

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.
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- 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