momentum

Legal update

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2013 Retirement reform proposals

In this legal update, we briefly discuss some of the retirement reform proposals made in the 2013 Budget speech and look at important dates leading up to the implementation of these proposals.

Taxation of retirement funds and T-day

It is proposed that:

- Employer contributions to a retirement fund (pension, provident and retirement annuity fund) will be taxed as a *fringe benefit* in the hands of the employee.
- The employee will then receive a tax deduction on both the employee and employer contributions up to *27.5%* of the greater of remuneration or taxable income.
- A maximum monetary deduction of *R350 000* will apply irrespective of the member's age.
- Approved risk benefit and administration costs will be included in this deduction.
- Unused deductions can be rolled over to the next tax year.

T-day is a date on or after ***2015*** on which taxation rules will be harmonised across all retirement funds.

Pre-retirement Preservation and P-day

It is proposed that:

- Pension and provident funds will have to identify a default preservation fund as an option to transfer members' benefits to when they withdraw from the fund.
- When a member withdraws from a pension or provident fund he will not be allowed to take his benefit in cash but will have to transfer the benefit to his new employer's fund, the default preservation fund or another preservation fund.
- Any benefit that has already accumulated on the implementation date will vest and the member will be able to access the full amount in cash at any time after leaving the fund.
- Preservation fund rules will have to change and annual withdrawals will be allowed subject to certain limits. Any unused withdrawals may be carried over to future years.
- Divorce payments will also need to be paid into a preservation fund rather than being paid in cash.

P-day is a date on or after ***2015*** on which the rules for retirement fund preservation will be changed.

Post retirement Preservation, Annuitisation and T-day

It is proposed that:

- All contributions to a provident fund after the implementation date and growth on these contributions will be subject to the same annuitisation rules as a pension - or retirement annuity fund.

- Members of provident funds who are older than 55 years on the implementation date will not be required to annuitise any of their savings at retirement provided they remain in the same fund until retirement.
- The means test for the old age grant will be phased out by ***2016*** and the *de minimus* amount for annutisation will be increased from R75 000 to R150 000. This means that if a member's savings at retirement is R150 000 or less, they can take the entire amount as a lump sum benefit and will not be required to purchase a pension.
- Trustees will be required to identify a default retirement product to which retired members will be automatically transferred unless the member requests otherwise. The fund may provide the default product or use an external provider.
- A living annuity can be selected as a default product provided that certain requirements are met.
- Other providers and not only registered insurers will be allowed to sell living annuities.

T-day is a date on or after ***2015*** on which annuitisation requirements will be harmonised across all retirement funds.

Non-retirement savings

It is proposed that:
- The tax-preferred savings and investment accounts will be introduced by ***April 2015***.
- The account will have an initial annual limit of R30 000 and a lifetime limit of R500 000 which will be increased in line with inflation.
- All returns in this account and any withdrawals will be tax free.
- The new account will co-exist with the current tax-free interest income allowance which with effect from 1 March 2013 is R34 500 for individuals 65 years and older and R23 800 for individuals younger than 65.

Governance

It is proposed that:
- PF Circular 130 that deals with governance issues will be revised and put in a Directive.
- The Financial Services Board (FSB) Trustee Toolkit will become compulsory for trustees to complete.
- The FSB will also have to be notified of any new trustee appointment or other changes to the Boards.
- The role of the Principal Officer will be reviewed.

Other reforms

- Government is exploring ways of extending retirement benefits to all workers.
- Public pension funds for example Transnet, Telkom and the Post Office will be brought under the auspices of the Pension Funds Act.
- Anything that prejudices members from working past the retirement ages of their funds will be identified and removed.

Legislation

The legislation implementing these changes will be introduced in ***2013*** for comment.

Consultation process

The latest Treasury document on retirement reform proposals can be accessed at www.treasury.gov.za: Budget 2013: Retirement reform proposals for further consultation.

All comments can be e-mailed to retirement.reform@treasury.gov.za by no later than ***31 May 2013.***

Next steps

Please note that none of the proposals have been finalised as yet, but you should take note of the following important dates:

Date	Action
31 May 2013	Formal consultation period closes
Rest of 2013	Legislation implementing the changes introduced
P-day (expected to be on or after 2015)	Preservation rules change for all retirement funds
T-day (expected to be on or after 2015)	Taxation rules and annuitisation requirement harmonised across all retirement funds

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