Introduction

Following the passing of the Taxation Laws Amendment Act of 2021 on 20 January 2021, the much-anticipated proposals allowing for the annuitisation of provident funds finally became law from 1 March 2021. The annuitisation of provident funds is part of Government’s intention to align the retirement benefits of provident funds to pension and retirement annuity funds.

These are the basic principles of the impact of the annuitisation legislation on the members of the FundsAtWork Umbrella Provident Fund.

Impact on retirement benefits

Provident fund members were previously allowed to take their total retirement savings as a cash lump sum benefit on retirement. From 1 March 2021, they will only be allowed to take their total vested benefit as a lump sum benefit. They will have to buy an annuity with at least 2/3rds of their non-vested benefit, unless it is less than R247 500 (i.e. the de minimis amount). Where the benefit is less than this amount, the total non-vested benefit can be taken as a lump sum benefit.

The vested benefits of provident fund members 55 years or older on 1 March 2021 will be made up of their accumulated retirement savings in the FundsAtWork Umbrella Provident Fund on 28 February 2021 plus the investment growth until retirement, as well as all the contributions they make to the Fund after 1 March 2021 and the investment growth on those contributions. Their non-vested benefits will be made up of all the contributions they make to another fund if they transfer to another fund after 1 March 2021 and the approved insured benefit component will form part of the member’s non-vested benefit.

The impact on approved lump sum disability benefits

The lump sum disability benefit payable by a fund to a member who is no longer employed because they are permanently disabled, is made up of a member’s accumulated retirement savings on the date of disability plus an approved insurance benefit. In terms of the Income Tax Act, the lump sum disability benefit can be processed as a retirement benefit, which means the disabled member will be allowed to take 1/3rd as a cash lump sum and needs to use the balance to buy an annuity. Alternatively, it can be processed as a withdrawal benefit which means the member can take it as a cash lump sum. In the second scenario, the policy wording of the lump sum disability benefit and the fund’s rules must allow for it and the member will pay higher tax as it is a withdrawal.

The rules of the FundsAtWork Umbrella Provident Fund specify that the benefit will be processed as a retirement. This means that:

- For members who are 55 or older on 1 March 2021, both the retirement savings and the approved insured benefit components of the disability benefit will form part of the vested benefit of the member. However, if the member transfers to another fund after 1 March 2021 and becomes disabled under the new fund, the contributions made to the new fund as well as the approved insured benefit component will form part of the member’s non-vested benefit.
• For members who are younger than 55 on 1 March 2021, the retirement savings component of the disability benefit will be split between the member’s vested benefit (that is the retirement savings in the Fund on 28 February 2021) and their non-vested benefit (that is new contributions made to any fund from 1 March 2021). The full amount of the approved insured benefit component of the lump sum disability benefit will form part of the member’s non-vested benefit. This means that the disabled member will only be allowed to take 1/3rd of the approved insured benefit as a cash lump sum except if the amount is less than R247 500, in which case the disabled member will be able to take the full amount as a cash lump sum.

Impact on withdrawal benefits

The new annuitisation legislation will not change the position of members that withdraw from the FundsAtWork Umbrella Provident Fund on resignation or dismissal from employment. Members who resign after 1 March 2021 will still be able to take their total retirement savings as a cash lump sum. Similarly, members who become paid-up members after 1 March 2021 will still be able to take their full paid-up benefit as a cash lump sum, provided it is before their normal retirement age.

Impact on benefit deductions and/or reductions

The permissible deductions from the retirement savings of members are listed in two pieces of legislation, namely the Pension Funds Act and the Income Tax Act.

Permissible deductions under section 37D of the Pension Funds Act are amounts due for housing loans, pension interest allocations when the member gets divorced, maintenance claims, compensation for damages to an employer, normal tax due to SARS and any arrear tax amounts. In terms of the Taxation Laws Amendment Act of 2020 and 2021, only deductions allowed for costs to be deducted from the member’s retirement savings, they will be deducted from the member’s non-vested benefit.

The cost of administration, premiums for approved insurance benefits and any other fund-related expense or fee will be deducted from the monthly contributions paid to the FundsAtWork Umbrella Provident Fund. If for any reason contributions stop in terms of the rules of the FundsAtWork Umbrella Provident Fund, and the rules allow for any of these costs to be deducted from the member’s retirement savings, they will be deducted from the member’s non-vested benefit.

Impact on transfers between funds

• A member’s vested benefit and non-vested benefit that are transferred by the FundsAtWork Umbrella Provident Fund to any other fund(s) after 1 March 2021 will retain the vested and non-vested nature in the new fund(s) irrespective of how many times they are subsequently transferred to other funds and irrespective of the type of fund they are transferred to.

From 1 March 2021, a member will be able to transfer between a pension and provident fund and vice versa without incurring any tax liability.