The two-pot retirement system is a few steps closer to becoming a reality in 2024

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Annalise de Meillon Muller, Manager: Distribution and Sales Support at Glacier by Sanlam, takes a look at the revised draft of the Revenue Laws Amendment Bill, 2023.

A revised draft of the Revenue Laws Amendment Bill, 2023 was published on 9 June and is open for commentary until mid-July. Some of the uncertainties have been answered and now the process of interpretation and further guidance towards promulgation begins. However, this could still take the better part of the year. As always, these are proposals and not yet law. Luckily some aspects seem quite certain now, amongst them the fact that we will be part of a massive retirement landscape change on 1 March 2024 and no later.

Retirement reform seeks to align rules of various fund types

Retirement reform seeks to align the rules and benefits, irrespective of the type of retirement fund in which an individual is saving for their golden years. The two-pot system (perhaps more correctly now the three-component regime) is a phase of this reform. If one considers the changes that have been implemented in previous years to enable this alignment, then most of the new regime proposals should not come as any surprise.

More access to the money retirement reform wants to preserve

The one thing that may have been unexpected a few years ago, is the increased access to the very savings that the reform actually wants to and needs to preserve. The current misalignment between the timing and level of access per type of fund, has necessitated a give-and-take situation between the old and the new regime.

The new regime provides a solve for the fact that retirement annuity fund members cannot access retirement savings prior to retirement, as well as the unintended consequence of individuals needing to resign from their jobs just to access their savings in a provident and pension fund, in times of hardship. That, and of course the dire need to help South Africans preserve their retirement savings until retirement.

Today under current legislation, in short, preservation fund members can deplete their savings with one allowable withdrawal. Pension and provident fund members can do so by resigning from employment, while retirement annuity fund members cannot really access their savings at all until retirement date.

All will be treated in the same manner from 1 March 2024, but only in respect of the contributions to these savings vehicles as of that date.

Highlights of proposals in the revised draft

- Phase one will be implemented from 1 March 2024.
- Two pots have now become three components, i.e. the vested, savings and retirement component.
- Members are not losing any existing rights. The retirement interest on 29 February 2024 will be allocated to the new vested component, but will keep its current vested or non-vested nature in terms of the previous (still current) dispensation.
- New contributions from 1 March 2024 will be split between the savings and retirement components.
- Growth and returns stay in the component in which they are earned.
- Seeding of the savings component has now been confirmed, and in essence, allows this component to be stocked or filled with money to enable immediate access on 1 March 2024, but only up to a limited value. The vested retirement interest of a member on the day before implementation can therefore ‘fund’ the savings pot up to a set maximum. The allowable seed capital is the lesser of 10% of the accumulated retirement interest in the vested component (29 February 2024) or R25 000.
- The savings component is seeded from the vested component and not the retirement component - there is no choice here - but the member can, at any time after 1 March 2024, transfer the savings component to the retirement component.
- The savings component can only be funded (fed) by seeding, 1/3 contributions and transfers from another savings component.
- A member may make one withdrawal per tax year out of the savings component (only this pot) that is then taxed at the marginal rates of the member. These withdrawals are allowed per contract in a fund membership. The structure and nature of the membership or agreement as well as fund rules are going to be important here. The withdrawal value (savings withdrawal benefit) will form part of your annual taxable income and it currently looks like the withdrawal will be paid to the member after tax is paid over to SARS as per a tax directive.
- Everything in the retirement component must be annuitised at retirement, except if the value falls below R165 000 (current), in which case the member may choose to rather take a lump

sum/fully commute. Application of the de minimis rule is across the annuitisation portions of both the vested and retirement components.

- You cannot transfer only a portion or part of a component.
- Deductions from a member's pension interest in terms of a divorce court order is still allowable, but it seems to not be proportional from all components - only from the vested and retirement components. This might be something to watch in the commentary process and ultimate legislation.
- The members of provident/provident preservation funds who were 55 or older on 1 March 2021, and are still members of the same fund, will have a choice about whether to partake in the new regime or not. If they choose not to, they will continue contributing to the vested component. It seems that this is going to be a once-off choice.

Last word on the revised draft

Defined benefit funds will also be subject to the reform. The revised draft bill therefore makes some changes to the rules to allow such a fund to calculate the one-third contributions to the savings component by using the member's pensionable service increases.

Legacy retirement annuity policies are exempt from the reform. Legacy policies available in retirement annuity funds are, for this purpose, policies entered into before 1 January 2022, where a retirement fund holds the policy and the 'members' purchase a policy for the sum insured and share investment returns at portfolio level.

Allowing members to also withdraw from the retirement component, and not only the savings component when they are retrenched and have no alternative source of income, will be considered in phase two of the reform. It seems that there may even be more to the second phase, as mention is made of measures to ensure the savings culture is not compromised and to protect the liquidity of the retirement funds themselves.

The draft Revenue Administration and Pension Laws Amendment Bill was also published on 9 June 2023 and contains the necessary amendments to the Pension Funds Act to enable the two-pot system.

What we know about the two-pot system.

Annalise De Meillon-Muller

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Annalise is responsible for support of the Business Development team with respect to product entrenchment, legal expertise, regulatory compliance, financial planning principles, digital communication, and strategic project collaboration. Her role is key to ensuring the fulfilment and maintenance of the competency and expertise of the team and selected partners. Annalise joined Glacier in 2015 as a Sales Training Manager looking after the competency and expertise of the Glacier Distribution and Sales team. Before Glacier, Annalise's career spanned almost two decades as a technical professional in the fields of law, financial planning, development, business development and marketing at the Road Accident Fund, Bowline Fulfilment, Bowman Gilfillan Attorneys and Milpark Education. Annalise obtained a B. Proc degree and Postgraduate LLB degree from the University of Johannesburg (1993 to 1999), Postgraduate Diploma in Financial Planning (CFP®) from the University of the Free State (2008) and an Advanced Postgraduate Diploma in Financial Planning (Advanced CFP®) in Estate Planning and Personal Risk Management from the University of the Free State (2010)

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