



NOTICE TO THE RETIREMENT BENEFITS INDUSTRY

CHANGES CONTAINED IN THE 2010/2011 BUDGET

Following the presentation of the Budget Speech for 2010/2011 by the Honorable Deputy Prime Minister and Minister for Finance, the Retirement Benefits Authority would like to bring the following changes that affect the Retirement Benefits Authority and the retirement benefits industry to the attention of stakeholders:

Issue	Change	Implications	Clause/ Effective date
CHANGES UNDER THE INCOME TAX ACT			
Payment of Tax by the Authority	Exemption of the Authority's income from income tax has been revoked.	The Authority no longer enjoys the income tax exemption status and is required to pay and file income tax returns.	<i>Legal Notice No. 82 of 2010</i> <i>Effective June 11th 2010</i>
PROPOSED CHANGES TO THE INCOME TAX ACT			
Conversion of Gratuity Arrangement and Transfer of Gratuity Funds to a retirement benefits scheme	Proposed change for an employer who sets up a registered retirement benefits scheme and pay gratuity into the scheme, will be allowed a deduction for tax on the same subject to a maximum limit of Kshs 240,000 per year per member.	Companies paying gratuity to their employees will enjoy tax exempt treatment upon conversion and payment of gratuity equivalent to the years of the gratuity to a registered retirement benefits scheme.	<i>Section 19 Finance Bill</i> <i>Effective January 1st 2011</i>
PROPOSED CHANGES TO THE RETIREMENT BENEFITS ACT			
Sharing of Information	The Retirement Benefits Act 1997 is amended by insertion of a new section 44 A allowing the sharing of information with other regulatory authorities.	Further to the signed Memorandum of Understanding with the financial regulators, the Authority has the powers and discretion to share industry information with other regulators.	<i>Sec 74. Finance Bill, 2010,</i> <i>Effective 1st January 2011</i>
CHANGES TO THE RETIREMENT BENEFITS REGULATIONS			
Appointment of Administrator - Related Service Provider	No person shall be appointed as the administrator of a scheme if that person is related to the fund manager.	Schemes that have appointed external administrators must ensure that the administrator is independent and not associated in any way with the contracted fund manager and vice versa.	<i>Legal Notice No. 87 of 2010</i> <i>Effective 11th June 2010</i>
Payment of Retirement Benefits	Period of payment of retirement benefits has been reduced from 60 days to 30 days.	Trustees are now required to pay members their retirement benefits within a period of 30 days. Benefits paid after 30 days shall paid with interest.	<i>Legal Notices No. 88 of 2010 (2)</i> <i>Effective 11th June 2010</i>

Issue	Change	Implications	Clause/ Effective date
Appointment of Chairperson of the Scheme Board of Trustees	The Administrator of the scheme, the chief executive officer of the sponsor or the chairman of the Board of Directors shall not be eligible to be appointed as chairperson of the Board of Trustees.	Schemes whose current chairpersons are either the Chairperson of Board of Directors, Chief Executive or Scheme Administrator are required to ensure re-election of chairpersons of the board of from among the other trustees.	<i>Legal Notice No. 88 of 2010 (3)</i> <i>Effective 11th June 2010</i>
Trivial Pension	The amount of Trivial Pension has been reduced to fifty percent of Minimum Wage from "two thirds" or 67% of Minimum Wage.	The minimum basis for the determination by the Retirement Benefits Authority of the threshold for a pension to be declared trivial and thus commutable into a lumpsum has been reduced from two thirds (2/3) of minimum wage to 50 per cent of the average minimum wage.	<i>Legal Notice No. 88 of 2010 (4a)</i> <i>Effective 11th June 2010</i>
Annuity Purchase Option	Schemes shall allow retiring members to exercise the option of purchasing annuity up to one year from the date of retirement.	Retiring members of Pension schemes do not have to purchase their annuity immediately upon retirement. Members can choose to purchase the annuity any time within a period of one year after date of retirement.	<i>Legal Notice No. 88 of 2010 (4b)</i> <i>Effective 11th June 2010</i>
OTHER CHANGES			
Remittance to the Consolidated Fund	A regulatory Authority and other institution established by an Act of Parliament shall remit ninety per centum of its surplus reported in the Audited Accounts into the Consolidated Fund yearly.	The Authority and other regulators will be required to refund 90 percent of any surplus to the government every year.	<i>Section 76, Finance Bill</i> <i>Effective 11th June 2010</i>

Stakeholders are advised to obtain full details of these changes from **Legal Notices Nos. 87 and 88**, of June 10, 2010 and the **Finance Bill 2010**.