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Legal UPDATE

Executive Summary

- On 27 February 2013 the paper by National Treasury titled “2013 Retirement Reform Proposals for Further Consultation” was published, describing policy proposals already developed and inviting comments by 31 May 2013.
- It is important to note that the paper contains proposals only.
- As from “T-day”, it is proposed that both employer and employee contributions to pension, provident and retirement funds be deductible by individual employees, with a uniform level of deduction of 27.5% applying to the greater of the cost of employment and taxable income.
- Also from “T-day”, it is proposed that annuitisation at retirement become compulsory, with vested rights being protected.
- As from “P-day”, certain measures are to be implemented with the aim of improving preservation of retirement savings.

Budget Speech 2013

Taxation of retirement contributions

T-day is expected to be in or after 2015. The following proposals were announced by Minister Gordhan:

- Both employer and employee contributions to pension, provident and retirement funds will be tax-deductible by individuals (employer contributions will be treated and taxed as a fringe benefit in the hands of the employee).
- Individual deductions of 27.5% of the higher of the cost of employment or taxable income will be allowed.
- It was also indicated that a “roll-over dispensation” will be followed, i.e. contributions exceeding the 27.5% deduction can be rolled over to the next tax year or be added to the employee’s tax-free portion.
- The total annual contribution deduction will be limited to R350 000.
- Non-deductible contributions (in excess of these thresholds) will be exempt from income tax if they are taken as part of the lump sum or as annuity income at actual retirement.

Annuitisation

The following proposals were made, also effective from T-day:

- Annuitisation requirements will apply to provident fund contributions made from T-day onwards. Members’ vested rights, i.e. fund values accumulated before T-day, will not be affected, i.e. at retirement members will still have full access to their total lump sum benefit accumulated until T-day.
- Compulsory annuitisation will not apply to members who have reached age 55 on T-day.
- The minimum required amount for annuitisation is to be increased from R75 000 to R150 000, i.e. any benefit equal to or less than R150 000 can be taken in full.
- Trustees of retirement funds will be compelled to make a default annuitisation product(s) and advice available and guide members through the retirement process. A formal directive stating minimum requirements will be issued in this regard.

Preservation

P-day is expected to be in or after 2015. The following proposals were suggested (effective from P-day):

- Retirement funds will likely be forced to identify a default preservation fund or preservation section within the fund into which members’ values can cost effectively be transferred.
- An annual withdrawal will be allowed up to a defined limit (the proposal is an amount equal to the greater of the state old age pension or 10% of the initial deposit), with unused amounts being carried forward for future access.
- Again, vested rights will be protected.

Taxation of retirement benefits

The tax tables applicable to the taxation of lump sum withdrawal and retirement benefits have been left unchanged.

Other announcements

With effect from 1 March 2013:

- Child support grants will increase from R280 to R290 per month. The grants will further increase to R300 per month in October 2013.
- The old age and disability grants will increase from R1 200 to R1 260 per month, with the grant for persons 75 and older remaining at R1 280 per month. The intention is to phase the means test out by 2016.
- Monthly medical aid tax credits will increase from R230 to R242 for the first two beneficiaries and from R154 to R162 for additional beneficiaries.

Also on the radar

Further details regarding these matters will follow:

- PF130 (Good Governance of Retirement Funds) to be issued as a Directive. The Minister will convene a trustees’ conference with the aim of strengthening governance in retirement funds.
- Contributions to non-retirement fund disability and income protection policies to be treated as non-deductible, with the end benefits being tax-free.
- Cross-border pensions and taxation: should the tax focus rely on the country where the retirement fund is situated or the country where the individual is working?
- Tax preferred individual savings and investment accounts to be implemented in April 2015, with an initial annual contribution limit of R30 000 and a lifetime limit of R500 000, to be increased regularly in line with inflation.

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