

It is appropriate for Pension Schemes to amend the Scheme Rules to conform with the current provisions in the Constitution and the Fourth Schedule to the Income Tax Act. Failure to do so may lead to the Commissioner General's withdrawal of approval for income tax exemption purposes.

ii) Some Industries have a different early retirement age as specified in the NAPSA Act (e.g. 45 years), has this age been changed?

iii) This age has not been altered. The Commissioner-General may approve schemes specifying a lower age than the existing early retirement age if it is customary in that particular industry for people to retire early.

iv) Is WHT on Administration and Fund Management Fees Applicable?

It should be noted that administration and fund management fees are liable to withholding tax.

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## **TAXATION OF PENSION BENEFITS**

The amendments to the Income Tax Act relating to change of retirement age to 60 years and the introduction in the NAPSA Act of Early retirement at 55 years, Normal Retirement at 60 years and late retirement at 65 years coupled with the Constitution Amendment Act No 2 regarding the definition of pensions benefit and making this benefit exempt from tax, has created uncertainty on the treatment of the various payments that are paid out to members ( lump sums, refunds etc) by Approved Pension Scheme.

As submitted to Pensions and Insurance Authority (PIA) our view is that those wishing to amend the retirement age to conform to the Income Tax Amendment Act and the NAPSA Act may provide the following rules.

- Members that joined the scheme prior to 1st January 2016 shall retire at the age of 55 years unless they give notice to retire at the age of 60 years.
- Members that joined the scheme on or after 1st January 2016 shall retire at the age of 60 years with the option of retiring at 55 years provided that 12 months prior to attaining the age of 55 years they give notice to the contributing employer.
- In both cases above, a member may subject to approval of his employer, give notice to retire at the age of 65 years as long as they give the notice twelve months prior to attaining the age of 60 years.

### **Pension Benefit**

- i. Guidance on people leaving the fund between the age of 55 and 60 years.

The amounts paid to these members should be exempt from income tax in light of the fact that the

Constitution has not provided a threshold as to when a pension benefit should be paid. However, leaving the fund at any age other than between 55 and 60 years should be treated as a withdrawal from the scheme.

- ii. Confirmation whether a member turning 55 this year is entitled to a Pension or cash refund of their contributions.

A person who turns 55 this year (2021) and opts for early retirement is entitled to a Pension.

- iii. What is the effective date of exemptions on pensions benefits?

The effective date of exemptions on pension benefits is 5th January 2016. Where a person retired or withdrew from the fund/scheme prior to 5th January 2016 and payment is made on or after 5th January 2016, the relevant payment qualifies for exemption from tax.

- iv. Are all benefits in the form of pensions, lump sums and pension contribution refunds tax free with effect from the date of assent?

All payments qualifying to be treated as Pension Benefits qualify for exemption. These payments include pensions, lump sums and pension contribution refunds.

- v. If answer to (iv) above is a yes, should members who were paid refunds and charged tax since the introduction of this law be refunded their tax amounts?

Affected members are eligible for a refund.

### **INCOME TAX AMENDMENT ACT**

- i) Is it mandatory for the Scheme Rules to be amended and file the amendments with ZRA.