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GOVERNMENT OF BERMUDA

Ministry of Finance

Office of the Tax Commissioner

APPLICATION FOR APPROVAL OF A RETIREMENT SCHEME

(For the purpose of Section 23 of the Payroll Tax Act 1995)

A. To be completed by all applicants

1. Registered name of Employer: ______
2. Payroll Tax Identification Number: ______
3. Business Address of Employer: ______
4. Name of Scheme: ______
5. Date of Employer's first contribution under the Scheme: ______
6. Name of administrator of Scheme: ______
7. Is the Scheme approved by the Pension Commission in accordance with the Nation Pensions Scheme (Occupational Pensions Act 1998? Yes ☐ No ☐ *If Yes indicate registration #:* ______
8. Attach: (i) a schedule of benefits provided by the Scheme ☐ (ii) a copy of the rules of the Scheme ☐

B. To be completed only by employers seeking approval of self-administered schemes

1. Attach a written description of the Scheme.
2. Describe the nature of the fund to which the Employer is contributing: ______
3. Indicate what charges are made against the fund by any person: ______
4. Indicate whether the fund has any interest in the business of the Employer and the extent of such interest: ______
5. Give the date of the registration of the fund under the Pension Trust Funds Act 1966: ______

C. To be completed by all applicants

1. Is the Scheme: ☐ Contributory or ☐ Non-contributory?
2. State the number of Eligible Employees and the amount and frequency of the contributions required to be made by the Employer (excluding Employee contributions): #Employees: ______ Amount: $______ Frequency: ______
3. State the amount of contribution paid by the Employer (including Employee contributions) for:
   Future service: $______ Past service: $______
4. State, as a percentage of the Employer's total payroll, the amount required:
   (a) for the Employer's contribution to be paid periodically in respect of his Employees for future service: %______
   (b) for the *total contribution* (Employer and Employee portions) to be paid periodically for future service: %______
5. Is the Scheme: a ☐ Defined Contribution or a ☐ Defined Benefit Scheme?
   *** If the Scheme is a Defined Benefit plan please attach actuarial comments justifying the rate of Employer contributions.*
6. Describe the amount and the reason for payments made in respect of past service: ______
7. Describe Membership Eligibility into the Scheme: ______
8. Describe the vesting of the Employer's contribution in the Employee: ______
9. What happens to unvested Employer contributions in the event of Member/Employee termination or death?
   ______
10. Describe the benefits/payout schedule. ______
11. Indicate whether the Employer has or intends to borrow from or against the assets held in the fund (with reasons):
    ______
12. State frequency of Member/Employee Account Statements ______

DECLARATION

I declare that the particulars contained above are to the best of my knowledge and belief, true and correct and in accordance with the established Guidelines for approved schemes. I further declare that I am aware that it is an offence by any fraud, art or contrivance whatever to evade or attempt to evade payment of Payroll Tax.

______ Signed by or on behalf of the employer

______ Date

______ Print name and Office held

______ Contact number and email

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GUIDELINES FOR APPROVAL OF RETIREMENT SCHEMES

(For the purpose of Section 23 of the Payroll Tax Act 1995)

A. DEFINITIONS

1. A scheme is defined as follows: "a deed, agreement, series of agreements or other arrangements providing 'relevant benefits' for a group of employees or a single employee. This includes a covenant or agreement to provide 'relevant benefits' even if the employer makes no advance financial provision or otherwise".
2. An approved scheme will have the essential characteristic that "assets are set aside to provide 'relevant benefits' for employees and are held by an insurance company or other trustee or trustees who may be or include the employer, on trusts which ensure that they are not available to the employer".
3. 'Relevant benefits' are those benefits associated with the provision of pensions to employees at their retirement date.

B. MEMBERSHIP

1. While membership may be open to both self-employed persons and employees, any approval can only be in respect of contributions made with respect to employees of the employer. Approval is not appropriate in respect of contributions made on behalf of persons who report notional remuneration assessed under Section 12 of the Payroll Tax Act 1995, even if they are members of the scheme.
2. Employees meeting the minimum eligibility requirements of the scheme may not be excluded by the employer.
3. Membership shall be of a group scheme.

C. ADMINISTRATION

1. The employer must designate an administrator or person having control of the scheme. This person may be an insurance company, a trustee or trustees or may be or may include the employer. If the administrator is an overseas person, there must be designated an acceptable local person.
2. Whether the scheme is operated by the employer or another person, a formal plan must be drawn up and each employee who is a member of the scheme must be notified of his rights and obligations under the scheme and any changes in the scheme as they occur. A copy of the plan must be available at all times for inspection by any participating employee.
3. The trust referred to in Paragraph A2 may be established by deed or by resolution of a board of directors or by resolution of the partners of a partnership.
4. A Scheme may be established and administered by an employer or group of employers acting together.
5. Where a scheme is a scheme established and administered by an employer or group of employers, i.e. a self-administered scheme:
   - (i) The trust fund shall be registered under the Pension Trust Funds Act 1966;
   - (ii) The administrator may be required to furnish the Tax Commissioner with copies of statements of account, balance sheets or actuarial reports required to be prepared under that Act;
   - (iii) The trustees may be limited by the Minister, as a condition of approval of the scheme, in the extent to which they may acquire on behalf of the fund any interest in the business of any participating employer;
   - (iv) There should be a clear statement of any charges made to the fund for administration.

D. CONTRIBUTIONS BY THE EMPLOYER

1. Schemes may be contributory or non-contributory.
2. For all schemes introduced after 1st November, 1987, vesting of the employer's contributions in the employee shall satisfy the following minimum standard: 100% after 10 years participation in the scheme.
3. Contributions for future service are exempt up to 10% of the total wage/salary paid by the employer in respect of employees who are scheme members.
4. Contributions for past service and additional contributions in respect of escalation of benefits will be considered on their own merits and will be subject to review before any Payroll Tax exemptions can be allowed.
5. Contributions may be made by several associated employers to an umbrella scheme or by a group of employers to an industry-related scheme. In either case the scheme rules must provide for the eventuality of one employer wishing to secede.
6. Where an employer cancels or withdraws from a scheme, the value of contributions made by him, net of termination charges if any, shall be vested in the employee in respect of whom they were made. Such value may be transferred to an alternative scheme or used to purchase a deferred annuity for the employee. It is recognized that the value of contributions may need to be actuarially determined.
7. In the event of an employee's death or on termination, any unvested portion of the employer's contributions will be retained by the trustee in order to reduce future premium liabilities or to enhance future benefits for other employees, but may not be refunded to the employer.
8. A Defined Benefit plan which exceeds the maximum contribution of 10% on behalf of each employee will be considered on its own merits with actuarial comments attached to the application.

E. BENEFITS

1. Pension benefits should be guaranteed for the lifetime of the employee and should be paid in regular installments to provide retirement income. Provision may be made for the employee to elect to receive on retirement a lump sum payment of up to 25% of the commuted value of the pension benefits payable, with the balance paid in regular installments to provide a retirement income.
2. Commutation of pension benefits at normal retirement date to cash may occur only where the benefit otherwise payable would be the equivalent of less than $75 per month, except in the case of the death of the employee where estate beneficiaries may receive full value.
3. The basis for calculating benefits may vary between categories of employees of different employers in the same scheme but should not vary between employees of the same employer.

ENQUIRIES

Applications for approval of retirement schemes may be obtained from the Office of the Tax Commissioner, F.B. Perry Building, 40 Church Street, Hamilton, and should be returned to that address or forwarded to P.O. Box HM 1374, Hamilton HM FX. Enquiries by telephone may be made by calling 297-7754.