

Approved and Unapproved Death Benefits

Pension and provident funds registered by the Registrar of Pension Funds in terms of the Pension Funds Act are required to provide benefits on the death of a member prior to retirement. Where the amount reflected in the rules of the fund exceeds the accumulated contributions plus investment return for the member at the date of death, this would put a strain on the resources of the fund.

As a result, it is usual for funds to offer benefits in excess of the accumulated funds as 'insured benefits' by insuring such benefits with a registered long-term insurer and which are typically expressed as a multiple of salary or a Rand amount. The fund will pay premiums to the insurer and the insurer will issue a policy to the fund. In the event of a death claim, the insurer will pay the fund the insured amount accepted in respect of the deceased member, subject to the insurer's formalities.

As the death benefits (both accumulated funds and the insured amount) are payable from a registered pension or provident fund, they are subject to the requirements of section 37C of the Pension Funds Act and are taxed in terms of the Second Schedule to the Income Tax Act. These benefits are generally called 'approved benefits'.

An alternative way of insuring death benefits would be for the employer to approach the insurer directly to insure his employees. Where this occurs, premiums and benefits are not paid to/by the registered and approved pension or provident fund, but to/by a separate Group Life Assurance (GLA) scheme, which is neither registered by the Registrar of Pension Funds nor approved by the Commissioner of SARS. The benefits payable under an unapproved GLA scheme are generally called 'unapproved benefits'.

The Pension Funds Act does not apply to unapproved GLA schemes.

These benefits will be distributed and paid in terms of a Nomination Form or, in the event of no Nomination form, to the Estate of the deceased

Premiums in respect of unapproved benefits

Employer:

Where the employer pays the premiums to an unapproved GLA scheme on behalf of his employees, he may be entitled to a deduction of the premiums if the payment thereof is made in terms of the service agreement with the employee. As such, the payment of the premiums can be claimed as a business expense (it is considered part of the employee's salary or remuneration) in terms of section 11(a) of the Income Tax Act.

Employee:

Where the employer pays the premiums to an unapproved GLA scheme on behalf of his employees, the payment will constitute a fringe benefit in terms of the Seventh Schedule to the Income Tax Act and will therefore be taxable in the hands of the employee. These premiums are considered part of the employee's gross income.

Benefits Tax Treatment

Approved death benefits:

Taxable in terms of the Second Schedule to the Income Tax Act.

Unapproved death benefits:

Payable tax-free.