
Pension Lawyers Association

Appeal Cases Update and Surplus Queries Seminar

**Taxation and SARS Practices
GN29 and Related Issues**

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Topics

- GN 29
 - ◆ general discussion
 - ◆ active members
 - ◆ employer
 - ◆ former members
 - ◆ accrual
 - ◆ employer contributions
- Case study and other considerations

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- SARS GN Notes
- Not law
- Guidance or interpretation
- Income Tax Act
- General Matters

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- Distribution to active and deferred members
 - enhance a member's benefit within the fund
 - no tax implications
 - no receipt or accrual
 - enhanced withdrawal, retirement or death benefit

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- Distribution to employer
 - first distribute to employer surplus account
 - no tax implications
 - payment to employer only on fund liquidation or to prevent job losses
 - cash payment taxable

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- Distribution to former members
(withdrew, retired or died)
- General principles
 - surplus distributions not in consequence of withdrawal, retirement or death
 - own event for tax purposes

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- Distribution to former members
 - who withdrew before surplus apportionment
 - lump sums taxed in terms of the 2nd Schedule
 - surplus distribution taxable
 - no deduction in terms of the 2nd Schedule
 - no transfers to preservation funds

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- Distribution to former members (cont)
 - Who retired before surplus apportionment
 - pension fund
 - increased or bonus pension at marginal tax rates
 - outsourced pensions
 - provident fund
 - lump sum taxable in terms of the 2nd Schedule
 - surplus distribution paid as a lump sum
 - no deduction in terms of the 2nd Schedule

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- Distribution to former members (cont)
 - Who died
 - former members who died before surplus apportionment
 - former members who died after surplus apportionment
 - death benefit
 - lump sum taxable under 2nd schedule with appropriate deductions

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- Date of accrual
 - on unconditional entitlement to surplus
 - approval by Registrar of surplus apportionment scheme
- Employer contributions to meet deficit
 - past improper use
 - Contribution allowed as a deduction
 - Section 11 (I) limitations
- Enhancements (RF1/95)
- Tax directives

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- Para (a) and (b) pension funds?
 - funds established by or in terms of law
 - GEPF or local authority funds
 - unique tax consequences
 - separate GN Note to be issued