Occupational Benefits

Encouragement of Home Ownership

- The Law on the Use of Pension Assets for the Encouragement of Home Ownership (EPL/WEF) came into force on 1st January 1995.

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Since then, pension fund members may use their retirement savings capital to:

- acquire or build a residential property
- acquire co-ownership of a residential property
- repay mortgage loans.

Using pension assets for one of these three purposes means withdrawing all or a portion of one's vested termination benefit or pledging one's present or future benefit entitlements as security in favour of a mortgagee.

Withdrawals

Minimum amount: CHF 20,000.-
Maximum amount: For applications filed before age 50, the maximum withdrawal amount is equal to the member's total accrued retirement savings capital. After 50, the limit is 50% of the member's accrued retirement savings capital at the time of the application (but at least the accrued retirement savings capital at age 50).

Periodicity: Withdrawals can only be made once every 5 years.

NB: If any voluntary contributions were made in the three years before the withdrawal, the corresponding amount may not be withdrawn.

Repayment:
Withdrawals must in any event be repaid:

- if the property is sold (or donated)
- if, economically speaking, rights equivalent to a sale are granted in the property (for example: lease to third parties who are not entitled to pension plan benefits)
- no benefits may be claimed at the member's death
- before any voluntary contribution (e.g. purchase)

A voluntary repayment of at least CHF 10,000.– may be made:

- before retirement or the occurrence of an insured event
- before the vested termination benefit is disbursed in cash.

Pledging

Members of a pension fund may pledge their accrued retirement savings capital or their future entitlement to benefits (e.g. lump-sum death benefits or disability benefit). After a member's 50th birthday, the amount which may be pledged is equal to the amount which may be withdrawn.

Documents and requirements

Withdrawals

The application for a withdrawal must include:

- the standard application form made available by the pension fund
- the form for filing an encumbrance with the Land Registry
- the sales contract, mortgage loan agreement, etc.

Before the withdrawal, the pension fund will file the encumbrance restricting the right of sale with the Land Register (the procedure may take a few weeks). Accordingly, the member will not be able to sell the property without the pension fund's consent.
As soon as the application is complete, a withdrawal agreement will be drawn up between the pension fund and the member. Married members need to produce the written consent of their spouse (certified signature).

NB: Disbursement of the withdrawal will take about one month after the complete documentation is received and the encumbrance is recorded with the Land Register.

Pledging

A pledge is valid as soon as the pension fund receives the mortgagee's (i.e. the bank's) notification.

The mortgagee's consent will then be required before:

- disbursement of the vested termination benefit in cash
- payment of pension benefits
- transfer of all or a portion of the vested termination benefit in favour of the member's spouse under a divorce decree

The mortgagee must be informed if the member's vested termination benefits are transferred to another pension institution.

Implications for pension benefits and fiscal consequences

Withdrawals

A withdrawal has the effect of reducing the member's retirement pension and capital. Depending on the pension scheme, death and disability benefits may also be reduced.

The amount withdrawn will be taxed at disbursement. If the member subsequently repays the withdrawal, he may claim a tax refund (excluding interest).

In the case of foreign residents, the pension fund will deduct withholding tax from the payment.

Pledging

In the case of a pledge, benefits will only be reduced if the pledge is enforced. The same applies to income tax: tax will be assessed when the pledge is enforced.

Overview

	Withdrawals	Pledging
Advantages	Additional funds Reduced mortgage burden Lower mortgage interest	Additional borrowing capacity Amount not subject to tax No reduced benefits
Disadvantages	Withdrawals must be repaid before any voluntary contribution can be made Amount subject to tax Reduction in retirement benefits, maybe also in death and disability benefits	Mortgagee's consent is required before pension or capital benefits are paid Higher mortgage (higher debt burden)

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