South African Institute of Taxation

SARS INTERPRETATION UPDATE AND CASES

Session 6

Tax Practice on the Move Series

YOUR KEY TO THE TAX COMMUNITY

About The Presenter

Keitumetse Sesana is the Tax Technical Specialist at the South African Institute of Taxation.

She holds a BCom (Law), LLB and Master of Law (Tax Law). Keitumetse is currently a registered SARS practitioner and holds the designation of Master Tax Practitioner.

Keitumetse has substantial tax advisory experience in international corporate tax matters and related matters. After gaining this experience at one of the "Big Four", Keitumetse joined the South African Institute of Taxation and is presently mandated to manage stakeholder relations by driving and facilitating meaningful engagement with Government departments regarding legislative design and policy on the varying areas of taxation.

She also actively curates and manages tax technical content on legislative interpretation that is presented to tax practitioners for purposes of their Continuous Professional Development

About the Expert Guest Speaker

Claire Abraham

Claire Abraham (Chartered Tax Advisor)
Senior Manager at Vialto Partners
claire.abraham@vialto.com

Claire is a senior tax manager at Vialto Partners (formally part of PwC). She has more than 14 years' experience in individual and employees' tax, with a special focus on globally mobile employees and related topics, such as business travellers, remote workers, and cross border tax on remuneration and benefits. She has extensive experience working in professional services, having worked at three of the "Big Four" accounting firms, and one of South Africa's leading law firms.

She holds a Masters of Commerce degree in South African and International Tax from the University of Johannesburg, and is a Chartered Tax Advisor and member of the South African Institute of Tax Practitioners

AGENDA

- Overview and rationale of the draft legislation
- Concept of seed capital
- Expert insights on the complexity of the draft legislation and the impending implementation date
- Question and Answer session

“Two-Pot” retirement system

Two-Pot retirement system

Background

- South Africa has different retirement fund vehicles available to individuals, including pension funds, provident funds, retirement annuity funds, pension preservation funds and provident preservation funds. Ability to have sufficient money saved for retirement.
- Since 2012, the South African retirement fund regime has been undergoing fundamental reforms, as initiated in a series of discussion papers since 2012, starting with *Strengthening retirement savings: An overview of proposals announced in the 2012 Budget*, which summarised the intended policy direction for future retirement reforms.

Two-Pot retirement system

Rationale

- Longer-term retirement reform project.
  - The first is the lack of preservation before retirement, Individuals can access their pension funds and provident funds, in full, when changing or leaving a job.
  - The second issue was that some households in financial distress had assets within their retirement fund(s) that are not accessible, even in case of emergencies. This issue has become more prominent during the COVID-19 pandemic, with numerous calls for financially distressed individuals to be given some level of access to their retirement funds to alleviate financial hardship.
- On 15 December 2021, Government published a discussion document entitled *Encouraging South Africans to save more for retirement*, which proposed a new retirement fund regime that aims to address both concerns – this culminated in the form of a "two-pot" system for retirement savings.

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Two-Pot retirement system

- Individuals can contribute to a one-third "savings pot" which is accessible without changing their employment status, and
- a two-third "retirement pot" which must be preserved until retirement.

The aim is to have a system that will allow resources to be available when needed, but that will also increase the overall level of savings that are dedicated to retirement.

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Two-Pot retirement system

- Concept of seed capital
  - Members can access the retirement fund to a portion of the available balance in the retirement fund on implementation date of the “two-pot" retirement system.
  - Seed capital should be calculated as ten percent of the benefit accumulated in the “vested component” as at 29 February 2024, **limited to R25 000, whichever is the lesser**. This will be subject to the **normal tax rates** in the hands of the member.

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Expert Guest Insights

Expert Guest Speaker insights

1. For the benefit of the audience, please can you explain the various "pots" or "components" and how they interact with each other?
2. What are the Rules for each "pot"?
3. Which "pot" can taxpayers withdraw their seed capital from and how is the withdrawal calculated?
4. "Liquidity event" on implementation date – any thoughts regarding what the market impact will be on fund administrators?
5. The draft legislation is yet to be finalised, and the implementation date is set for 1 March 2024. What are your views regarding the complexity of this legislation.
6. What are the effects of cessation of tax residence on monies in each "pot"? (i.e., what tax rates will apply in the case of cessation of tax residence)
7. As a follow up question thereto, do you think the marginal tax rates applicable upon cessation/ withdrawal are too high. Do you think that the retirement tax tables should rather be used?
8. Please discuss the application of section 11F and how it interacts with the "two-pot" system.
9. How will this legislation impact defined benefit fund members, are the rules different in this regard?
10. In conclusion, what are your views on the two-pot system? Do you think that this legislation will assist taxpayers with their immediate financial woes and still encourage saving for retirement?

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Questions?

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