

Taxation and SARS Practices

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Topics

- ITC1711
 - ◆ facts
 - ◆ pension to provident fund transfers
 - ◆ surplus transfers
 - ◆ preservation fund transfers
- Late payment interest
- Recent developments

ITC 1711

- Facts
 - ◆ transfer between pension funds
 - ◆ same employer
 - ◆ members not entitled to benefits

ITC 1711

- Court held
 - ◆ receipt or accrual
 - ◆ rules and entitlement
- Important considerations
 - ◆ receipt or accrual
 - ◆ second schedule ITA

ITC 1711

- Commissioner
- Transferor fund

ITC 1711

- Pension to provident fund transfers
 - ◆ September 1990 ruling
 - member's withdrawal benefit
 - employer's contribution

ITC 1711

- Pension to provident transfers (contd)
 - ◆ income tax application
 - transfer between approved funds
 - same employer
 - member's entitlement
 - section 14 PFA
 - ◆ conclusion

ITC 1711

- Surplus
 - ◆ example
 - transfer between approved funds
 - same employer
 - member's entitlement
 - section 14 PFA
 - ◆ conclusion
 - ◆ preservation funds

Late Payment Interest

- Introduction
- Example

- Administrator's perspective

Late Payment Interest

- Forms of late payment interest
 - ◆ included in lump sum
 - ◆ separate from lump sum
 - ◆ lump sum benefits

Late Payment Interest

- Considerations
 - ◆ rules
 - ◆ mora
 - ◆ retirement fund tax
 - ◆ conclusions
 - ◆ preservation funds

Surplus

- apportionment to active members
 - no tax
 - no accrual
- apportionment to employer
 - first apportion to employer surplus account
 - payment to employer only on fund liquidation or to prevent job losses
 - cash payment taxable

Surplus

- apportionment to former members
 - who withdrew before retirement
 - lump sums taxable under 2nd schedule ITA
 - no deduction
 - and transferred to preservation fund: RF1/98 needs change to allow further transfer

Surplus

- who retired

- from pension fund: increased or bonus pension at marginal tax rates
- with lump sum from provident fund
 - lump sum taxable under 2nd schedule ITA
 - no deduction
- with compulsory pension from provident fund: as for pension fund

Surplus

- no entitlement to former members who died before surplus apportionment date
- former members who died after surplus apportionment date:
 - death benefit
 - lump sum taxable under 2nd schedule ITA with appropriate deductions

Tax on surplus apportionment

- apportionment to active members
 - no tax
 - no accrual
- apportionment to employer
 - first apportion to employer surplus account
 - payment to employer only on fund liquidation or to prevent job losses
 - cash payment taxable

Tax on surplus apportionment

- apportionment to former members
 - who withdrew before retirement
 - lump sums taxable under 2nd schedule ITA
 - no deduction
 - and transferred to preservation fund: RF1/98 needs change to allow further transfer
 - who retired

Tax on surplus apportionment

- from pension fund: increased or bonus pension at marginal tax rates
- with lump sum from provident fund
 - lump sum taxable under 2nd schedule ITA
 - no deduction
- with compulsory pension from provident fund: as for pension fund

Tax on surplus apportionment

- no entitlement to former members who died before surplus apportionment date
- former members who died after surplus apportionment date:
 - as for prior retirements or withdrawals, as applicable

Tax on surplus apportionment

- date of accrual
- Commissioner's practice on enhancements
- employer contributions to meet deficit

Tax on surplus apportionment

- and what about para (a) and (b) pension funds?
- para 2 and 2a of second schedule ITA
- formula c