Creating Tax Efficiency for Optimal Income and Growth

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TAX RATES

Personal income tax rates

Taxable income (R)	2021/22 Rates of tax	Taxable income (R)	2022/23 Rates of tax
R0 - R216 200	18% of each R1	R0 - R226 000	18% of each R1
R216 201 - R337 800	R38 916 + 26% of the amount above R216 200	R226 001 - R353 100	R40 680 + 26% of the amount above R226 000
R337 801 - R467 500	R70 532 + 31% of the amount above R337 800	R353 101 - R488 700	R73 726 + 31% of the amount above R353 100
R467 501 - R613 600	R110 739 + 36% of the amount above R467 500	R488 701 - R641 400	R115 762 + 36% of the amount above R488 700
R613 601 - R782 200	R163 335 + 39% of the amount above R613 600	R641 401 - R817 600	R170 734 + 39% of the amount above R641 400
R782 201 - R1 656 600	R229 089 + 41% of the amount above R782 200	R817 601 - R1 731 600	R239 452 + 41% of the amount above R817 600
R1 656 601 and above	R587 593 + 45% of the amount above R1 656 600	R1 731 601 and above	R614 192 + 45% of the amount above R1 731 600

LUMP SUM TAX TABLES

Rates of normal tax	
Retirement fund lump sum withdrawal benefits – 2022/23	
Taxable income	**Rates of tax**
R0 – R25 000	0% of taxable income
R25 001 – R660 000	18% of taxable income exceeding R25 000
R660 001 – R990 000	R114 300 + 27% of taxable income exceeding R660 000
R990 001 and above	R203 400 + 36% of taxable income exceeding R990 000

Rates of normal tax	
Retirement fund lump sum benefits and severance benefits – 2022/23	
Taxable income	**Rates of tax**
R0 – R500 000	0% of taxable income
R500 001– R700 000	18% of taxable income exceeding R500 000
R700 001 – R1 050 000	R36 000 + 27% of taxable income exceeding R700 000
R1 050 001 and above	R130 500 + 36% of taxable income exceeding R1 050 000

TAXATION OF ANNUITY INCOME FROM RETIREMENT FUNDS

- In terms of the current rules of a pension, pension preservation fund, provident (wef 1 March 2021), provident preservation fund and a RAF (subject to the de-minimus rule, R247 500), not more than one third of the total value of the retirement interest may be commuted to a single payment (ie a lump sum).
- The remainder of the retirement interest must be paid in the form of an annuity.
- The portion of the retirement interest that must be paid as an annuity is referred to as a compulsory annuity.

TAXATION OF ANNUITY INCOME FROM RETIREMENT FUNDS

Remuneration

- An amount that falls into the definition of remuneration as set out in para 1 of the Fourth Schedule will be subject to pay-as-you-earn (PAYE) when paid.
- Included in the definition is any amount paid by way of an annuity.
- Funds paying annuities are therefore required to withhold PAYE.
- In order for any amount to be included in the definition of "remuneration", the amount must *not* be regarded as exempt from normal tax in terms of section 10
- Para 2B Fourth Schedule and SARS directive regarding PAYE when annuitant in receipt of more than one "remuneration" stream (eg two compulsory annuity streams)

TAXATION OF ANNUITY INCOME FROM RETIREMENT FUNDS

Tax exemption against compulsory annuities
Section 10C

- ❑ In respect of the aggregate compulsory annuities payable to a person,
- ❑ There will be exempt from tax an amount equal to:
    - ❖ so much of that persons own contributions to any pension, provident or retirement annuity fund that did not rank for deduction against that persons income under s 11F in respect of any prior year of assessment
    - ❖ as has not previously been allowed under the Second Schedule or
    - ❖ exempted from tax.

TAXATION OF ANNUITY INCOME FROM RETIREMENT FUNDS

- **Section 11F**

The total deduction must not exceed the **<u>lesser</u>** of

1. R350 000;
2. 27,5 per cent of the higher of the person's
   - Remuneration; or
   - taxable income
3. the taxable income of that person before allowing any deduction under this section and section 18A; and the inclusion of any taxable capital gain.

- Individual with taxable income R1 280 000, making required contributions can benefit from maximum deduction

TAXATION OF ANNUITY INCOME FROM RETIREMENT FUNDS

Section 11F

- ❑ Any excess disallowed can be carried forward and treated as a contribution in the succeeding year (and so on), provided:
  - ❖ it has not otherwise been deducted, taken into account in the taxable amount of a lump sum benefit under the Second Schedule, or
  - ❖ exempted under s 10C in the payment of a compulsory annuity.

VOLUNTARY ANNUITY INCOME SECTION 10A

- **“annuity amount”** means an amount payable by way of annuity under an annuity contract and any amount payable in consequence of the commutation or termination of any such annuity contract;
- **“expected return”**, means an amount determined in a manner contemplated in this section as representing the sum of all the annuity amounts which may, as at the commencement of the annuity contract, be expected to become payable by way of the annuity from the said commencement;
- **“purchaser”**, in relation to an annuity contract means—
  - any natural person and includes such person’s deceased or insolvent estate; or……

VOLUNTARY ANNUITY INCOME SECTION 10A

- **“annuity contract”** means an agreement concluded between an insurer in the course of the insurance business and a purchaser, in terms of which—
  - the purchaser agrees to pay to the insurer a lump sum cash consideration for such annuity or annuities; and
  - no amounts are or will be payable by the insurer to the purchaser or any other person other than amounts payable by way of such annuity or annuities or, where an annuity is payable for a minimum term and such annuity is in the event of the death of the annuitant before the end of such term to continue to be payable to some third person for the balance of that term, amounts which may be so payable to such third person by way of such annuity,

VOLUNTARY ANNUITY INCOME SECTION 10A

The capital element of an annuity amount:

$$Y = \frac{A}{B} \times C$$

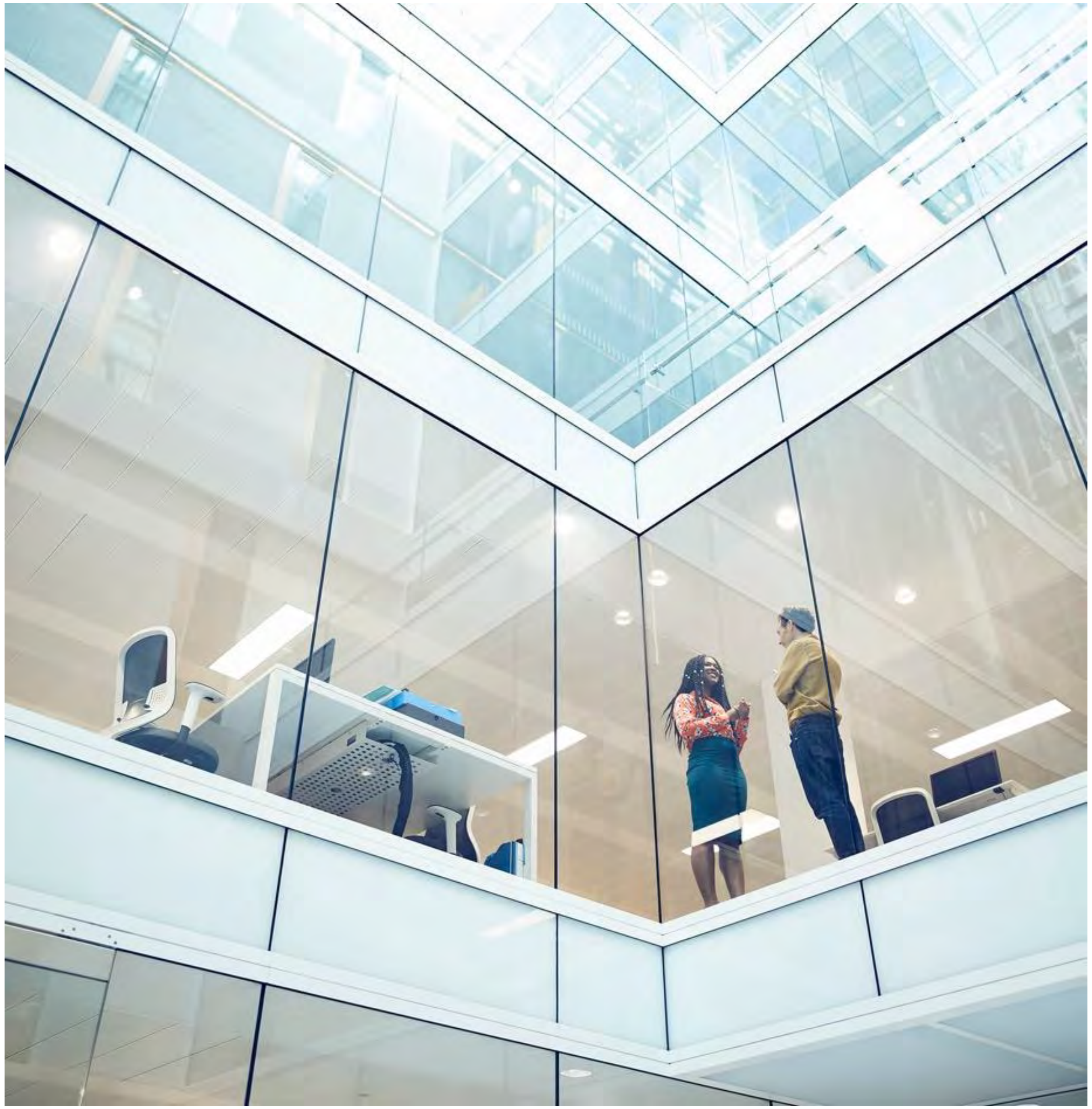
Y = the sum to be determined;
A = the amount of the total cash consideration given by the purchaser under the annuity contract
B = the total expected returns of all the annuities provided for in the annuity contract
C = the annuity amount

VOLUNTARY ANNUITY INCOME SECTION 10A

Where such annuity amount is payable in consequence of the commutation or termination of the annuity contract concerned

X = A – D

- X = the amount to be determined;
- A = the amount of the total cash consideration given by the purchaser under the annuity contract
- D = the sum of the amounts determined in accordance with paragraphs (*a*) and (*b*) as representing the capital element of all annuity amounts payable under the annuity contract prior to the commutation or termination thereof



VOLUNTARY ANNUITY INCOME SECTION 10A

- PAYE withheld on “remuneration”
- Remuneration is “income” and does not include exempt amounts
- The taxable portion of the “annuity amount” in terms of section 10A is remuneration
- The non-taxable capital portion is not remuneration
- An employer (the insurer) can only base PAYE on information available to them.
- Employer cannot take the exemption in terms of section 10C into account, this will be done on assessment

ENDOWMENTS

- Even though the proceeds of an Endowment policy are seen to be tax free *there is still tax payable* during the duration of the investment term and potentially on withdrawal of amounts in the Fund.
- All proceeds from Endowment policies are paid out to the investor net of tax due to the fact tax is raised in the fund and not in the hands of the investor.
- Fact that tax is raised in the Fund and therefore paid indirectly by investor eases all tax administration on the investor when amounts paid out or withdrawn from the Fund

ENDOWMENTS

- There are two types of tax applicable to Endowments Income Tax
- The Income Tax applicable to Endowments is withheld at source, which means that the insurance or investment company administrating the investment will pay tax on the investors' behalf.
  - Individuals and trusts with natural persons as beneficiaries will be taxed at a fixed rate of 30%
  - whereas companies and trusts with corporate entities as beneficiaries will be taxed at a fixed rate of 28%
- Individual taxpayers 2023 tax tables:
  - Top bracket: Average rate 35.5%, taxable income exceeding R1 731 601 marginal rate 45%
  - Second highest bracket: Average tax rate 29.2% taxable income exceeding R817 601 marginal rate 41%

ENDOWMENTS

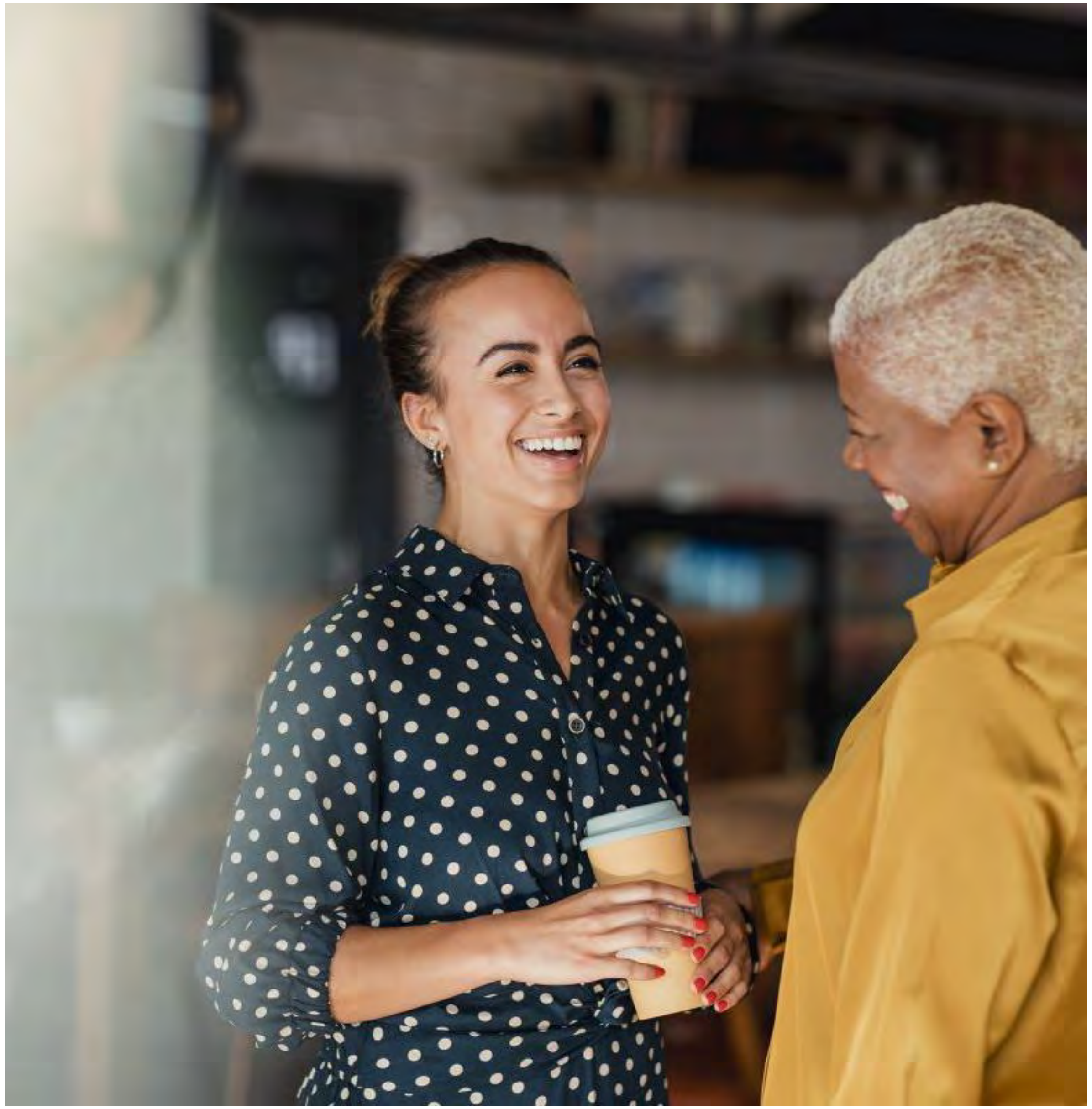
Capital Gains Tax (CGT)

The CGT payable is also paid at source (paid by the Insurance or Investment company on behalf of the investors).

- ❖Individuals and Trusts with natural persons as beneficiaries will have an effective CGT rate of 12%, whereas
- ❖Companies and Trusts with corporate entities as beneficiaries will have an effective CGT rate of 24.4%.

❑Individual taxpayers are subject to an effective CGT rate of 7-18% depending on their tax bracket

- ❖12.4% effective CGT when marginal rate 31% (taxable income exceeding R353 101)



ENDOWMENTS

Deemed CGT

❑Deemed disposals (death, cessation tax residence):

- ❖Paragraph 55(1)(a)(i) of the Eighth Schedule provides that any capital gain or loss on disposal of a long-term policy must be disregarded by its *original beneficial owner* or one of its original beneficial owners.
- ❖The type of policy envisaged is one that gives rise to the receipt or accrual of an amount in the hands of the original beneficial owner or owners upon its disposal. The exclusion applies to a long-term policy as defined in the Long-term Insurance Act 52 of 1998, *issued by a South African insurer.*

ENDOWMENTS

Deemed CGT

- ❑Deemed disposals (death, cessation tax residence):
  - ❖Second hand policy
    - If the policy had been issued to someone else and was purchased by the taxpayer - a so-called second hand policy - the gain on its disposal, including by way of maturity or surrender,
    - would be subject to CGT.

ESTATE DUTY: ENDOWMENT

- ❑ An endowment policy is an asset for the plan holder and qualifies as property for estate duty purposes
- ❑ In specific instances the endowment policy falls into “deemed property” for estate duty purposes and could be reduced by:
  - ❖ the aggregate amount of any premiums or consideration paid by any person who is entitled to the amount due under the policy, together with interest at six per cent per annum
- ❑ May be subject to certain deductions eg
  - ❖ Section 4(q) surviving spouse

ESTATE DUTY: VOLUNTARY ANNUITY INCOME POLICIES

- Property for Estate Duty:
  - The policyholder/annuitant passes away prior to the expiry of the fixed term
  - The annuity does not cease upon the death of the original policyholder and it either pays to the deceased estate as annuity income or a lump sum or it pays the annuity to a nominee who accepted the nomination
- Section 10A exemption only available to specific new annuitant, eg deceased estate of policyholder, surviving spouse of policyholder

TWO-POT RETIREMENT SYSTEM

- The discussion paper *"Encouraging South African Households to Save More for Retirement"* was published in December 2021.
- Public comments on the tax treatment of contributions to the two pot system are being reviewed in preparation for public workshops, to be followed by legislative amendments.
- Minister of Finance stated draft legislation will be available for public comment mid 2022.

TWO-POT RETIREMENT SYSTEM

- ❑ Proposed set of reforms to enable pre-retirement access to a portion of one's retirement assets – while ensuring that the remainder is preserved for retirement.
- ❑ The proposal will involve the restructuring of retirement contributions into two pots:
  - → The one account can be accessed at any time, and
  - → the other account will not be accessible before retirement and must therefore be preserved until retirement.
- ❑ It is proposed that one-third of any future contributions should go into the accessible retirement fund account and the other two-thirds goes into an account that must be preserved until retirement.
- ❑ No increase in tax deduction for annual contributions and no change in taxation of lump sum tables.

BUDGET SPEECH 2022: DISCLOSURE OF WEALTH

- Provisional taxpayers with business interests are required to declare their assets (based on their cost) and liabilities in their tax returns each year.
- To assist with the detection of non-compliance or fraud through the existence of unexplained wealth, it is proposed that all provisional taxpayers with assets above R50 million be required to declare specified assets and liabilities at market values in their 2023 tax returns.
- The additional information will also help in determining the levels and structure of wealth holdings as recommended by the Davis Tax Committee.
- Viability of a wealth tax?

Contact

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