terms of section 14 of the Pension Funds Act, the conditions in paragraph 2 will continue to apply and—
 - a) The frequency of payment may not be changed;

 - b) The annuity may not be split so that more than one annuity is payable subsequent to the transfer.

4. In circumstances where the administrative systems of an insurer are incapable of accepting the original anniversary date of the annuity as the anniversary date in terms of the new living annuity contract, the anniversary date may be changed to the date of transfer of the annuity. In this regard—
 - a) Where the anniversary date remains the same as under the transferor contract, the annuity can next be reviewed on the anniversary date as normal;

- b) Where the anniversary date is changed to the date on which the transfer is made the annuity cannot be reviewed on the date of transfer and can only next be reviewed 12 months after the date of transfer.
5. Any future adjustment to the percentages in terms of paragraph 1(a) above shall be effected on the first anniversary date of each living annuity contract following the date of publication of the Notice in which the adjustment is announced.
6. All living annuity contracts concluded on or after 21 February 2007 must contain a clause that will enforce any future adjustments of the rates.

T A Manuel, MP
Minister of Finance

No. 290

11 March 2009

KENNISGEWING INGEVOLGE PARAGRAAF (b) VAN DIE OMSKRYWING VAN “LEWENDE ANNUÏTEIT” IN ARTIKEL 1 VAN DIE INKOMSTEBELASTINGWET, 1962 (WET No. 58 VAN 1962)

Hiermee herroep ek, Trevor Andrew Manuel, Minister van Finansies, alle vorige kennisgewings, uitgereik ingevolge paragraaf (b) van die omskrywing van “**lewende annuïteit**” in artikel 1 van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), en vervang hierdie vorige kennisgewings met die volgende kennisgewing.

1. Hiermee bepaal ek dat die bedrag na verwys in paragraaf (b) van die omskrywing van “**lewende annuïteit**” in artikel 1 van die Inkomstebelastingwet, bepaal moet word om—
 - (a) nie minder as 2,5 persent en nie groter as 17,5 persent van die waarde van die bates na verwys in paragraaf (a) van daardie omskrywing te wees nie, indien die lewende annuïteitsooreenkoms op of na 21 February 2007 gesluit is; en
 - (b) nie minder as 5 persent en nie groter as 20 persent van die waarde van die bates na verwys in paragraaf (a) van daardie omskrywing te wees nie, indien die lewende annuïteitsooreenkoms voor 21 Februarie 2007 gesluit was, met dien verstande dat hierdie persentasies na die persentasies beskryf in paragraaf (a) hierbo aangepas kan word indien die annuïteithouer toestem om aan hierdie vlakke van inkomste en enige gevolglike aanpassing van die koerse gebonde te wees.

2. By aanvang van die lewende annuïteit word die persentasies in paragraaf 1 hierbo aangedui, op die beleggingsbedrag na kostes toegepas. Die annuïteithouer kan dan by aanvang 'n onttrekkingspersentasie binne hierdie **perke kies**. Op die verjaarsdag van die aanvangsdatum, moet die hersiene fondswaarde bepaal word ten einde die minimum en maksimum annuïteit voordele betaalbaar, te bereken. Die annuïteithouer kan 'n ander onttrekkingspersentasie op die verjaarsdagdatum kies, met dien verstande dat hierdie onttrekking binne die vasgestelde perke is. Die annuïteithouer mag nie op enige ander stadium 'n ander onttrekkingspersentasie kies nie;
3. Waar lewende annuïteitsooreenkomste oorgedra word van een versekeraar na 'n ander ingevolge Aanwysing 135 van 135A deur die Registrateur van Langtermynversekering uitgereik, of vanaf 'n uitreefonds na 'n versekeraar ingevolge artikel 14 van die Pensioenfondswet, sal die voorwaardes in paragraaf 2 steeds van toepassing wees en—
 - a) Mag die frekwensie van betaling nie verander word nie;
 - b) Mag die annuïteit nie opgedeel word sodat meer as een annuïteit na afloop van die oordrag betaalbaar is nie.
4. In omstandighede waar die administratiewe stelsels van 'n versekeraar nie instaat is om die oorspronklike verjaarsdagdatum van die annuïteit as die verjaarsdagdatum ingevolge die nuwe lewende annuïteitsooreenkoms te aanvaar nie, kan die verjaarsdagdatum verander word na die datum van oordrag van die annuïteit. In hierdie verband—

- a) Indien die verjaarsdagdatum dieselfde bly as volgens die oordraggewerkontrak, kan die annuïteit eers normaalweg op die verjaarsdagdatum hersien word;
 - b) Indien die verjaarsdagdatum verander is na die datum waarop die oordrag gemaak is kan die annuïteit nie hersien word op die datum van oordrag nie en net vervolgens hersien word 12 maande na datum van oordrag.
5. Enige toekomstige aanpassing van die persentasies ingevolge paragraaf 1(a) hierbo sal op die eerste verjaarsdagdatum van elke lewende annuïteitooreenkoms vankrag word wat volg op die datum van publikasie van die Kennisgewing waarin die aanpassing aangekondig word.
 6. Alle lewende annuïteitooreenkomste op of na 21 Februarie 2007 aangegaan, moet 'n voorwaarde bevat wat die toekomstige aanpassing van die koerse sal afdwing.

T A Manuel, MP

Minister van Finansies

**NDIVHADZO YA MUVHUSO
TSHUMELO YA MBUYELO YA AFRIKA TSHIPEMBE**

No. 290

11 Thafamuhwe 2009

NDIVHADZO U YA NGA PHARA (b) YA THALUTSHEDZO YA "ANYUWITHI YA U TSHILA NGAYO" KHA KHETHEKANYO 1 YA MULAYO WA MUTHALO WA MBUELO, WA 1962 (MULAYO WA NOMBORO 58 WA 1962)

Nge, Trevor Manuel, Minisiṭa wa zwa Gwama, ndi fhanu u humisela murahu ndivhadzo dzothe dza murahu dzo bviswaho u ya nga phara (b) ya thalutshedzo ya "anyuwithi ya u tshila ngayo" kha khethekanyo 1 ya Mulayo wa Muthalo wa Mbuelo, wa 1962. (Mulayo wa Nomboro 58 wa 1962) na u thivha ndivhadzo idzi dza thangela nga heyi ndivhadzo.

1. Ndi fhanu u bula zwauri mutengo wo livhiswaho kha phara (b) ya thalutshedzo ya "anyuwithi ya u tshila ngayo" kha khethekanyo 1 ya Mulayo wa Muthalo wa Mbuelo, wa 1962, u tea tiwa u —
 - (a) sa vha thukhu kha phesenthe 2, 5 ya dovha ya vha u si khulwane kha phesenthe 17,5 ya ndeme ya ndaka yo livhiswaho kha phara (a) ya thalutshedzo arali anyuwithi ya u tshila nga yo fhedzwa nga la 21 Luhuhu 2007; na
 - (b) hu si fhasi ha phesenthe 5 ya dovha ya si vhe khulwane kha phesenthe dza 20 ya ndeme ya ndaka yo livhiswaho kha phara (a)

ya yeneyo t̄halutshedzo arali thendelano ya anyuwithi ya u tshila ngayo yo vha yo fhedzwa nga la 21 Luhuhi 2007, tenda phesenthe idzi dza shandukiswa u ya nga phesenthe dze dza bulwa kha phara (a) afho n̄tha arali muthu ane a tea u wana anyuwithi o tenda u di vhofha nga idzi levele dza mbuelo na u tevhekana huñwe na huñwe ha tshandukiso dza phimo.

2. U thoma ha phesenthe dza anyuwithi ya u tshila ngayo ho sumbedziswa kha phara 1 afho n̄tha ho shumiswa kha mitengo ya mbadelo dza. Muthu ane a tea u wana anyuwithi a nga nanga phesenthe ya u tsela fhasi ya kha uya tshikalo itshi musi hu tshi kha di thomiwa Nga datumu ya u pembelela mathomo ndeme ya tshikwama yo sedzuluswaho hafhu i do tea uri i tiwe u itela u vhalela gumoṭuku na gumofulu zwa mbuelo dza anyuwithi dzine dza tea u badelwa. Muthu ane a tea u wana anyuwithi a nga nanga phesenthe ya u tsela fhasi nga datumu ya u pembelela tenda u tsela fhasi uhu ha vha kha tshikalo tsho vhwaho. Muthu ane a tea u wana anyuwithi a nga si nange phesenthe ya u tsela fhasi yo fhambanaho nga tshiñwe tshifhinga.
3. Musi thendelo ya anyuwiti ya u tshila ngayo i tshi t̄hirantsiferiwa u bva kha muñwe mutsireledzi u ya kha muñwe u ya nga Ndaela 135 na 135A yo bviswaho nga Muñwalisi wa Ndindakhombo ya Tshifhinga Tshilapfu, kana u bva kha tshikwama tsha u ya u awela u ya kha mutsireledzi u ya nga khethekanyo 14 ya Mulayo wa Zwikwama zwa Phesheni, milayo ire kha phara 2 i do bvela phanda na u shuma na —

- a) Tshivhalo tsha mbadelo a tshi nga shanduki.
 - b) Anyuwithi a i nga khethekanywi uri anyuwithi ine ya fhira nthihi i tevhkana u badela kha thirantsifee.
4. Kha nyimele ine sisiteme ya u langula ya mutsireledzi ya kona u tlanganedza datumu ya mathomo ya u pembelela ya anyuwithi sa datumu ya u pembelela u ya nga thendelano ya anyuwithi ya u tshila ngayo, datumu ya u pembelela i nga shandukiswa ya vha datumu ya u thirantsifera anyuwithi. Kha aya mafhungo —
- a) Musi datumu ya u pembelela i sa shanduki nga fhasi ha thendelano ya muthirantsiferi, anyuwithi i nga sedzuluswa tshifhinga tshidaho nga datumu ya u pembelela sa zwo doweleaho;
 - b) He datumu ya u pembelela ya shandukiswa u ya kha datumu ine thirantsifere ya itwa ngayo anyuwithi a i nga sedzuluswi hafhu nga datumu ya thirantsifere i nga sedzuluswa fhedzi minwedzi ya 12 ine ya khou tevhela nga murahu ha datumu ya thirantsifee.
5. U shandukiswa ha phesenthe hunwe na hunwe tshifhingani tshidaho u ya nga phara 1(a) afho nthha hu do thoma u shuma nga datumu ya u pembelela ha u thoma ha thendelano ya anyuwithi ya u tshila ngayo inwe na inwe hu tshi tevhela datumu ya khandiso ya Ndivhadzo ine u shandukiswa ha divhadzwa ngayo.

- a) Tshivhalo tsha mbadelo a tshi nga shanduki.
 - b) Anyuwithi a i nga khethekanywi uri anyuwithi ine ya fhira nthihi i tevhekana u badela kha thirantsifee.
4. Kha nyimele ine sisiteme ya u langula ya mutsireledzi ya kona u tangedza datumu ya mathomo ya u pembelela ya anyuwithi sa datumu ya u pembelela u ya nga thendelano ya anyuwithi ya u tshila ngayo, datumu ya u pembelela i nga shandukiswa ya vha datumu ya u thirantsifera anyuwithi. Kha aya mafhungo —
- a) Musi datumu ya u pembelela i sa shanduki nga fhasi ha thendelano ya mutshirantsiferi, anyuwithi i nga sedzuluswa tshifhinga tshidaho nga datumu ya u pembelela sa zwo doweleaho;
 - b) He datumu ya u pembelela ya shandukiswa u ya kha datumu ine thirantsifere ya itwa ngayo anyuwithi a i nga sedzuluswi hafhu nga datumu ya thirantsifere i nga sedzuluswa fhedzi minwedzi ya 12 ine ya khou tevhelela nga murahu ha datumu ya thirantsifee.
5. U shandukiswa ha phesenthe huwe na huwe tshifhinganani tshidaho u ya nga phara 1(a) afho ntha hu do thoma u shuma nga datumu ya u pembelela ha u thoma ha thendelano ya anyuwithi ya u tshila ngayo inwe na inwe hu tshi tevhelela datumu ya khandiso ya Ndivhadzo ine u shandukiswa ha divhadzwa ngayo.

ISAZISO SIKAHULUMENI**UPHIKO LWEZezIMALI LWASENINGIZIMU AFRIKA****No. 290****11 Mashi 2009****ISAZISO NGOKWESIGABA (b) SENCAZELO “YEMALI YOKUPHILA YONYAKA” KWINGXENYE 1 YOMTHETHO WENTELA YEMIVUZO, KA-1962 (UMTHETHO oNgunomb. 58 KA-1962)**

Mina, Trevor Andrew Manuel, uNgqongqoshe Wezezimali, ngihoxisa zonke izaziso ezenziwe ngaphambili ngokwesigaba (b) sencazelo “**yemali yokuphila yonyaka**” kwingxenye 1 yoMthetho WeNtela Yemivuzo, ka-1962 (uMthetho ongunomb. 58 ka-1962) futhi ngifaka lesi saziso esikhundleni salezo zaziso ezendlule.

1. Lapha ngibeka ukuba lelo nani elichazwe kwisigaba (b) sencazelo “**yemali yokuphila yonyaka**” kwingxenye 1 yoMthetho Wentela Yemivuzo, ka-1962, kufanele lenziwe kanje—
 - (a) hhayi ngaphansi kwamaphesenti angu-2,5 futhi hhayi ngaphezu kwamaphesenti angu-17,5 enani lempahla ebekwe kwisigaba (a) saleyo ncazelo uma inkontilaka yemali yokuphila yonyaka yenziwa emva noma ngomhlaka-21 Februwari 2007; futhi
 - (b) hhayi ngaphansi kwamaphesenti angu-5 futhi hhayi ngaphezu kwamaphesenti angu-20 enani lempahla ebekwe kwisigaba (a) saleyo ncazelo uma inkontilaka yemali yokuphila yonyaka yenziwa

ngaphambi noma ngomhlaka-21 Februwari 2007, kuphela uma lawa maphesenti engaguquleka ahambisane namaphesenti achazwe kwisigaba (a) ngaphezulu uma othola imali yonyaka evuma ukuboshelelwa kulawa mazinga emali yengeniso futhi nangezinye izinguquko zamazinga emali.

2. Ekuqalweni kwemali yokuphila yonyaka amaphesenti avezwe kwisigaba 1 ngenhla ahambisana nenani lotshalomali elisalayo lezindleko. Othola imali yonyaka angakhetha iphesenti lokudonsa ngokwale mikamo kusaqalwa. Ekukhunjulweni kosuku lokuqalisa, kuzofuneka kubekwe inani lemali elibuyekeziwe ukuze kubalwe izimfanelo eziphansi neziphezulu ezikhokhekayo. Othola imali yonyaka angakhetha iphesenti lokudonsa elehlukile ngosuku lokukhumbula ukuqalisa kuphela nje uma leli phesenti lihambisana nemikamo ebekiwe. Othola imali yonyaka ngeke akhethe iphesenti lokudonsa noma nini nje.
3. Lapho izinkontilaka zemali yokuphila yonyaka zidluliswa kusuka komunye umshwayilense kuya komunye ngokwe-Directive 135 no-135A ekhishwa yi-Registrar of Long-Term Insurance, noma kwingxowamali yomhlalaphansi ngokwengxenywe 14 yoMthetho WeziNgxowamali Zempesheni, imibandela yesigaba 2 izoqhubeka isebenze kanti —
 - a) Isikhathi sokukhokha ngeke siguqulwe.

- b) Imali yonyaka ngeke yehlukaniswe ukuze imali yonyaka engaphezu kweyodwa ikhokhwe emva kokudlulisela.
4. Ezimweni lapho indlela yokuphatha umshwayilense yehluleka ukwamukela ukukhunjulwa kosuku lokuqalisa imali yonyaka njengosuku lokukhumbula ngokwenkontilaka yemali yokuphila ngonyaka, usuku lokukhumbula ukuqalisa luzoguqulwa lube yilolo lokudlulisela imali yonyaka. Ngale ndlela —
- a) Lapho usuku lokukhumbula lufana nalolo lwenkontilaka yodlulisayo, imali yonyaka izobuyekwezwa ngosuku lokukhumbula ngendlela eyejwayelekile;
- b) Lapho usuku lokukhumbula luguqulwa kube yilolo okudluliswa ngalo imali yonyaka ayizukubuyekwezwa ngosuku lokudlulisa futhi ingabuyekwezwa kuphela ezinyangeni ezingu-12 emva kosuku lokudlulisela.
5. Ushintsho olwenziwayo ngokuzayo kumaphesenti ngokwesigaba 1(a) ngenhla luzokwenziwa ngosuku lokukhumbula lokuqala lwenkontilaka yemali yonyaka emva kosuku lokushicilelwa kweSaziso lapho ushintsho lumenyezelwe khona.

6. Zonke izinkontilaka zemali yokuphila ngonyaka ezenziwe ngemuva noma ngomhlaka-21 Februwari 2007 kufanele zibe nesigaba esizoqinisekisa noma yiluphi ushintsho oluzokwenziwa emazingeni email ngokuzayo.

T A Manuel, MP
UNgqongqoshe Wezezimali

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