



# Lump sums

Retirement and from employers

*YOUR KEY TO THE TAX COMMUNITY*

# S11F – Members contributions to retirement funds

- Deduction for any contributions paid
- To any retirement fund (pension, prov or RAF)
- Equal to the GREATER of
  - 27,5% of taxable income
  - 27,5% of remuneration
- Limited to R350 000

# S11F – Members contributions to retirement funds

Mrs Dlamini earns the following:

Cash salary	R 100 000
Housing allowance	R 20 000

What is her maximum deduction if:

- Her pension is calculated on her cash salary?
- Her pension is calculated on her cost to company?
- Her taxable income is R250 000?

# 2 types

- From employer
    - Para d of gi definition
  - From Retirement fund
    - Para e of gi definition
    - 2nd Schedule
- Both commonly pay out either annuities or lump sums. Often a combination of both. Annuities treated as income – please remember that these would be remuneration as defined for the purposes of PAYE.

# Lump sums from employers

- From employer

- Para d of gi definition

- Termination of service lump sums: Leave pay, compensation for loss of office, etc

- Severance benefit

- Applies to lump sum amounts (other than retirement fund)
    - From or by arrangement with your employer
    - Because of loss/change/termination of employment because
      - 55 years and older OR
      - Ill health/ superannuation/ disability OR
      - Retrenchment

# Lump sums from retirement funds

- From Retirement fund
  - Para e of gi definition
  - 2nd Schedule
- 3 causes
  - Resignation
  - Death
  - Retirement
- For 2nd Schedule purposes,
  - Retirement and Death are treated the same. (para 2(1)(a))
  - Withdrawal, divorce or transfers between funds (para 2(1)(b))

# Lump sums from retirement funds

- Retirement/death payout
  - Para e gi inclusion = Payout less para 5 deductions
  - Para 5 deductions:
    - Own contributions not allowed as a deduction
    - Amounts transferred to another fund
    - Amounts transferred to another fund ito a divorce order
    - Unclaimed benefits transferred to a preservation fund
    - Certain amounts from Government employees Pension Fund
- NB: No amounts may have been deducted from a lump sum before
- NBB: Deductions are limited to payout received

# A quick note on retirements

- Pension funds and RA's subject to 1/3 limit
- Provident funds subject to 1/3 limit from 1 March 2021 on new contributions.
  - If you were 55 on that date, change in rules does not apply.
- Unless these conditions apply:
  - The remaining 2/3rds is less than R165 000
  - Where the retiree is deceased; or
  - Where the full amount is transferred to another fund.

# Lump sums from retirement funds

- Withdrawal payout
  - Para e gi inclusion = Payout less para 6 deductions
  - Para 6 deductions:
    - Amounts deducted ito a divorce order and transferred to another fund.
    - Amounts transferred to another fund
    - Own contributions not allowed as a deduction
    - Unclaimed benefits transferred to a preservation fund
    - Certain amounts from Government employees Pension Fund
- NB: No amounts may have been deducted from a lump sum before
- NBB: Deductions are limited to payout received

# A quick note on withdrawals

- Can only withdraw if pre retirement date if:
  - Completed the MP 336(b) process pre 1 March 2021
  - Not resident for an uninterrupted 3 year period post 1 March 2021.
  - Have an expired working visa resulting in a non resident needing to leave

# Lump sums from retirement funds

## ▶ Calculation of tax payable:

- ▶ A = Tax on cumulative total of all severance benefits and retirement payouts to date
- ▶ B = Tax on total of all severance benefits and retirement payouts received before the current one
- ▶ Tax = A-B

## ▶ B is NOT the actual tax paid on the lump sums, it simply tells you to calculate it using the same tax table as your current lump sum.

## ▶ What are the lumps sums to add together?

- ▶ Retirement lumps sums received on/after 1 October 2007
- ▶ Retirement withdrawal benefits received on/after 1 March 2009
- ▶ Severance benefits received on/after 1 March 2011

# Lump sums from retirement funds

- Why do we care about which is which?

Retirement benefit		Withdrawal benefit	
Taxable income (R)	Rate of tax	Taxable income (R)	Rate of tax
1 – 550 000	0% of taxable income	1 – 27 500	0% of taxable income
550 001 – 770 000	18% of taxable income above 550 000	27 501 – 726 000	18% of taxable income above 27 500
770 001 – 1 155 000	39 600 + 27% of taxable income above 770 000	726 001 – 1 089 000	125 730 + 27% of taxable income above 726 000
1 155 001 and above	143 550 + 36% of taxable income above 1 155 000	1 089 001 and above	223 740 + 36% of taxable income above 1 089 000

Assume one previous lump sum of R100 000 (withdrawal benefit) and a current payout of R550 000. Calculate the tax withheld assuming the current payout is a retirement benefit. How would this change if the current payout was a withdrawal benefit?

# Lump sums from retirement funds

Retirement Fund Lump-Sum Benefit			Retirement Withdrawal Lump-Sum Benefit		
Tax on current (100 000 + 550 000)	R	18 000.00	Tax on current (100 000 + 550 000)	R	112 049.82
Less:			Less:		
Assumed tax on prior		-	Assumed tax on prior	R	13 050.00
Current liability	R	18 000.00	Current liability	R	98 999.82

# Lump sums from retirement funds

- ▶ Divorce: Please note there was a change in the Pension Fund Act. Prior to 2007 amounts were only paid out when the holder of the fund retired. Now, the amount is transferred to the spouse immediately and is taxed in the hands of the receiving spouse. Eg: Mrs A's pension fund pays R500 000 to Mr A as a result of a divorce order. Mrs A will have no tax consequences. Mr A's tax consequences will depend on what he does with the payout and will follow the rules discussed above.

# Key benefits of retirements

- S11F tax deduction up to R350 000 for 27,5% of taxable income
- Amounts held in a retirement fund do not form part of your estate for Estate Duty purposes
- Marginal tax rates on lump sum payouts much lower than normal income tax rates
- Savings funded out of pre tax savings
- Has some creditor protection under the Pension Funds Act

# Key downsides

- Very rigid investment, money not easily accessible
- Regulation 28
- Must be used to buy annuities

# Annuities post retirement

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# Employer annuities

- Post retirement medical aid contributions are a nil value fringe benefit – but only for you, not your spouse.
- Exemption for compensation paid to Workman's Compensation, Compensation for Occupational Injuries and Diseases Act, compensation for death of employee (this is limited to R300 000)
- Pensions attributable to a resident from a source outside the Republic for work performed outside the Republic

# Retirement fund annuities

- ▶ 2 types
  - ▶ Guaranteed annuity (guaranteed for life)
  - ▶ Living annuity (guaranteed for period, with lump sum remaining)
  - ▶ Can now split your annuity portion between as many providers as you like, as long as each portion is more than R165 000 (R371 250 for RA's).
- ▶ Compulsory annuities are exempt to the extent that they are funded from contributions that:
  - ▶ Were not allowed as deductions from income
  - ▶ Were not allowed as deductions under the Second Schedule

Year	Contributed		Deducted		Balance of non-deductible contributions	
	PF	RAF	PF	RAF	PF	RAF
1	100 000	20 000	70 000	10 000	30 000	10 000
2	100 000	20 000	70 000	10 000	60 000	20 000
3	100 000	20 000	70 000	10 000	90 000	30 000
4	100 000	20 000	70 000	10 000	120 000	40 000
5		20 000		15 000		45 000

Nhlanhla belongs to a retirement annuity fund and a pension fund. At the end of year 4, Nhlanhla retires from the pension fund, but continues contributing to the retirement annuity fund. His pension fund retirement interest at the time is R450 000. He takes a lump sum of R150 000, and acquires a living annuity with the 2/3rds (R300 000) remaining. When he withdraws the lump sum, the balance of the total non-deductible contributions up to date (maximum of R160 000 = R120 000 + R40 000) will be deducted from the lump sum prior to calculating the tax payable in terms of the retirement lump sum tax table. The result is that no tax is payable (R150 000 less R150 000, with R10 000 in nondeductible contributions remaining). In year 5, Nhlanhla receives R5 000 in annuity payments. At the end of the year of assessment, a nondeductible contribution balance of R20 000 (R10 000 + R5 000) is available to set off against the R5 000 amount received in annuities.

# In summary

- Lump sums are taxed according to their own tables. This is cumulative!
- Annuities are taxed as normal income.
- Although at first glance it seems silly to not take advantage of the tax free portion of the lump sum, consider how it will be used. If you're investing the full amount, you will pay normal tax on the investment returns which could move you into a higher bracket on your annuity. Alternatively you may have debt to pay off, or you prefer having control over your investments.

# After receiving your payout

- Normal income tax rules apply. Some concessions apply:
  - Increased natural person interest exemption (34 500 versus 23 800)
  - Rebate is increased by the secondary (over 65) and tertiary (over 75) rebates
  - s10C exemption for disallowed retirement fund contributions
  - s6B Medical expenses credit are now:
    - If over 65: (Medical scheme contributions – 3 times the s6A credit)\*33,3% + qualifying medical expenses\*33,3%
    - Everybody else: ((Medical scheme contributions – 4 times the s6A credit) + qualifying medical expenses less 7,5% of taxable income before retirement amounts)\*25%

# And the future?

Navigating the changes

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# Tax returns for persons married in community of property

- Taxpayers married in community of property may opt to exclude certain income from the communal estate. In previous tax years, one communal estate indicator displayed per applicable container/subsection of the return and if the taxpayer selected the indicator it applied to the whole income amount declared in that part of the return (e.g. total local interest or total foreign dividends)
- From the 2023 year of assessment, the taxpayer can select the communal estate indicator on a transactional level (i.e. for each institution from which the income was received). This change applies to the following containers/subsections of the return:
  - Local interest
  - Foreign interest
  - Foreign tax credits on foreign interest
  - Gross foreign dividends subject to SA normal tax
  - Foreign tax credits on foreign dividends
  - Distributions from a Real Estate Investment Trusts (REIT) /Taxable Local Dividends
  - Capital Gain/Loss
  - Local Rental Income

# Tax Amendments

- During June 2023, the draft tax amendments, along with the explanatory memorandum, relating to the proposed changes to the retirement system were released. The main aim of these amendments is to provide 2 categories for all retirement savings, effective 1 March 2024. There is currently no plan to change the tax deductibility of contributions.
- The primary intent is to create three parts to a retirement fund. The “savings component”, the “retirement component” and the “vested component”.

# Tax Amendments

- Savings component:
  - One third of your contribution will be added to this component in future.
  - Individuals are entitled to make a withdrawal per year per fund from this portion of their fund.
  - Taxed as normal income.
  - Requires minimum withdrawal and balance of R2 000.
  - On death, can be transferred to beneficiaries retirement component.
- Retirement component:
  - Two thirds of your contribution will be added to this fund.
  - This cannot be accessed prior to retirement.
  - Must be paid out as an annuity.
  - Can be taken as a lump sum on emigration, subject to the 3 year rule.
- Vested component:
  - This is all funds contributed prior to implementation date and will remain subject to the current rules.
  - NO further contributions will be allowed into this fund post implementation date, unless you are already over 55.

# What actually got tabled in Parliament?

- Taxation Laws Amendment (Act 17 of 2023) on 22 December 2023
- Taxation Administration Laws Amendment (Act 18 of 2023) on 22 December 2023
- Rates and Monetary Amounts and Amendment of Revenues Laws (Act 19 of 2023) on 22 December 2023

# See what's missing?

- 2023 Draft Revenue Laws Amendment Bill (Two Pot Retirement System)
- 2023 Draft Pension Fund Amendment Bill
- <https://www.sars.gov.za/legal-counsel/preparation-of-legislation/response-documents/>

# So what do we know?

- National Treasury has now released proposed amendments to Pension Funds Amendment Bill [B3—2024]:
  - Government Employees Pension Law, 1996 (Proclamation 21 of 1996)
  - Post and Telecommunications-related Matters Act, 1958 (Act 44 of 1958)
  - Transnet Pension Fund Act, 1990 (Act 62 of 1990)

# So where are those?

- Still being debated in parliament – public hearings held 12 March 2024
- Meeting held 26 March 2024 (<https://pmg.org.za/committee-meeting/38702/>)
  - Members raised concerns about addressing the Pension Laws Amendment Bill when related processes in the National Assembly were not yet complete. All parties in the meeting raised a serious concern about pension fund members having to pay the high marginal tax rate on any withdrawal. They asked why National Treasury was creating a law that would impact many, many people purely to prevent one or two people from trying to abuse the system and if there was a provision to monitor the implementation of the Bill.

# So what do we know?

- SCOPA recommended an implementation date of 1 March 2025.
- Those members of provident funds who were 55 on 1 March 2021 to be excluded from the “two pot” rule
- A proposal was made to allow for amounts in savings to be transferred to retirement at the beneficiaries discretion.

# SARS?

- [PAYE Employer Reconciliation BRS \(https://www.sars.gov.za/wp-content/uploads/Docs/PAYE/BRS/SARS\\_PAYE\\_BRS-PAYE-Employer-Reconciliation\\_V23-0-0.pdf\)](https://www.sars.gov.za/wp-content/uploads/Docs/PAYE/BRS/SARS_PAYE_BRS-PAYE-Employer-Reconciliation_V23-0-0.pdf) for the 2025 tax year was published.
- The changes include:
  - New source code (3926) for the Withdrawal from a Retirement Fund from the Savings Component/Pot
  - Amendment of descriptions and/or validation rules for:
    - Unclaimed benefits (source code 3909)
    - Certificate Number (source code 3010)
    - Directive Number (source code 3230)
    - Directive Income Source Code (source code 3232)
    - Transfer of Unclaimed Benefits (source code 3923)
    - NED Directors / Audit Committee Member Fees (source code 3620/3670)

# Disclaimer

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