

Taxation of Retirement Benefits

APRIL 2025

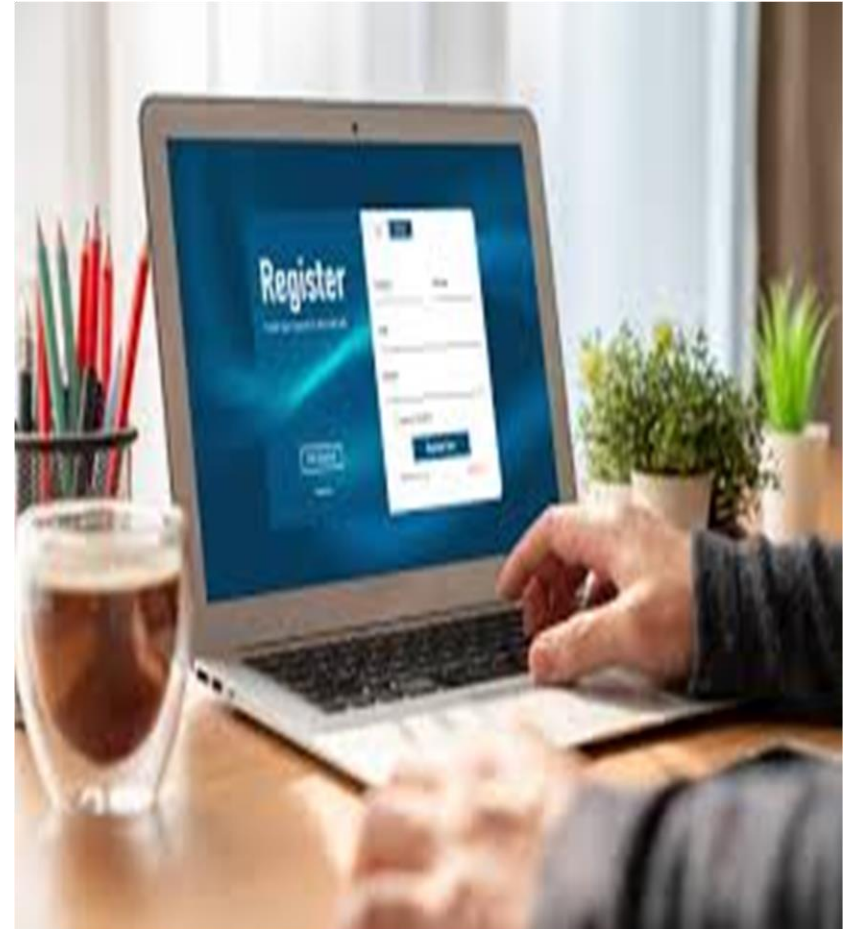
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Registration of RBSs

Registration of RBS by RBA automatically confers a **tax exemption** to the registered scheme without further requirement for registration with the Commissioner.



Allowable Deductions on Registration

The lower of;

- actual contributions
- 30% of pensionable income
- Shs 360,000 p.a
(shs 30,000 pm)

available between the employer and employee



Employers Contributions to Registered or Unregistered RBS

Contributions paid by a non-taxable employer to **unregistered pension scheme** or **excess contributions** paid to a registered RBS shall be **employment benefit** chargeable to tax on the employee.



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Image from
www.alamy.com

Illustration 1

Mzito works for a tax exempt employer and earns a salary of Kshs. 250,000.00 per month. He contributes Kshs. 25,000.00 to a registered Retirement Benefit Scheme and the employer contributes a similar amount to the scheme.

Compute Mzito's taxable income for the Month of March 2025.

Illustration 2

Mungwana is employed and earns a salary of Kshs. 200,000.00 per month. He contributes Kshs. 30,000.00 to registered pension scheme and the employer, who is chargeable to tax, contributes a similar amount.

Compute Mungwana's taxable income for month of March 2025.

Transfer of Gratuity

Transfer of gratuities (by those who have not exhausted deduction) to a registered pension scheme and up to a maximum of sh. 360,000 per annum will be tax free.

Fund Transfer



Income of Retirement Benefit Schemes

Incomes of the following entities are exempt from tax;

- A registered pension scheme.
- A registered trust scheme.
- A registered pension fund
- A registered provident fund.
- An annuity fund, as defined in section 19, of an insurance company.

Pension Income

Pension received by a resident individual from a pension fund or pension scheme (established in Kenya or outside Kenya) shall be deemed to have been derived from Kenya to the extent to which it relates to employment or services rendered by the individual

Pension Income

Payment of pension benefits, including income drawdown from a;

- Registered pension fund,
- Registered provident fund,
- Registered individual retirement fund
- Public pension scheme or NSSF

upon attainment of the retirement age determined in accordance with the rules of the fund or the scheme shall be **exempt** from tax

Pension Income

Tax exemption also applies to;

- payment of gratuity or other allowances paid under a Public Pension Scheme (PPS);
- ✓ Section 2 of the ITA defines a PPS as a pension scheme that pays pensions and lump sums out of the Consolidated Fund.
- ✓ The tax exemption excludes gratuity paid from other sources, including private pension schemes.

Pension Income

Tax exemption also applies to;

- payment of a **retirement annuity**; or
- withdrawals from the fund prior to attaining the retirement age due to **ill health**; or
- withdraws from the fund after the **twenty years** from the date of registration as a member of the fund.

*(Where a members transfers funds between registered schemes, the period of membership will be the **cumulative numbers of years in the various schemes**)*

Death Benefits

- Upon the demise a member of a registered fund, the widow, widower or dependents shall qualify as a group for the same tax exempt amount out of pension income and lump sums available as if such amounts had been received by the member.
- Where the registered fund provides for no payment of retirement benefits other than the payment of a lump sum to **an estate**, the first Kshs. 1,400,000 of such a lump sum payment shall be deemed to be income not chargeable to tax as income of the estate or its direct beneficiaries.

Applicable Tax Rates on withdrawal Prior...

Where a member has not met exemption requirements, applicable tax annual rates (on amounts in excess of tax free limits) will be;

- On the first Shs.288,000 - 10%
- On the next Shs.100,000 - 25%
- On all income over Shs. 388,000 – 30%

This is a final tax

Tax Compliance issues that may arise

A) Corporation taxes

i) On the scheme itself

- When not registered there is corporation tax on the investment income of the scheme just like any other corporate entity.
- Income of the Appellant that was attributable to excess pension contribution was not subject to corporate tax (*Benki Kuu vs. Commissioner of Domestic Taxes*).



Tax Compliance issues that may arise

A) **Corporation taxes**

ii) **On the sponsor**

- When their contributions are to an unregistered scheme
- Contributions to a registered scheme but in excess of the limits set under section 22A

If the sponsor is a taxable person, the contributions to unregistered scheme/excess limits are taxed on the sponsor. If not taxable, the contributions are a taxable benefit on the employee.

Tax Compliance issues that may arise

B) **Pay As You Earn (PAYE) on;**

- Contributions to an unregistered scheme
- Contribution to a registered scheme but in excess of the limits set out in section 22A
- Contribution on behalf of the employee by a tax exempt employer to an unregistered scheme
- Contribution on behalf of the employee by a tax exempt employer to a registered scheme but in excess of the limits set under section 22A

Tax Compliance issues that may arise

C) **Withholding Tax Provisions**

- Withdrawal from registered pension, provident or individual pension scheme where member has not met conditions.
- Actuarial surpluses paid to employer @ 30%.
- Where the scheme is paying various service providers - Lawyers, auditors, Actuaries, custodians, fund managers etc.

Tax Compliance issues that may arise

C) **Value added Tax**

Where the scheme receives rent from commercial property





Q&A