DRAFT REGULATIONS

16 October 2014

INCOME TAX ACT, 1962: PUBLICATION OF PROPOSED REGULATIONS MADE IN TERMS OF PARAGRAPH 12D(5)*(a)* OF THE SEVENTH SCHEDULE ON THE DETERMINATION OF THE FUND MEMBER CATEGORY FACTOR

Proposed regulations in terms of paragraph 12D(5)*(a)* of the Seventh Schedule to the Income Tax Act, 1962 (Act No. 58 of 1962) are hereby published.

SCHEDULE

Definitions

1. In these Regulations, any word or expression to which a meaning has been assigned in Income Tax Act, 1962 (Act No. 58 of 1962), bears the meaning so assigned, and—

"annuity accrual rate" means, in relation to a period for which a certificate is issued, the annual increase in the annuity benefit of a defined benefit component —

(a) occurring as a result of fund membership during the period in respect of which the certificate is issued; and

(b) expressed as the average of a proportion of final salary (as defined in the rules of the fund) in respect of all members of a fund member category;

as if all those members would have qualified in terms of the rules of fund to a receive an annuity benefit upon retirement.

"annuity benefit" means an annuity—

(a) payable by a fund on retirement in consequence of membership or past membership of that fund; and

(b) in respect of which a portion of the final salary (as defined in the rules of the fund) is utilised to calculate the amount of the benefit of the fund member;

"death benefit" means a benefit payable in respect of the death of a member to that member, the estate of that member or to a dependant or nominee of that member.

"lump sum" means a single amount—

(a) payable by the fund on retirement in consequence of membership or past membership of that fund to a member of that fund; and

(b) of which the value is calculated as constituting a portion of the final salary (as defined in the rules of the fund) of the fund member;

"lump sum accrual rate" means in relation to a period for which a certificate is issued, the annual increase in the lump sum of a defined benefit component—

(a) occurring as a result of fund membership during the period in respect of which the certificate is issued; and

(b) expressed as the average of a proportion of final salary in respect of all members of a fund member category;

"risk benefit" means a benefit payable in respect of the permanent disablement of a member to that member or to a dependant or nominee of that member.

Fund member category factor is aggregate

2. The fund member category factor must, for the purposes of paragraph 12D(2) of the Seventh Schedule to the Income Tax Act, 1962, be calculated by aggregating—

(a) the defined contribution component factor determined as prescribed by regulation 3;

(b) the defined benefit component factor determined as prescribed by regulation 4;

(c) the underpin component factor determined as prescribed by regulation 5, and

(d) the risk benefit component factor determined as prescribed by regulation 6,

for that fund member category.

Determination of defined contribution component factor

3. (1) The defined contribution component factor is the contribution rate (as specified in the rules of the fund) in respect of the total of the contributions to the fund by the employee and the employer in respect of each defined contribution component.

(2) Any contribution in respect of a risk benefit provided by the fund directly or indirectly for the benefit of a member of the fund or a dependant or nominee of that member, other than benefits provided by the fund solely by means of a policy of insurance if the fund pays the premiums in respect of that policy of insurance, must not be taken into account in determining the defined contribution component factor as contemplated in subregulation (1).

(3) If a fund member is entitled to receive more than one defined contribution component—

(a) the fund must calculate a defined contribution component factor in respect of each defined contribution component; and

(b) the defined contribution component factor for the purposes of this regulation is the sum of the amounts calculated in terms of paragraph *(a)* less any defined

contribution component factors used to calculate an underpin component factor in terms of regulation 5

Determination of defined benefit component factor

4. (1) The defined benefit component factor in respect of a defined benefit component must be determined in accordance with the formula—

$$X = (A \times B) + (C \times D)$$

in which formula—
   (a) **'X'** represents the defined benefit component factor to be determined;
   (b) **'A'** represents the annuity accrual rate;
   (c) **'B'** represents the number that must be obtained—
      (i) by establishing a number in terms of the following formula—

$$Y= \frac{(E+F)}{2}$$

      in which formula—
         (a) **'Y'** represents the number to be determined;
         (b) **'E'** represents the number 65;
         (c) **'F'** represents a number to be determined in terms of Schedule I by—
            (i) determining the age at which members of that fund member category may retire without any retirement benefit being reduced or increased as a result of that retirement in terms of the rules of the fund;
            (ii) utilising the factor in the column in Schedule I entitled "factor" that corresponds with the number determined in terms of paragraph (i) in the column

"midpoint between 65 and earliest age of unreduced benefits" in that schedule.

(d) **'C'** represents the lump sum accrual rate; and

(e) **'D'** represents the number 0.8.

(2) If a fund member is entitled to receive more than one defined benefit component in respect of a fund member category—

(a) the fund must calculate a defined benefit component factor in respect of each defined benefit component; and

(b) the defined benefit component factor for the purposes of this regulation is the sum of the factors calculated in terms of paragraph *(a)* less any defined benefit component factors used to calculate an underpin component factor in terms of regulation 5.

Determination of underpin component factor

5. (1) The underpin component factor must be determined in accordance with the formula—

$$X = A + B \times C$$

in which formula—

(a) **'X'** represents the underpin component factor to be determined;

(b) **'A'** represents the greater factor of—

(i) the defined contribution component factor calculated utilising the formula in regulation 3(1) for the defined contribution component used for the purposes of determining the underpin component; or

(ii) the defined benefit component factor calculated by utilising the formula in regulation 4(1) for the defined benefit component used for the purposes of determining the underpin component.

(c) **'B'** represents the number 0.10; and

(d) **'C'** represents the smaller factor of—

(i) the defined contribution component factor calculated utilising the formula in regulation 3(1) for the defined contribution component used for the purposes of determining the underpin component; or

(ii) the defined benefit component factor calculated by utilising the formula in regulation 4(1) for the defined benefit component used for the purposes of determining the underpin component.

(2) If a fund member is entitled to receive more than one underpin component in respect of a fund member category —

(a) the fund must calculate an underpin component factor in respect of each defined underpin component; and

(b) the underpin component factor for the purposes of this regulation is the sum of the factors in terms of paragraph *(a).*

Determination of risk benefit component factor

6. (1) The risk benefit component factor must be determined in respect of all death benefits provided by the fund for the benefit of a member of the fund or a dependant or nominee of that member, other than any risk benefit—

(a) provided by the fund solely by means of a policy of insurance and the fund pays the premiums in respect of that policy of insurance; or

(b) that constitutes a return of the member's interest in any defined contribution components of the fund payable upon the death of that member.

(2) The risk benefit component factor must be determined in accordance with the formula

$$X = A \times B$$

in which formula—

'X' represents the risk benefit component factor to be determined;

'A' represents the number 0.005; and

'B' represents the average of a proportion of retirement funding income in respect of all members of the fund member category in respect of risk benefits to which the member or his or her dependants or nominees would have become entitled if the member had died during the year of assessment in respect of which the certificate is issued (including the valuator's estimate of the average capital value of any spouse's pensions or dependant's annuities paid to that spouse or those dependants by virtue of that member's membership of that fund).

(2) If a fund member is entitled to receive more than one risk benefit component in respect of a fund member category—

(a) the fund must calculate a risk benefit component factor in respect of each risk benefit; and

(b) the risk component factor for the purposes of this regulation is the sum of the factors calculated in terms of paragraph *(a)* less any risk component factors used to calculate an underpin component factor in terms of regulation 5.

Data to be used in respect of fund member category factor calculations

7. For the purposes of this regulation, the data that must be used in respect of the calculation of any fund member category may not be older than data as at the date of the last statutory actuarial valuation.

Short title and commencement

8. These Regulations are called the Regulations in terms of paragraph 12D(5)*(a)* of the Seventh Schedule to the Income Tax Act, 1962, on the determination of the fund member category factor and come into operation on 1 March 2016.

Schedule I

Midpoint between 65 and earliest age of unreduced benefits	Factor
55.0	12.5
55.5	12.2
56.0	11.9
56.5	11.6
57.0	11.4
57.5	11.1
58.0	10.8
58.5	10.5
59.0	10.3
59.5	10.0
60.0	9.7