

7 November 2025
By Email

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Mr. Sam Shivute
Commissioner
Namibia Revenue Agency (NAMRA)
Windhoek

Attention: Ms. Nadine du Preez: Chief Legal Officer

Dear Sir,

RE: TAX TREATMENT OF VOLUNTARY CONTRIBUTIONS TO RETIREMENT ANNUITIES

The Namibia Savings, Insurance and Investment Association (NaSIA) which represents the majority of the local Non-banking Financial Institutions (NBFIs) wishes to bring under your attention a collective concern pertaining to the current interpretation of section 17(1)(q) of the Income Tax Act 24 of 1981. The current interpretation results in voluntary contributions to retirement annuities not being treated as allowable tax deductible.

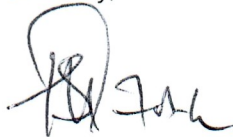
After thorough consideration and review of the current application of the rule by our Standing Tax Working Group, the industry is convinced that the current interpretation may not be accurate and place the savings public at a disadvantage in some instances.

We are therefore writing to your office, on behalf of the NBFIs and wider industry, to request a review and consideration of the current interpretation relating to the above.

Attached, we have shared an alternative interpretation for your consideration with a view for a review of the current interpretation and application of tax deductibility of retirement annuities.

We trust that you find the above in order and we look forward to hearing from your office soon.

Yours Sincerely,



JOSEPHAT MWATOTELE
CEO

ANNEXURE

To: Namibia Revenue Agency (NAMRA)
From: Namibia Savings, Insurance and Investment Association (NaSIA)
Date: 7 November 2025
Subject: Review of Tax Treatment of Voluntary Contributions to Retirement Annuities

PURPOSE

To seek NAMRA's consideration for the review and interpretation of the current application of tax deductibility of voluntary contributions to retirement annuities to be treated as allowable tax deductions.

Industry Commentary and Position

1. Background

The Ministry of Finance – Inland Revenue (the forerunner in title of NamRA) provided a letter addressed to an industry participant, Old Mutual Namibia, wherein it responded to a question whether additional voluntary contributions to a retirement annuity fund is allowable as a deduction under section 17(1)(q) of the Income Tax Act 24 of 1981. The response was that this was not allowable, stating that the Income Tax Act requires contributions to be "periodical" and then interpreting that to mean "at regular intervals" and that allowing additional voluntary contributions does not conform with the intention of the legislature as laid down in the definition of "retirement annuity fund" in section 1 of the Act. This opinion therefore re-examines that interpretation in light of both statutory wording and broader interpretive principles, including the nature of administrative guidance under Namibian law. (Copy attached for ease of reference.)

2. Questions Presented

Does the term "**current contributions**" in the context of Income Tax legislation in Namibia and South Africa necessarily mean "**recurring contributions**", and does the requirement for "**periodical contributions**" under the Namibian Income Tax Act exclude ad-hoc contributions?

3. Summary of Opinion

The term "**current contributions**" does **not necessarily mean recurring contributions**. It generally refers to contributions made during the **current year of assessment**, whether recurring or once-off. Similarly, the requirement for "**periodical contributions**" under Namibian law does not prohibit ad-hoc contributions, provided the taxpayer maintains a pattern of periodic contributions and complies with statutory limits.

4. Namibian Position

Statutory References

- **Section 17(1)(n)** – allows deductions for contributions to approved pension and retirement annuity funds, subject to annual limits (currently N\$150,000).
- **Section 17(1)(q)** – specifically refers to “**current contributions**” made by a taxpayer to a retirement annuity fund, deductible within prescribed limits.
- **Definition of “retirement annuity fund”**, paragraph **(b)(i)** – requires that contributions are structured as periodical payments, indicating legislative intent for regular contributions but not expressly excluding ad-hoc contributions.

Interpretation

- “Current contributions” under section 17(1)(q) refers to contributions applicable to the current year of assessment, not necessarily recurring.
- “Periodical contributions” in the definition of “retirement annuity fund” suggests a pattern of contributions but does not prohibit additional ad-hoc contributions.
- Interpretation of tax statutes in Namibia follows the ordinary meaning of words, read in context and with regard to legislative purpose. While administrative guidance, such as the 2005 Inland Revenue letter, may be persuasive, it has no binding effect and must align with statutory intent. Consistent with the contextual-purposive approach recognised in Namibian and South African jurisprudence—and the fairness principle in Article 18 of the Constitution—a restrictive reading that excludes additional voluntary contributions would be difficult to sustain.

Case Law

- No Namibian case law directly interprets these terms. Tribunal and High Court decisions focus on deductibility and timing, not the nature of contributions.
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5. South African Position

Statutory Reference

- *Income Tax Act 58 of 1962, Section 11(F)* – permits deductions for contributions to retirement funds, capped at 27.5% of remuneration or taxable income (up to R350,000 annually).

Interpretation

- SARS guidance confirms “current contributions” refers to contributions applicable to the current tax year, including once-off lump sums.

Case Law

- While no case directly defines “current contributions,” courts apply purposive interpretation to tax statutes:
 - *CSARS v Airworld CC 2008 (1) SA 218 (SCA)* – emphasized contextual interpretation.
 - *Brummeria Renaissance (Pty) Ltd v CSARS (69 SATC)* – ordinary meaning unless defined.
 - *Cohen v CIR (13 SATC 362)* – interpretation of tax terms based on legislative intent.

6. Requirement for “Periodical Contributions” under Namibian Law

Statutory Provision

The definition of “retirement annuity fund” in paragraph (b)(i) requires contributions to be structured as **periodical contributions**, while section 17(1)(q) allows deductions for **current contributions**.

Interpretation

- “Periodical” ordinarily means contributions made at intervals (monthly, quarterly, annually).
- No statutory or judicial authority excludes ad-hoc contributions.
- **Purposive approach** suggests the requirement aims to encourage structured savings, not prohibit flexibility.
- From a purposive perspective, the requirement for contributions to be “periodical” is intended to promote disciplined saving behaviour rather than to prohibit flexibility. Additional or ad-hoc contributions serve the same legislative objective by strengthening retirement provision and should therefore fall within the scope of allowable payments.

Practical Application

- Ad-hoc contributions are deductible if:
 - Paid into an approved retirement annuity fund;
 - The taxpayer also makes periodic contributions; and
 - Total contributions do not exceed the annual deduction limit (currently N\$150,000).

7. Conclusion

- **Accordingly, while NamRA’s 2005 position provides administrative precedent, it should not be regarded as legally determinative. The better interpretation—consistent with both the ordinary and purposive meaning of “periodical contributions”—allows additional voluntary contributions, provided there is a pattern of recurring payments and compliance with statutory limits. Allowing deductions of ad-hoc contributions will encourage a culture to save towards retirement which will help address the income need of many Namibians after retirement.**

References

- Namibia: *Income Tax Act, 1981*, Sections 17(1)(n), 17(1)(q); definition of “retirement annuity fund” paragraph (b)(i).
- South Africa: *Income Tax Act 58 of 1962*, Section 11(k).
- *CSARS v Airworld CC 2008 (1) SA 218 (SCA)*.
- *Brummeria Renaissance (Pty) Ltd v CSARS (69 SATC)*.
- *Cohen v CIR (13 SATC 362)*.
- SARS Retirement Fund Contribution Guide.
- NamRA Income Tax Tribunal summaries.