Retirement reform: how you'll score

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FUNDS NEED TO GEAR UP FOR T-DAY

Retirement funds will need to review their rules ahead of T-Day, the day on which the tax deductions for contributions to retirement funds are expected to change, the Pension Lawyers Association heard this week.

Beatrie Gouws, the director of personal income tax and savings at National Treasury, says Treasury is proposing that your employer's contribution to your retirement fund be included in your taxable income as a fringe benefit, but that you be entitled to deduct those contributions, together with any you make, up to 27.5 percent of the higher of your remuneration or taxable income.

Your employer's contribution will include any contributions to a group life or permanent disability scheme.

The deduction will also be limited to R350 000 a year in order to ensure the system is equitable, Gouws says.

Treasury is aiming for T-Day to be on March 1, 2015, in order to coincide with the start of the personal income tax year, she says.

To achieve this, Gouws says, draft amendments to legislation will be published this year.

If the proposal is adopted, you may be able to deduct a greater contribution amount for tax purposes, because the base to which the percentage cap applies will be broader because it will be the higher of your remuneration or taxable income, Gouws says.

Your remuneration includes all employment income, whether it forms part of your basic salary or is more ad hoc in nature, such as overtime, bonuses and income attributable to employee share schemes.

She says remuneration and taxable income were chosen because they should be easier for members to understand than a concept such as retirement-funding employment and non-employment income.

She says that where employees are on a total cost-to-company package, funds may wish to amend their rules in order to allow members to increase their contributions.

Gouws says that employers can safely facilitate tax deductions for you of up to 27.5 percent of your remuneration, but they would be unwise to facilitate tax deductions on your taxable income if it is higher than your remuneration – for example, if you make a taxable capital gain or earn rental income. You will have to claim the tax deduction from these kinds of income on assessment or through the provisional tax system.

Currently, you cannot claim against taxable capital gains deductions for contributions made to, for example, a retirement annuity fund.

Gouws says the current dispensation for employer-provided group life or disability schemes will remain so that the employer premium is taxable as a fringe benefit but the payout is tax-free. However, if your employer is contributing to a retirement fund which in turn provides you with a

group life or disability scheme – a so-called approved scheme – these contributions (and the payout) will continue to enjoy the tax dispensation applicable to retirement fund contributions and payouts.

Treasury is also proposing to remove the deduction you may currently enjoy for premiums paid to an income protection policy. However, the monthly income paid from these policies will then be tax-free.

If your employer pays these premiums on your behalf, this will remain a fringe benefit for you, Gouws says, but you will no longer enjoy a tax deduction for the premiums. No introduction date has been set for these amendments.

Gouws says that income protection schemes can only be employer-provided and not provided by a fund through an approved scheme because, legally, funds can pay out only on retirement or death and not on disability.

PENALTIES ON LIFE RAs 'STILL EXORBITANT'

The Pension Funds Adjudicator says her office is "greatly disappointed" that it is unable to help members with "excessive" charges for stopping or reducing their contributions to life assurance retirement annuities (RAs).

Muvhango Lukhaimane, Deputy Pension Funds Adjudicator, told the Pension Lawyers Association conference that her office is forced to make determinations on these charges in line with the Statement of Intent.

In 2005, life assurers and the then Minister of Finance, Trevor Manuel, signed the Statement of Intent, agreeing that the life industry would, in future, limit the penalties on RAs if you reneged on the terms of the contract.

Despite these limits, Lukhaimane says the charges are exorbitant, and they impoverish members who need to make their policies paid up or transfer their policies to other companies.

She says the way in which the charges are levied and the underlying actuarial principles differ drastically from one life assurer to another and are often not understandable.

The adjudicator says her office is at risk of being viewed as complicit in the charges that are levied because it cannot rule against those that are in line with the Statement of Intent.

She says it is very disheartening, because most of the time the charges are levied on the savings of self-employed people who fall into financial difficulties.

Lukhaimane says she is glad that the National Treasury is looking into the costs of saving for retirement, but she does not understand why the industry does not reform itself when it comes to penalties on RAs.

The Statement of Intent limits the penalties that can be levied on your savings to 35 percent of the policy's value if it was sold before 2009 and to 30 percent of its value if it was sold after January 1, 2009, she says.

Members also need to be educated about the fact that they are responsible for the selection of investment portfolios and monitoring the performance of these in RA policies, as they are often unhappy with the returns, she says.

The adjudicator says another source of heart-breaking complaints is bargaining council funds. Bargaining councils are formed by trade unions and employers' organisations. They can make collective agreements, solve labour disputes and establish savings schemes for employees.

Lukhaimane says the governance of bargaining council funds “falls between the cracks”, as these councils are often unable to force employers to contribute to funds regularly and timeously as required by the Pension Funds Act.

Often these councils commence legal proceedings against employers, precluding the adjudicator’s office from granting the fund relief.

The adjudicator says it is important that retirement funds inform their members of matters related to their investments. She says, for example, that, as a member, you need to be told when your savings will be disinvested and moved into a cash investment when you withdraw or retire from the fund.

Also, funds that invest in products that declare bonuses, such as smoothed-bonus policies, need to have clear rules about what happens if you leave a fund after an interim bonus, rather than a final bonus, has been declared on the investments.

Lukhaimane says there can be delays in the declaration of a final bonus, and often the rules are silent about how the interim bonus will be treated if a member leaves before the final bonus has been declared.

Finally, the adjudicator says funds should invest where they say they are going to invest, and if trustees decide to change the investments, they must inform members.