

Freedom for South African Residents: FAQs

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The purpose of Freedom is to accumulate a fund to provide retirement benefits for the member and/or their beneficiaries. As such, applications for membership of Freedom should only be received from individuals who are intending to use the plan for genuine pension planning purposes.

This FAQ provides a brief summary of some of the typical considerations and key features of Freedom for South African tax resident applicants.

WHAT IS FREEDOM INTERNATIONAL PENSION PLAN (FREEDOM)

Freedom is an International Pension Plan (IPP) domiciled in the Isle of Man but only open for individuals who are resident outside of the Isle of Man.

It enables retirement benefits to grow in a tax-free environment at source with potential tax savings and flexibility on benefit options in retirement.

WHAT IS THE LEGAL STRUCTURE OF FREEDOM?

Freedom is a pension plan established under trust in the Isle of Man.

Boal & Co (Pensions) Limited (Boal & Co) is the trustee and administrator of Freedom.

Boal & Co is regulated by the Isle of Man Financial Services Authority (IOMFSA) as a Professional Retirement Benefits Schemes Administrator (ref no. RA010) under the Retirement Benefits Schemes Act 2000, the license of which permits the formation, management and/or administration of pension schemes.

The scheme is established under trust, meaning members' assets within Freedom are held separately to the Boal & Co balance sheet. This therefore offers protection in the unlikely event Boal & Co were to run into financial difficulty.

WHAT IS THE REGULATORY AND TAX STATUS OF FREEDOM?

Freedom is registered by the IOMFSA as an International Authorised Retirement Benefit Scheme (ref no. IA705) under the Retirement Benefits Schemes Act 2000 and specifically the Retirement Benefits Schemes (International Schemes) Regulations 2001.

Freedom is also tax approved as an international pension plan by the Assessor of Income Tax under section 50B of the Isle of Man Income Tax Act 1970 (ref no. PEN000005).

AM I ELIGIBLE FOR MEMBERSHIP OF FREEDOM?

If you are over 18 years of age, and are not resident in the Isle of Man, you are eligible to apply for membership of Freedom.

WHO MIGHT FREEDOM BE SUITABLE FOR?

For current or prospective future South African tax resident individuals, Freedom offers an ideal environment for the consolidation of offshore assets and/or utilisation of the annual foreign investment allowance.

Example scenarios include:

- South African tax resident who has contributions into a local South African retirement product (pension fund, provident fund, preservation fund or retirement annuity) but is close to the maximum annual allowance and wishes to make further contributions to save towards their retirement
- South African tax resident who has offshore assets (savings accounts, investment portfolios, trusts) in various locations and wishes to consolidate them for simplicity and to reduce overall cost
- South African tax resident who is uncertain about their retirement country of residence and is seeking a suitable jurisdiction to domicile some assets to prepare for different possible eventualities
- High Net Worth South African tax resident who has savings/excess earnings from which they wish to utilise some/all of their annual foreign investment allowance (currently ZAR 10 million) plus annual discretionary allowance (currently ZAR 1 million) and obtain access to a hard currency
- Individual not currently resident in South Africa, with plans to potentially move to South Africa and become tax resident in the future and wishes to structure their finances appropriately ahead of such a move materialising

The above scenarios are for illustrative purposes only. Every individual's circumstances are unique. It is therefore strongly recommended that appropriate advice is obtained from a licensed financial adviser to ensure that Freedom is a correct fit.

HOW IS A FREEDOM PLAN FUNDED?

Freedom is typically funded by a cash contribution, a contribution of existing assets (in specie asset transfer), a transfer from an existing international retirement plan, or a combination of these.

WHAT IS THE MAXIMUM CONTRIBUTION THAT CAN BE MADE TO FREEDOM?

From an Isle of Man perspective, there are no limits to the level of contributions (cash or asset) that can be made to Freedom. However, South African tax resident individuals should be mindful of their foreign investment allowance (currently ZAR 10 million per annum) and annual discretionary allowance (currently ZAR 1 million), in addition to the respective exchange control considerations.

Professional advice should be considered with regard to the requirement for exchange control clearance/approval where the contribution is being made from assets held within South Africa.

DO CONTRIBUTIONS MADE TO FREEDOM BENEFIT FROM TAX RELIEF?

Contributions of cash or assets to Freedom do not obtain any Isle of Man tax relief at source, or tax relief in South Africa. A transfer of cash or assets into Freedom does not constitute a donation and therefore will not be subject to any South African donations tax.

CAN I TRANSFER OTHER PENSION ARRANGEMENTS INTO FREEDOM?

Yes, Freedom is generally capable of receiving a transfer from any tax approved retirement benefit scheme, subject to the consent of the trustees. However, this will be dependent on any rules set out by the ceding scheme trustees/provider and/or the legislation of the country in which the scheme is domiciled.

It should be noted that Freedom does not meet the criteria laid down by HMRC to be a QROPS and therefore Freedom cannot accept transfers from UK registered pension schemes. It may be possible to transfer a South African retirement plan in limited circumstances, but this usually requires the individual to financially emigrate from South Africa.

It is recommended that any individual considering transferring an existing pension arrangement should seek specialist advice before proceeding.

WHAT TYPE OF INVESTMENTS ARE AVAILABLE WITHIN FREEDOM?

Freedom offers flexibility in respect to the range of investment accounts and asset types, including (but not limited to), the following:

Investment Vehicles

- Offshore Life Insurance Portfolio Bonds
- Collective Investment Fund Platforms
- Model Portfolio Solutions
- Discretionary Managed Accounts
- Direct Share Dealing Accounts

Asset Types

- Unit Trusts, OEICs, Investment Trusts, ETFs,UCITS Funds
- Listed Stock/Shares
- Bonds, Other Fixed Interest/Debt Instrument Securities
- Structured Products
- Cash, Deposit Accounts & Money Market Funds

For a South African tax resident member intending to draw benefits from Freedom into South Africa in retirement, there may be certain advantages to holding an offshore life insurance portfolio bond as the underlying investment vehicle. In some circumstances, where SA tax is due on any lump sum, benefit distributions may be taxed at the lower capital gains tax rate (currently 18%) as opposed to the individual's marginal income tax rate (currently up to 45%).

Please refer to the Boal & Co Investment Guidelines for further details in respect to permissible investment assets and any restrictions regarding % allocation, features etc.

ARE ANY ASSETS PROHIBITED WITHIN FREEDOM?

More complex investment assets such as property (commercial or residential on a buy-to-let basis), loans and unquoted shares are generally not permitted within Freedom.

However, should investment assets of this nature be of interest, Boal & Co can design a bespoke Isle of Man 50B plan which mirrors the general features of the Freedom plan and could accommodate these types of investment.

HOW ARE THE INVESTMENTS MANAGED WITHIN FREEDOM?

As a 'member-directed' plan, the power of investment of a member's fund within Freedom is held by the member. This means the member has authority to direct the trustees how to invest the assets within the plan.

It is common for a member to nominate either a licensed financial adviser to provide investment advice and recommendations in respect to the selection of investments within the plan, or an investment manager whose license permits such individual or firm to design and manage a portfolio of investments on behalf of the member on a full discretionary basis.

Responsibility for the selection and monitoring of the performance of the investments made by a financial adviser/investment manager rests with the member, and the trustees cannot be held responsible for any investment decisions made or outcomes delivered in this regard.

WHAT IS THE EARLIEST AGE I CAN ACCESS RETIREMENT BENEFITS FROM MY FREEDOM FUND?

The minimum age from which retirement benefits can be taken is age 50 (earlier access may be possible on the grounds of serious ill health/incapacity from work).

WHAT OPTIONS ARE AVAILABLE TO DRAW RETIREMENT BENEFITS FROM FREEDOM?

Retirement benefits can be taken in various ways, including:

- Payment of full fund value as a 100% lump sum benefit distribution
- Multiple ad hoc lump sum benefit distributions
- Regular income drawdown (on a quarterly, semi-annual or annual basis) either at a sustainable rate to last over the member's anticipated lifetime or at a rate specified by the member
- Purchasing an annuity (where this is desired and the member can source a suitable provider)
- A combination of the above options

Importantly, there is no requirement to purchase an annuity under the rules of Freedom, and there is no upper limit for drawdown prescribed within legislation.

WILL RETIREMENT BENEFITS TAKEN FROM FREEDOM BE SUBJECT TO TAX?

Boal & Co is not licensed to provide tax advice. It is therefore strongly recommend that all Freedom applicants obtain independent tax advice specific to their individual circumstances.

As an Isle of Man International Authorised Retirement Benefit Scheme open solely to non-Isle of Man resident members, Freedom qualifies for an exemption and is not subject to any local Isle of Man taxation at source in respect to payments made to members during their lifetime or beneficiaries in the event of the member's death, and in respect of the underlying investments held.

Taxes may be payable in the member's country of tax residence. For South African tax resident members, there may be tax-favourable treatment in South Africa depending on the type of underlying assets held within the Freedom plan and the nature of how retirement benefits are paid.

For instance, if receiving retirement benefits in the form of lump sum distributions, these will initially be treated as paid from the element of the fund relating to the original capital amount contributed into Freedom, and therefore may obtain an exemption from South African tax. Once the capital amount is exhausted, any further lump sum benefits will then be paid from the element of the fund relating to any capital gains/growth and income, and thus will likely be subject to South African tax.

WHAT HAPPENS TO THE FUND WITHIN THE FREEDOM PLAN WHEN THE MEMBER DIES?

At the time of establishing membership of Freedom, the member will be asked to complete an Expression of Wishes (EoW) form. This provides the opportunity to nominate a beneficiary or beneficiaries to benefit from the residual fund in the event of the member's death. If the member does not wish to make a nomination, the residual fund can be paid to the legal representatives of the member's estate. The ultimate decision at the time of death rests solely with the trustees, but the EoW allows the member to state their preferences for the trustees' consideration.

The options for the remaining fund on death generally takes two forms:

- A distribution of the fund out of Freedom to nominated beneficiaries (this can be a cash or asset transfer and can be made to an individual, a separate trust, charity, foundation etc) or to the member's estate
- The fund remains within the Freedom plan to provide continuing retirement benefits to the member's surviving spouse/civil partner or an individual who is deemed financially dependent on the member

Consideration should be given to potential taxation implications for the respective beneficiaries. In addition, for a South African tax resident/citizen the residual fund within Freedom on death may be subject to South African estate duty depending on whether or not retirement benefits had been taken from the fund prior to death and the nature in which those benefits were paid.

The overall tax position on death is a complex area. Specialist tax advice is recommended.

DO I NEED TO TAKE FINANCIAL ADVICE PRIOR TO ESTABLISHING MEMBERSHIP OF FREEDOM?

It is recommended that all applicants take suitable and appropriate financial, legal, investment, pension and tax advice prior to considering establishing membership of Freedom, and this advice should be reviewed regularly for the duration of the Freedom membership.

Boal & Co does not provide pension transfer, tax, investment, legal or financial advice and does not accept any responsibility or liability for any loss or damage suffered by anyone as a result of becoming a member of Freedom or using any of Boal & Co's services.

Members must comply with all legal and taxation obligations applicable to them under the laws of the jurisdiction in which they are resident/domiciled or any other relevant jurisdiction including, without limitation, the submission of periodic returns to any tax or governmental authority in relation to the Scheme (if applicable).

FURTHER INFORMATION

For further information, contact freedom@boalco.com

While every effort has been made to ensure that the details contained herein are correct, up-to-date, and accurate, this information does not constitute legal or other professional advice and Boal & Co does not accept any responsibility, legal or otherwise, for any error or omission or for any reliance placed upon it.



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