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PRODUCT RULING – BR Prd 17/04

This is a product ruling made under s 91F of the Tax Administration Act 1994.

Name of the Person who applied for the Ruling

This Ruling has been applied for by Retirement Income Group Limited.

Taxation Laws

All legislative references are to the Income Tax Act 2007 unless otherwise stated.

This Ruling applies in respect of ss BG 1, CA 1, CD 3 to CD 20, CW 4, CX 56B and HM 47.

The Arrangement to which this Ruling applies

1. The Arrangement is the Lifetime Income Fund (the Fund), which is a managed investment scheme in which investors (Investors) can invest their retirement savings in return for a stream of regular payments (the Lifetime Withdrawal Benefit) for the rest of their life. Investors can elect to commence receiving their Lifetime Withdrawal Benefit at any time from age 60 until age 90. The Lifetime Withdrawal Benefit is calculated as a percentage of the Investor’s Protected Income Base. An Investor’s Protected Income Base is the Investor’s original capital sum invested in the Fund net of any applicable fees and Unplanned Withdrawals, and includes any increase in value during the Deferral Period (the period up to the time the Investor begins receiving payments of the Lifetime Withdrawal Benefit). Each Investor’s Lifetime Withdrawal Benefit is paid in two phases:

    a) Protected Income Phase: This period commences on the date the Investor elects for the commencement of Lifetime Withdrawal Benefits (the Initial Regular Payment Date) and ends when all Units held by the Investor in the Fund have been redeemed. During this period, the Lifetime Withdrawal Benefit is paid out of the capital invested by an Investor in the Fund and the Investor’s proportion of the Fund’s post-tax earnings accumulated as a result of investing the Investor’s original capital sum.

b) Insured Income Phase: This period commences from the end of the Protected Income Phase and ends on the date of death of the Investor. During this period, the Lifetime Withdrawal Benefit is paid from the proceeds of a group life insurance policy that the Manager of the Fund is required to take out in the name of the Supervisor of the Fund for the benefit of Investors.

2. Further details of the Arrangement are set out in the paragraphs below. (Capitalised terms and phrases in the description of the Arrangement should be taken to have the meaning attributed to that term or phrase in clause 1 of the Trust Deed or in the description of the Arrangement.)

Parties to the Arrangement

3. The parties to the Arrangement are:

   a) Lifetime Income Fund;

   b) Retirement Income Group Limited;

   c) Lifetime Asset Management Limited;

   d) Lifetime Income Limited;

   e) Public Trust; and

   f) Investors in the Fund.

Lifetime Income Fund

4. The Lifetime Income Fund (the Fund) is a managed investment scheme as defined in the Financial Markets Conduct Act 2013. The Fund was established by Lifetime Asset Management Limited under the Unit Trusts Act 1960.

5. By trust deed dated 20 November 2015 (the original trust deed), Lifetime Asset Management Limited (as Manager of the Fund) and Public Trust (as Trustee of the Fund) established the terms and conditions applicable to the Fund.

6. As a consequence of the passage of the Financial Markets Conduct Act 2013 and the repeal of the Unit Trusts Act 1960, Lifetime Asset Management Limited and Public Trust have agreed to amend the original trust deed by rescinding and replacing it with the clauses contained in a trust deed dated 12 May 2016 (the May 2016 trust deed).

7. Lifetime Asset Management Limited and Public Trust subsequently agreed to amend the May 2016 trust deed with effect from 17 July 2017 by rescinding and replacing it with the clauses contained in a trust deed 17 July 2017 (the Trust Deed).

8. The Fund has notified the Commissioner under s 31B of the Tax Administration Act 1994 that it has elected to become a portfolio investment entity (PIE) under s HM 71 of the Income Tax Act 2007. The Fund uses the exit calculation option referred to in s HM 42 to calculate its income tax liability for exiting Investors and remaining Investors.

9. The Fund has two portfolios: the Balanced Portfolio and the Cash Portfolio. Each portfolio has its separate assets and liabilities governed by the terms and conditions contained in the Trust Deed. The portfolios are not separate trust funds. The investments of each portfolio must all times be Authorised Investments as set out in schedule 2 of the Trust Deed.

10. The Balanced Portfolio invests through low-cost index funds and exchange-traded funds. The investment mix of the Balanced Portfolio is balanced, investing equally in growth and income assets. The portfolio is actively hedged and in times of extreme volatility may reduce exposure to growth assets in favour of income assets. Target asset exposure is 25% domestic and 75% international.

11. The Cash Portfolio invests in an actively managed portfolio of bank bills, floating rate notes and short-term deposits and securities, with a weighted average duration not exceeding six months.

Retirement Income Group Limited

12. Retirement Income Group Limited (RIG) is incorporated in New Zealand. It is the parent company of the Retirement Income Group and owns 100% of the shares in Lifetime Asset Management Limited and Lifetime Income Limited. RIG undertakes general management for the group, including solvency and capital management.

Lifetime Asset Management Limited

13. Lifetime Asset Management Limited is incorporated in New Zealand and is a wholly owned subsidiary of RIG. Lifetime Asset Management Limited is the Manager and Issuer of the Fund for the purpose of the Financial Markets Conduct Act 2013.

Lifetime Income Limited

14. Lifetime Income Limited (LIL) is incorporated in New Zealand and is a wholly owned subsidiary of RIG. LIL is a licensed life insurer under part 2 of the Insurance (Prudential Supervision) Act 2010.

15. Under clause 6 of the Trust Deed, the Manager is required to effect with LIL, in the name of the Supervisor and for the benefit of Investors, a Policy or Policies to provide regular payment benefits in respect of Investors during their Insured Income Phase on such terms and conditions as the Manager may approve.

16. LIL has issued Master Group Policy GVA01 (with a commencement date of 10 December 2016) to Public Trust on behalf of Investors in the Fund. The Policy was entered into in New Zealand. It was replaced with Master Group Policy GVA01 with a commencement date of 31 May 2017. The replacement Policy was also entered into in New Zealand.

17. An Investor's insurance premium (for single life) is 1.35% per annum of an Investor's Protected Income Base (or 1.75% per annum for joint life). It is subject to change at any time and is calculated on a daily basis. Lifetime Asset Management Limited pays the amount monthly to LIL by redeeming Units held in respect of that Investor in the Fund's Cash Portfolio. No insurance premiums are payable during the Insured Income Phase.

Public Trust

18. Public Trust is the Supervisor of the Fund for the purpose of the Financial Markets Conduct Act 2013. Public Trust is also the trustee (the Trustee) of the Fund.

Investors

19. Investors are members of the public who invest in the Fund.

How the Arrangement operates

20. Units in a Portfolio may, subject to clause 4.2 of the Trust Deed, be issued to any Eligible Person. An Eligible Person is defined in clause 1 of the Trust Deed:

> **Eligible Person** means a person who:
>
> (a) lives or normally lives in New Zealand;
>
> (b) is a New Zealand citizen or is entitled to live in New Zealand indefinitely; and
>
> (c) is under the age of 90 years.

21. The Manager may, at its discretion, register two persons in a Relationship as the holders of any Unit in which case they are deemed to hold the Unit as joint tenants with benefit of survivorship subject to the provisions of clause 4A of the Trust Deed.

22. Investors must each invest a minimum of $25,000 in the Fund. An Investor can make additional investments of at least $1,000 at any time before they start receiving their Lifetime Withdrawal Benefit. The maximum total investment per Investor is $1,000,000.

23. Investors cannot determine the allocation of their investment between the Balanced Portfolio and the Cash Portfolio. The allocation of investments between the two portfolios is different for each Investor and is determined by the Manager based on the relevant Investor's age and when they intend to start receiving their Lifetime Withdrawal Benefit.

24. Each Investor is entitled to elect to receive a Lifetime Withdrawal Benefit. Lifetime Withdrawal Benefits commence within one month of an Investor's Initial Regular Payment Date. The Initial Regular Payment Date for an Investor shall be any date on or after the Investor's 60th birthday and before the Investor's 90th birthday.

25. Each Investor has a Protected Income Base. An Investor's Lifetime Withdrawal Benefit is calculated as a percentage of their Protected Income Base. Initially, an Investor's Protected Income Base is their total investment in the Fund. On each anniversary of their initial investment, the total value of the Investor's investment in the Fund (their Fund Balance) is compared with the Investor's Protected Income Base. If their Fund Balance exceeds their Protected Income Base, the Investor's Protected Income Base is increased to their current Fund Balance. This means that an Investor's Protected Income Base may rise if positive investment returns or additional contributions increase the value of their investment in the Fund. However, an Investor's Protected Income Base will not fall unless the Investor makes an Unplanned Withdrawal.

26. The age at which an Investor starts receiving their Lifetime Withdrawal Benefit determines the rate of payment for the Lifetime Withdrawal Benefit. The payment rate for an Investor that chooses to start receiving their Lifetime Withdrawal Benefit at age 60 is 4.5% per annum of their Protected Income Base. For each one year increase in the age at which an Investor first starts receiving their Lifetime Withdrawal Benefit, the payment rate increases by 0.1% per annum. (For example, the payment rate for an Investor that starts receiving their Lifetime Withdrawal Benefit at age 70 is 5.5%, at age 80 is 6.5% and at age 90 is 7.5% per annum.)

27. For two persons in a Relationship that are registered as joint holders of the relevant Units, the Lifetime Withdrawal Benefit payment rate for the couple will be based on the age of the younger Investor of the couple.

28. Investors may choose whether Lifetime Withdrawal Benefits are paid to them fortnightly or monthly. Lifetime Withdrawal Benefits may be:

    a) benefits paid during the Protected Income Phase; or

    b) benefits paid during the Insured Income Phase.

Protected Income Phase

29. The Protected Income Phase with respect to an Investor means the period commencing from the Initial Regular Payment Date elected by the Investor under clause 7.7 of the Trust Deed and ending when all Units held by the Investor in the Fund have been redeemed. During this phase Lifetime Withdrawal Benefits are paid from the redemption of Units held by the Investor in the Fund.

Insured Income Phase

30. The Insured Income Phase with respect to an Investor means the period commencing from the end of the Protected Income Phase and ending on the date of death of the Investor.

31. In the policy year that the account value for an Investor is reduced to zero, LIL will make a lump sum payment to Public Trust in respect of the Investor equal to the balance of the Lifetime Withdrawal Benefit still payable to that Investor for that year. Beginning on the next policy anniversary date, LIL will make an annual lump sum payment to Public Trust in respect of all Investors in their Insured Income Phase. This will continue to be paid for each Investor in their Insured Income Phase until the death of that Investor.

32. Under clause 7.13 of the Trust Deed, any money received by the Fund in respect of an Investor (or Investors) under the Policy shall be treated as a subscription on behalf of that Investor (or those Investors) for Units in the Cash Portfolio.

33. Provided payments are received under the Policy in respect of an Investor, all payments to an Investor during the Insured Income Phase will be made by redeeming Units in the Cash Portfolio in accordance with clause 7.10 of the Trust Deed to the Investor until the date of death of the Investor.

Fees

34. Investors are charged the following regular fees for investing in the Fund:

    a) a management fee of 0.70% per annum of the aggregate net asset value of the Fund (across both portfolios) and administration fees;

    b) a supervisor fee of 0.08% per annum of the aggregate net asset value of the Fund (across both portfolios and subject to a $25,000 per annum minimum); and

    c) an administration management fee of 0.17% per annum of the aggregate net asset value of the Fund (across both portfolios and subject to a $35,000 per annum minimum).

35. Investors are also charged the following individual action fees:

    a) Buy/sell spread. When an investor invests in the Fund or makes a withdrawal from the Fund, they are charged a buy/sell spread. This is based on the amount of the investment or withdrawal from the Balanced Portfolio. The buy/sell spread is paid to the Fund and is designed to ensure, to the extent possible, that the costs of buying or selling assets in the Balanced Portfolio incurred as a result of that investment or withdrawal are borne by the relevant Investor and not by other Investors. The buy/sell spread is determined on each application or withdrawal based on the actual costs of buying or selling assets in the Balanced Portfolio. The indicative buy spread is 0.125% of investment allocated to the Balanced Portfolio. The indicative sell spread is 0.125% of the withdrawal allocated to the Balanced Portfolio. There is no buy spread in the Cash Portfolio.

    b) Early withdrawal fee of 1.00% of the total amount invested (that is, the initial and any additional investments) if an Investor makes a full withdrawal within three years of their initial investment. The early withdrawal fee applies in addition to the sell spread.

Internal switching

36. Payment of all Lifetime Withdrawal Benefits to Investors and payment of fees and insurance premiums payable for or in respect of an Investor shall be paid by redemption of units held in respect of that Investor in the Cash Portfolio.

37. The Manager is required to ensure that at all times sufficient Units are held on behalf of an Investor in the Cash Portfolio to meet all payments that are to be made in regard to that Investor under the terms of the Trust Deed, including:

    a) payment of fees;

    b) payment of insurance premiums; and

    c) payment of all benefit payments due to the Investor.

38. The Manager is authorised at any time with respect to an Investor to redeem Units held by that Investor in the Balanced Portfolio and acquire Units for the Investor in the Cash Portfolio for the purpose of payment of fees, insurance premiums and benefit payments due to an Investor. The redemption of Units in

the Balanced Portfolio to increase the Cash Portfolio to cover these commitments is usually done on an annual basis.

Unplanned Withdrawals

39. Under clause 7 of the Trust Deed, Investors can make an Unplanned Withdrawal at any time by making an Unplanned Withdrawal Request to redeem the Investor's Units in the Fund.

40. If an Investor makes one or more Unplanned Withdrawal Request(s) that, in total, amount to no more than 20% of the application money paid by the Investor, the Manager must arrange for the redemption of the number or value of Units held by the Investor referred to in the Unplanned Withdrawal Request.

41. If an Investor makes one or more Unplanned Withdrawal Requests with respect to more than 20% of the application moneys paid by the Investor, the Manager must give one month's notice to the Investor of its intention to cause all Units held by the Investor to be redeemed in accordance with clause 7.4.3 of the Trust Deed. The Investor may withdraw their Unplanned Withdrawal Request during this one-month notice period.

Death of an Investor

42. When an Investor dies, if the Investor still holds Units, the Manager shall cause the Supervisor to redeem all Units and shall make payment of the amount payable following redemption of such Units to the personal representative of the Investor's estate. Where an Investor does not hold Units at the time of the Investor's death, the Manager and the Supervisor shall not be obliged to make any payment to the personal representative of the Investor's estate.

Conditions stipulated by the Commissioner

This Ruling is made subject to the following conditions:

a) The continued application of Private Ruling BR Prv 17/35 issued on 18 August 2017 (including any ruling issued to replace that private ruling, provided the change to the ruling does not affect the application of this product ruling).

b) LIL does not have full reinsurance.

How the Taxation Laws apply to the Arrangement

Subject in all respects to any condition stated above, the Taxation Laws apply to the Arrangement as follows:

a) The Fund will calculate and pay its income tax liability in accordance with s HM 47 on the amount of attributed PIE income or attributed PIE loss for each Investor at the relevant prescribed investor rates that the Investors notify to the Fund.

b) The Lifetime Withdrawal Benefit payments from the Fund to Investors will be excluded income in the hands of Investors under s CX 56B.

c) Any benefit to the Investor from the Fund arranging and meeting the costs of life insurance cover provided by LIL is not a dividend in the hands of the Investor under ss CD 3 to CD 20 or s CA 1.

d) Payment of the Lifetime Withdrawal Benefit by LIL to Investors during the Insured Income Phase is exempt income in the hands of Investors under s CW 4.

e) Section BG 1 does not apply to the Arrangement.

The period or income year for which this Ruling applies

This Ruling will apply for the period beginning on 1 April 2017 and ending on 31 March 2022.

This Ruling is signed by me on the 18th day of August 2017.

Howard Davis
Director (Taxpayer Rulings)