

Unclaimed benefits

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The Operations and Administration division (O&A) issues Practice Notes to:

- Increase awareness and provide insight into the best practices and procedures adopted by Alexander Forbes for the effective administration of your fund
- Clarify our administration role
- Align expectation between Alexander Forbes, trustees, employers and members of the retirement funds.

Please note that in an event of a conflict, the fund's rules, applicable legislation or the signed service level agreement will take precedence over the processes set out in this practice note.

In this issue, we highlight the pertinent amendments made to Financial Services Laws General Amendment Act (FSLGAA) and the Revenue Laws Amendment Act (RLAA). The changes have a direct impact on retirement funds and will certainly affect the day-to-day administration of your retirement fund. This Practice Note does not address any other matter raised in the above-mentioned amended legislation.

The Financial Services Laws General Amendment Act (FSLGAA) which was effective from November 2008 refers to Unclaimed Benefits as all claims (including surplus – excluding certain death claims) that remain unpaid for more than 24 months, taking the date of exit, in terms of the rules of the fund, into account.

Death benefits become unclaimed if not paid within 24 months of the death of a member or such longer period as can be reasonably justified by the fund. For benefits payable to beneficiaries that are older than 24 months, the benefit may remain in the fund or be transferred to an Unclaimed Benefits Fund (UBF). UBFs must be registered as either a pension preservation

fund or a provident preservation fund. In order for benefits to be transferred to an UBF, the rules of the fund must be amended to accommodate this.

The Revenue Laws Amendment Act (RLAA) was enacted on 8 January 2009 and it proposes a later accrual date. The RLAA effectively postpones the accrual event until such time as the member elects to receive the payment in cash or transfer the benefit to an approved fund. Claims are also split into pre and post 1 March 2009, where benefits payable as a result of a pre 1 March 2009 exit event would be taxed in terms of GN35 and post 1 March 2009 claims may remain untaxed and may be transferred to an UBF without incurring any tax.



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Questions and answers

1. How would SARS tax the unclaimed benefit if the member's tax affairs were not in order?

If the member's tax affairs are not in order the fund cannot get a tax directive from SARS. The fund will have to submit a tax application to SARS, using the unclaimed benefits option on the tax application form. This will then trigger the benefit to be taxed as an unclaimed benefit.

2. What rate would SARS use to tax the benefit?

The highest marginal tax rate will be used to tax the unclaimed benefit.

3. With effect from 1 March 2009, unclaimed benefits may be transferred to a UBF. How would benefits that were previously taxed or post-tax contributions be treated in the UBF?

Tax relief will be provided on amounts that were already taxed in the transferor fund before the amount was transferred to the UBF.

4. For benefits where the accrual date is 1 March 2009 or later, these benefits may be transferred tax free to the UBF. When are these benefits taxed?

The benefits will be taxed before it is paid out of the UBF to the beneficiary.

5. How will the UBF know about a post taxed benefit or post-tax contribution?

The transferor fund must notify the UBF of any post-tax monies that were transferred to the UBF. This will ensure that it is noted on the member's record and the amount in question won't be subject to any further taxation when it is paid out.

6. What type of benefits will be payable from the UBF?

UBFs can pay retirement, death or withdrawal benefits.

7. What is meant by postponing the accrual date?

The accrual date of withdrawal and retirement lump sums will be postponed with effect from 1 March 2009 and 1 March 2015 respectively. This means we are effectively moving from an "accrual basis" to a "cash basis". Withdrawal and retirement benefits will only accrue when the member makes an election for payment of the benefit. This does not apply to death benefits as the date of accrual will be the date of death.

Alexander Forbes is currently in discussion with SARS regarding several unclaimed benefits technical tax issues. You will be kept informed of any new developments.