J. Safra Sarasin

J. Safra Sarasin Vested Benefits Foundation

Factsheet „Encouragement for Home Ownership"

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Encouragement of the Use of Occupational Pension Fund Assets for Home Ownership

The information provided in this factsheet is intended to show the possibilities, as well as the limits, consequences and duties, which may arise in application of the law. The term «spouse/partner» as used in the text refers both to married persons and to registered partners as defined in the Swiss Federal Registered Partnerships Act (PartG).

General

The Swiss Federal Law on the Encouragement of the Use of Pension Assets for Home Ownership entered into force on 1 January 1995. On the same date, the Federal Council also put into effect the corresponding implementing order of 3 October 1994. The Law provides each insured person with the opportunity to use the capital from his occupational pension plan for home ownership purposes before his old-age pension becomes payable (before reaching statutory (LLP) retirement age). The rules on the encouragement of home ownership present the insured person with two alternatives: advance withdrawal (cash payment of pension capital) or pledging.

1. The scheme to encourage home ownership can be used for the purchase or construction of residential property (this includes single family homes and owner-occupied apartments, but not holiday homes or second homes), the acquisition of an interest in residential property (purchase of unit certificates in housing cooperatives, etc.), the fulfilment of redemption requirements or the voluntary repayment of existing mortgage loans.
2. A residential property is deemed to be an apartment or single-family house in sole or joint ownership or owned jointly by the insured person with his spouse/partner and with an independent and permanent right to build.
3. The applicant's «own requirement» is deemed to be the use of the residential property as his main residence or usual place of residence. If it is temporarily not possible for the insured person to use the residential property, he is permitted to rent it out for this period.

Advance withdrawal

1. An advance withdrawal of funds can be made up to the earliest possible date on which pension benefits can be claimed and it is a compulsory requirement to have the spouse's/partner's consent in writing. Where it is not possible to obtain this consent or it is refused without sound reasons, the insured person can take legal action.
2. An advance withdrawal of funds can only be made every five years. No minimum amount is required for vested benefits accounts or for acquiring an interest in residential property.
3. In general, the amount available for advance withdrawal is equal to the vested benefits capital but – where the insured person has already reached his 50th birthday – it is limited to the vested benefits capital at age 50 or half of the vested benefits capital if this amount is higher.
4. When the pension is paid, the advance withdrawal means that payments will be reduced in proportion to the amount withdrawn. The J. Safra Sarasin Vested Benefits Foundation (hereinafter referred to as «the Foundation») will inform the insured person what the new, reduced payments will be at the time of the advance withdrawal. The possibility of reintroducing curtailed benefits owing to early withdrawal is regulated by Article 15. The payment reductions will be made up again to the extent of any amount repaid. Any gaps in cover can be insured additionally outside the Foundation. The insured person will have to contact an insurance company of his choice to obtain a suitable quotation. The Foundation will arrange for a quotation on request.
5. In the event of an advance withdrawal, the Foundation will pay the funds required for the home ownership scheme, after receipt of the insured person's complete application, direct to his creditors or beneficiaries.
6. The providential purpose of the funds withdrawn will be guaranteed by means of a note to that effect in the land register or by lodging the cooperative society share certificates with the Foundation.
   The note can be deleted:
   - before the date on which old-age pension benefits can be claimed;
   - after another pension becomes payable;
   - on cash payment of the vested benefits;
   - on presentation of proof that the sum invested in the residential property has been transferred to the insured person's foundation or to a vested benefits account.
7. When an advance withdrawal is made, the corresponding tax must be paid immediately by the insured person. If the advance withdrawal is repaid, the tax authorities will refund the tax paid at the time, without interest. The Foundation will issue the relevant official certificates within the statutory time limits.
8. The amount withdrawn must be repaid to the Foundation by the insured person or his heirs when:
   - the residential property is sold;
   - rights to this residential property are granted which in economic terms are equivalent to a sale, or
   - no pension benefits are payable at the time of the insured person's death.

   It is only after this that the transfer of title can be recorded in the land register. If the insured person intends to use again the proceeds from the sale of the residential property, equal to the advance withdrawal, within two years for purchasing a home, he can transfer this sum to a vested benefits account. The repayment obligation is limited to the proceeds. The proceeds are the selling price less the debts safeguarded by the mortgage and the charges imposed by law on the seller. Loan obligations which have been entered into within two years before the sale must have been needed to finance the residential property, otherwise they will be disregarded.
9. The insured person also has the option of making a voluntary repayment of the amount withdrawn before the earliest possible date on which retirement pension benefits can be claimed, provided that no other pension benefits have become payable or a cash payment of the vested benefits is required. The Foundation will issue the relevant official certificates within the statutory time limits. No minimum amount is required for vested benefits accounts.

Pledging

1. The funds can be pledged up to the earliest possible date on which pension benefits can be claimed. it is a compulsory requirement to have the spouse's/partner's consent in writing. Where it is not possible to obtain this consent or it is refused without sound reasons, the insured person can take legal action.
2. In general, the amount available for pledging is equal to the vested benefits capital but, where the insured person has already reached his 50th birthday, it is limited to the vested benefits capital at age 50 or half of the vested benefits capital if this amount is higher.
3. The pledge becomes valid as soon as the insured person has notified the Foundation of the pledge by registered letter, providing details of the pledgee.
4. The pledgee's consent is required as soon as the pledged sum is used for the cash payment of the vested benefits capital or the payment of pension benefits.
5. If the pledged amount is utilised, this has the same effect as the advance withdrawal.
6. The pledge ceases to apply after three months have elapsed since the pledgee became aware that the pledge conditions ceased to apply.

The Foundation's duty to provide information and the insured person's responsibility

The Foundation will on request provide the insured person with information on:

- the pension assets available to him for home ownership purposes and
- the tax obligation in the event of an advance withdrawal or liquidation of the pledge for the pension capital (but not individual amounts of tax payable).

It is the responsibility of the insured person to decide whether to use the capital saved for his retirement to finance residential property.

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