

28 October 2019

**TO: PRINCIPAL OFFICERS OF ALL REGISTERED PENSION  
FUND ORGANIZATIONS**

**CIRCULAR: PF/CIR/06/2019**

**DATE: 28 OCTOBER 2019**

**SUBJECT: BENEFITS PROVIDED BY PROVIDENT FUNDS**

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## **1. INTRODUCTION**

- 1.1. This Circular is issued by virtue of the Namibia Financial Institutions Supervisory Authority's ("the Authority") functions and powers, and those of its Chief Executive Officer in his capacity as the Registrar of Pension Funds, in terms of the Pension Funds Act, 1956 (Act No. 24 of 1956) ("the Act"), read with the Namibia Financial Institutions Supervisory Authority Act, 2001 (Act No. 3 of 2001), and is applicable to all registered pension fund organizations under the Act.
- 1.2. This Circular serve to provide information on provident funds pertaining to payment of risk benefits while the member is still in membership of the fund.

## 2. THE CURRENT PRACTICE

Some provident fund rules provide for the payment of risk benefits while the member is still a member of the fund. The said risk benefits in some cases also include family benefits, which provides for payment of a benefit upon the occurrence of an event involving a spouse or a dependant of a member.

## 3. THE LAW

Section 1 of the Income Tax Act, 1981 (Act No. 24 of 1981) ("Income Tax Act") stipulates that

*““provident fund” means any fund (other than a pension fund, benefit fund or retirement annuity fund) which is approved by the Minister in respect of the year of assessment in question: provided that the Minister may approve a fund subject to such limitations or conditions as he or she may determine, and shall not approve in respect of any year of assessment unless he or she is in respect of that year of assessment satisfied –*

*(a) that the fund is a permanent fund bona fide established solely for the purpose of providing benefits for employees on retirement from employment or solely for the purpose of providing benefits for the spouses, children, dependants or nominees of deceased former employees, or solely for a combination of such purposes;*

*(aA) that the fund is registered in Namibia as a provident fund under the Pension Funds Act, 1956 (Act 24 of 1956);*

*(b) that the rules of the fund contain provisions similar in all respects to those required to be contained in the rules of a pension fund in terms of subparagraphs (i), (ii), (iii), (v) and (vi) of paragraph (b) of the definition of "pension fund"; and*

*(c) that the rules of the fund have been complied with"*

(underlined wording is for emphasis)

#### **4. CONCLUSION**

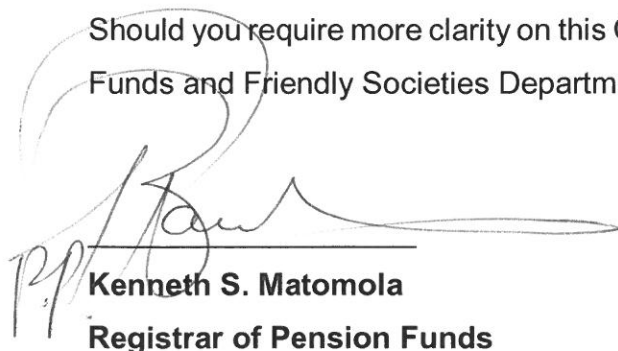
4.1. Therefore, all rules purporting to be for provident funds must comply with the definition of a "provident fund" provided in the Income Tax Act.

4.2. The Authority will assess provident fund rules against compliance with the definition of a "provident fund" provided in their creating statute the Income Tax Act.

The Registrar therefore requires full cooperation and support in this process by all provident funds and stakeholders at large.

The Registrar further refer to the letter dated 9 May 2019 from the Ministry of Finance on the same matter, for ease of reference the aforementioned letter is enclosed hereto.

Should you require more clarity on this Circular, kindly contact the Manager of the Pension Funds and Friendly Societies Department at telephone number 061-290 5000.



**Kenneth S. Matomola**  
**Registrar of Pension Funds**



REPUBLIC OF NAMIBIA

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MINISTRY OF FINANCE - INLAND REVENUE  
LEGISLATION, TAX POLICY AND INTERNATIONAL MATTERS

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09 May 2019

Operations Manager  
Retirement Funds Institute of Namibia  
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Windhoek  
NAMIBIA

via e- mail

**RE: PROVIDENT FUNDS IN RESPECT OF THE INCOME TAX ACT 24 OF 1981, AS AMENDED**

We refer to your letter dated 19 February 2019 and we apologise for the delay in reply thereto.

**BACKGROUND**

Members of the Retirement Funds Institute of Namibia ("RFIN") have requested clarity with respect to the following issues:

1. Is it permissible in terms of the Income Tax Act for provident funds to provide risks benefits such as :
  - Group life insurance;
  - Lump sum disability;
  - Permanent health Insurance; and
  - Funeral Benefit
2. Whether the cost of such benefit may be borne from the employer contribution, considering that such contribution are paid to the provident funds gross of tax deductions.
3. Noting pint 2 above, whether such cost of benefit is part of the employer's deductible expenses and what the allowable limit is?

## CONFIRMATION

1. The Income Tax Act, Act 24 of 1981 prescribes certain rules that a Provident Fund should have if it is seeking to be recognised as an approved fund for purposes of income tax. The rules are stipulated in the definition of a "provident fund" in section 1 of the Income Tax Act. Paragraph (a) of the definition of "Provident fund" states that a provident fund "... is a permanent fund bona fide established solely for the purpose of providing benefits for employees on retirement from employment or solely for the purpose of providing benefits for the spouses, children, dependants or nominees of deceased former employees, or solely for a combination of such purposes"

The Income Tax Act does not prohibit retirement funds from offering to their members risk cover in the form of funeral, death or disability benefits. However to be compliant with the law such benefits should be provided to the employees on retirement from employment or to dependants of deceased employees.

2. The cost of such benefit may be borne by the employer, however if the employer is responsible for payment of such contributions then it will be reflected as a fringe benefit in the hands of the employees.
3. The cost incurred by the employer to make a contribution on behalf of the employer to a provident fund is tax deductible in terms of section 17 (1) (o) of the Income Tax Act.

Yours faithfully



pp COMMISSIONER: INLAND REVENUE

