Retirement reforms in South Africa

Is this the end of the long delays?

By Sharon Tayfield

Three major types of retirement funding options are common in South Africa - pension, provident and retirement annuity funds. Each of these has had different tax treatments in terms of the tax deductibility of contributions and the options available on retirement. In this first of two features on the reforms, Sharon Tayfield summarises the changes and looks at the limit on the cash lump sum allowed on retirement

On the 4 September 2014, the then minister of finance confirmed whilst addressing parliament, that the proposed retirement reforms which had previously been tabled would be implemented with effect from 1 March 2015.

Payroll software companies had made the necessary changes and employers had undertaken consultations with employees to advise them of the impact these changes would have on their take home salary (net pay). Then, in a shock decision in October 2014, as a direct result of pressure from trade unions, the government postponed the implementation of the changes to allow for further consultation and refinements to the legislation. At that stage the postponement was dependent on the progress of the consultations and would see a delay in implementation to either March 2017 or March 2016.

So it is understandable that payroll and human resource professionals dealing with South African

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payrolls have been waiting in anticipation to see whether the changes would or would not be implemented for the tax year commencing March 2016.

The long wait finally ended on 3 December 2015, when the National Treasury issued a press statement stating that the "tax harmonisation reforms of retirement funds would be implemented from 1 March 2016", in terms of the "current law legislated in 2013, and amended in 2014, by the shifting of the effective date to 1 March 2016… both Houses of Parliament have now passed the Taxation Laws Amendment Bill, 2015, which now only awaits the assent of the President". (The bill was passed by the National Assembly on 26 November 2015.)

In effect the bill has now been passed with only a slight change to the original wording, despite the opposition which was raised by the unions. However parliament has instructed that there must

be widespread communication of the changes and that the minister of finance has to review the impact and implementation of the legislation.

Summary of changes

So what exactly is covered in these changes which will come into effect on 1 March 2016?

There are three main points dealt with in the legislation:

- A limit on the amount which can be taken as a cash lump sum on retirement from provident funds (covered in this issue)
- An increase in the limit below which a member of any retirement fund may take his or her full retirement benefit in cash (covered in the March issue)
- Equal tax treatment of contributions to pension funds, provident funds and retirement annuity funds, with contributions being made by the employer, being deemed for tax purposes to have effectively been made by the employee, along with maximum deduction limit (covered in the March issue).

Each of the areas will be covered in more detail in this and the March issue, giving some further background information and attempting to dispel some of the misconceptions around the points.

The changes explained

The limit on the cash lump sum allowed on retirement

Currently members of provident funds are allowed to take their full benefit in cash (subject to tax) on retirement from their provident fund. However, pension and retirement annuity funds have not enjoyed the same benefit historically. The change in legislation is an attempt to realign the different retirement options but also to provide a slower use of the post-retirement benefits for provident fund members.

Therefore, with effect from 1 March 2016, members of any retirement funding option (pension, provident or retirement annuity) will be subject to the same 'annuitisation rules', namely that only a maximum of one-third of the retirement benefit may be taken in cash (subject to tax). The balance must be used to purchase an annuity from a registered insurance company, or if the fund rules so allow, to secure a pension from the fund.

There are certain exemptions which have been put in place to protect members who were close to retirement and to protect existing provident fund benefits.

- Accumulated provident fund benefits as at 1 March 2016, plus any further 'investment' returns earned on those accumulated funds, may be taken in cash when the employee retires.
- For provident fund members who are 55 years of age or older on 1 March 2016, all their future contributions to the same fund plus any 'investment' returns on that fund, may be taken in cash when the employee retires.
- Where any amount in terms of these first two bullet points, is transferred to another approved retirement fund (including a pension fund), that amount plus any 'investment' return earned on that amount, may be taken in cash when the employee retires. (The rules of the receiving fund may need to be amended to make this possible).
- Where any amount (after taking the above points into account), that would be subject to

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annuitisation is less than R 247 500, (called the de minimis threshold), that amount may also be taken in cash on retirement. (It is expected that this current limit of R247 000 will be indexed upwards via future changes to the Income Tax Act).

The above change does not have a direct effect on payroll but it is important that employers understand the change to ensure that they communicate this effectively to employees. When the legislation was first tabled many employees resigned from their employment as a result of unfounded fears that they would lose the ability to enjoy a cash withdrawal (subject to tax) on their retirement. Employees can still access their funds on resignation, dismissals or retrenchments and it is important that they understand this.

The cash bucket and annuity buckets

The result of this change is that effectively administrators of provident funds must maintain a separate ‘cash bucket’ and an ‘annuity bucket’ for each member with effect from 1 March 2016.

The member’s existing provident fund value on 1 March 2016 will be allocated to the ‘cash bucket’ and future growth (investment returns) on the existing value will also be allocated to the ‘cash bucket’. The member’s contributions from 1 March 2016 plus growth (investment returns) on these contributions will be allocated to the ‘annuity bucket’. Employers should by now have had contact with their relevant fund administrators to ensure that this process is in place for 1 March 2016.

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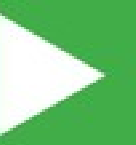

Sharon continues her analysis of the retirement reforms with a look at the limit below which a full cash benefit is allowed and tax deductibility of contributions with case studies in the March issue of Purely Global.