

## **PRODUCT RULING - BR Prd 14/10**

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 New Zealand Income Guarantee 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 – CD 21, CW 4, CX 56B, HM 31, HM 34–HM 55 and YA 1.

### **The Arrangement to which this Ruling applies**

1. The Arrangement is the Lifetime Income product, which is a retirement product that provides a fund to invest accumulated KiwiSaver funds in **return for a stream of regular payments over Investors' retirement lifetime**. The payments will be set at a percentage of the Protected Income Base, being the original capital sum invested in the Fund net of any applicable fees and including any increase in value during the **Investor's Deferral Period (the period up to the time the Investor begins receiving payments of the Lifetime Withdrawal Benefit)** and will be made:
  - first, out of the capital invested by an Investor in the Lifetime **Income Fund and the Investor's proportion of the Fund's post-tax earnings** accumulated as a result of investing the original capital sum and;
  - second, from a life insurance policy or policies purchased by the Fund for the benefit of each individual Investor.
2. Further details of the Arrangement are set out in the paragraphs below.

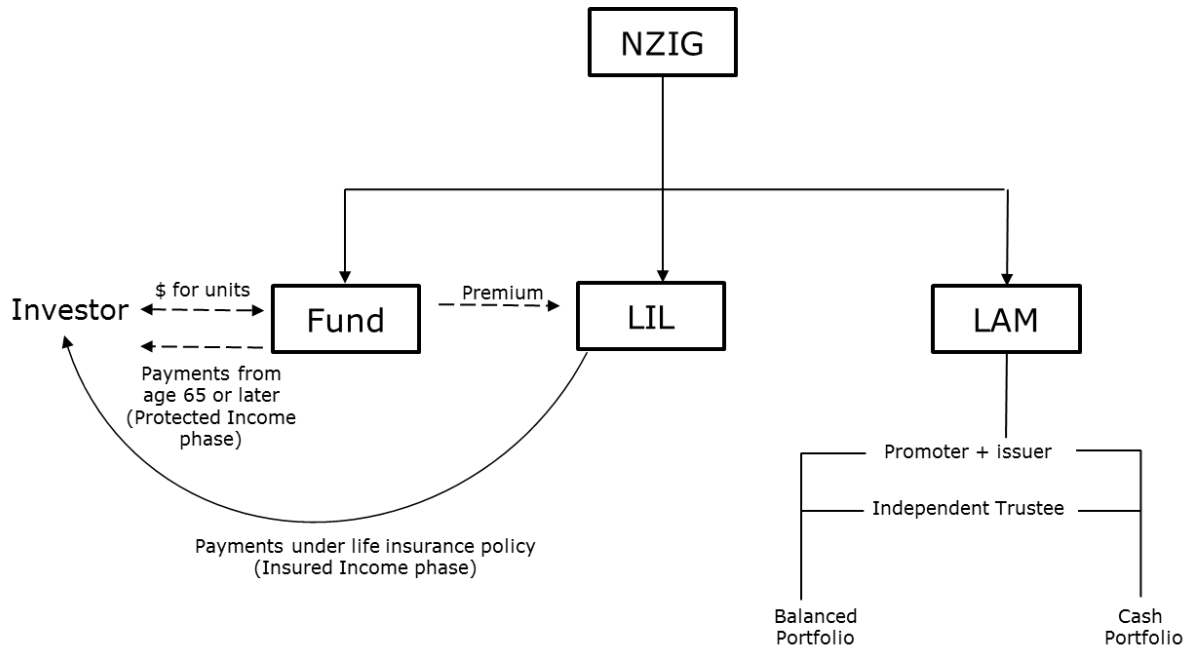
### **Background**

3. The parties to the Arrangement are:
  - ***The Lifetime Income Fund (the Fund)***. This is a unit trust registered under the Unit Trusts Act 1960. The Fund comprises two separate portfolios: the Balanced Portfolio and the Cash Portfolio. All investment activities are carried out through the Balanced Portfolio. **The Fund's commitments** are met from the Cash Portfolio. The trustee is the Public Trustee and the Custodian of the Fund is Public Trust and its bare trust nominee Public Trust (NZIG) Nominees Limited. The Fund will elect to be a portfolio investment entity (PIE) in accordance with s HM 71. The Fund will receive investments from members of the public.
  - ***New Zealand Income Guarantee Limited (NZIG)***. NZIG is a New Zealand incorporated company. NZIG is the parent company of the NZIG group and is 100% owner of Lifetime Asset Management

Limited (LAM) and Lifetime Income Limited (LIL). NZIG will undertake general management for the group, including solvency and capital management.

- ***Lifetime Asset Management Limited (LAM).*** LAM is a wholly owned subsidiary of NZIG and is a New Zealand incorporated company. **LAM's function is to** operate as an investment manager and as the manager of the Fund. It is the issuer and promoter of the Lifetime Income Fund for the purposes of the Securities Act 1978.
- ***Lifetime Income Limited (LIL).*** LIL is a wholly owned subsidiary of NZIG and is a New Zealand incorporated company that is a licensed life insurer under s 17 of the Insurance (Prudential Supervision) Act 2010. LIL will receive insurance premiums from the Fund and provide Investors with cover under the Lifetime Withdrawal Benefit, Minimum Death Benefit and Spouse Benefit policies. LIL will not have reinsurance for the cover provided under the Arrangement.
- ***Investors.*** These are members of the public who will invest in the Lifetime Income product by way of investing in the Fund and will in **return be issued with units in the Balanced Portfolio. Investors' money will be pooled together and invested by the Fund in accordance with the Fund's investment strategy. From time to time the Fund will redeem Investors' units in the Balanced Portfolio and** reinvest the proceeds in the Cash Portfolio to ensure there is adequate liquidity for the Fund to meet its commitments. Investors must be New Zealand citizens or individuals entitled to reside in New Zealand permanently and who are living (or normally living) in New Zealand. Investors can be aged up to 85 years old and must invest a minimum of \$100,000 with the Fund (although this **requirement may be waived at the Fund's discretion**). Investors will supply an applicable prescribed investor rate (10.5%, 17.5% or 28%) to the Fund as appropriate.

4. The following diagram summarises how the Arrangement operates:



### The Lifetime Income Fund

5. The overall product is the Lifetime Income Fund, in which members of the general public up to the age of 85 can invest their retirement savings (or a portion of them) built up through savings in a KiwiSaver scheme or otherwise. The Fund will manage the investment in a similar manner to a KiwiSaver scheme through the Balanced Portfolio, which will invest in low cost share and fixed interest index funds. The Fund will also manage distributions to provide income (the Lifetime Withdrawal Benefit) for the Investor over their retirement lifetime (from age 65 onwards). The Lifetime Income Fund will achieve this by purchasing a life insurance policy or policies in the name of the Trustee and for the benefit of Investors, along with offering an investment in a managed fund. The Cash Portfolio will be invested in cash and liquid fixed income investments. Premiums will be paid by the Fund manager to LIL annually by redeeming units held for an Investor in the Cash Portfolio. The amount of the premiums will be actuarially calculated based on factors specific to the Investor.
6. The Lifetime Withdrawal Benefit of the Investor is set at a percentage of their Protected Income Base, being the original capital sum invested in the Fund net of any applicable fees and including any increase in value during **the Investor's** Deferral Period (the period up to the time the Investor begins receiving payments of the Lifetime Withdrawal Benefit). The Investor may elect to commence receiving their Lifetime Withdrawal Benefit at any time from age 65 until age 85.
7. **The Investor's Protected Income Base will rise during their Deferral Period** (the period between when an Investor makes their initial investment and when they start receiving their Lifetime Withdrawal Benefit), as positive investment returns increase the value of their unitholding in the Fund. **However, the Investor's Protected Income Base will not fall below the highest value reached before commencement of the payments of the**

Lifetime Withdrawal Benefit (or the original value of their investment, if this is higher).

8. Each year of deferral after the age of 65 increases the minimum Lifetime Withdrawal Benefit payment by 0.2%. For example, if an Investor takes the Lifetime Withdrawal Benefit immediately upon joining the Fund at age 65, they will receive minimum annual repayments of 5% of the original amount invested. If the Investor defers the commencement of the Lifetime Withdrawal Benefit for a year, the ongoing payments will be 5.2% of the Protected Income Base.
9. The Lifetime Withdrawal Benefit is comprised of two phases:
  - First, the Protected Income Phase: this phase commences on the **date of the first payment of an Investor's Lifetime Withdrawal Benefit and ends when the Investor's balance in the Fund falls to zero**. Payments made during this phase are made by the Fund **from the Investor's investment in the Fund, ie, the capital investment in the Fund and the Investor's share of the post-tax investment returns earned by the Fund**. This is achieved by automatically redeeming the **Investor's units in the Fund** on an annual basis.
  - Second, the Insured Income Phase: this phase commences after **the Investor's balance in the Fund falls to zero**. Payments made during this phase are made by LIL under the life insurance policy or policies purchased by the Fund from LIL directly to the Investor. If, for any reason, LIL does not make payments to an Investor under **the policy, the Investor's income will cease accordingly, ie, the Fund has no liability to make payments to the Investor during this phase**. Similarly, if LIL imposes any conditions limiting or affecting an **amount payable under a policy, the Investor's income will be adjusted accordingly**.
10. An Investor can choose between two options to take effect on their death at additional cost. First, they can choose for any remaining capital to be returned to the personal representative of their estate (the Minimum Death Benefit option). Alternatively, they can choose for their spouse to receive their Lifetime Withdrawal Benefit for the remainder of their **spouse's** life after their death (the Spouse Benefit option). Both of these benefits will be provided by LIL, with the Fund purchasing cover from LIL on behalf of the Investor.

### **Payments and withdrawals**

11. The Fund will pay Investors their Lifetime Withdrawal Benefit fortnightly.
12. There will be flexibility for an Investor to withdraw their Fund balance (an Unplanned Withdrawal) but the Investor will be able to withdraw a minimum of 20% of their Fund balance at any time. This will first be used **to reduce the balance of the Investor's capital investment and will reduce the base amount upon which the Investor's Lifetime Withdrawal Benefit** from then on is calculated. If an Investor withdraws more than 20% of their Fund balance, their account will be closed and their entire remaining balance with the Fund returned to them.

13. In addition, if an Investor withdraws their investment within three years of their initial investment, an extra 1% of the original capital value will be payable by the Investor to the Fund over and above the transaction costs payable upon exit.

#### **Fees and expenses**

14. All fees, expenses and premiums payable by the Investor will be paid from **the Investor's investment in the Cash Portfolio**. **Fees and expenses include** transaction costs for monies invested or withdrawn, management fees, **trustee's fees and early withdrawal fees**.

#### **Condition stipulated by the Commissioner**

This Ruling is made subject to the following condition:

- a) The continued application of private ruling Br Prv 14/82 (under s 91EB of the Tax Administration Act 1994).

#### **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) **Investors' investment returns will be taxed at the Fund level** at the appropriate prescribed investor tax rate under ss HM 31 and HM 34 to HM 55.
- b) Payments from the Fund to Investors will be excluded income of the 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 under ss CD 3 to CD 21 and is not income under s CA 1.
- d) Payments under the Lifetime Withdrawal Benefit are exempt income of the Investor 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 2014 and ending on 31 March 2017.

This Ruling is signed by me on the 24th day of December 2014.

**Howard Davis**

Director (Taxpayer Rulings)