Provident funds and provident preservation funds

The basics that financial advisers need to know

Financial advisers must be able to explain the difference between the treatment of members of provident and provident preservation funds who are 55 or older on 1 March 2021 as opposed to those who are younger than 55 on 1 March 2021.

We take a look at the important questions you will be faced with, below.

What does all of this mean for clients who become new members of a provident or provident preservation fund after 1 March 2021?

- Clients who become members of provident funds for the first time after 1 March 2021 will have to annuitise at retirement, irrespective of whether they were younger or older than 55 on 1 March 2021. Vested rights (i.e. no need to annuitise at retirement) is only attached to the value in a provident fund in respect of a specific member and where that member is already a provident fund member on 1 March 2021. These members will only get full access to their retirement interest at retirement if the value is equal to, or less than, R247 500 at the time.
    - Clients who become members of provident funds after 1 March 2021 where:
        - membership includes a transfer from another provident or provident preservation fund in respect of the same client, and
        - where the transfer includes a vested portion; then

          this vested portion (plus the growth thereon) does not form part of 'retirement interest' for the purposes of annuitisation at the eventual retirement of the client.

Any non-vested portion transferred and all contributions into the provident fund as from 1 March 2021 (plus the growth) does form part of the retirement interest for the purposes of annuitisation.

What is important for members of provident
funds who are 55 or older on 1 March 2021, when it comes to withdrawing from the fund upon resignation, dismissal or retrenchment from employment and thus transferring out of the fund?

Members transferring out of their employer's provident fund after
1 March 2021

have some choices to make that could influence their benefits at retirement.

- Transferring to a new provident fund with a new employer will mean that the member who is 55 or older, loses the beneficial treatment. The effect is that all contributions (plus growth on the contributions and other amounts credited to the member) in the previous provident fund is vested for the purposes of annuitisation (full access at retirement) but contributions into the new fund after the date of transfer will not be vested. Differently put, it means that where in general both contributions and growth before and after 1 March 2021 do not form part of 'retirement interest' for the purposes of annuitisation, should the member transfer to another fund after 1 March and before retirement, the contributions into the new fund do form part of 'retirement interest' for the purposes of annuitisation.

From the date of first contribution into the new fund the member is treated as if he is now younger than 55 years old. The result is that even members who were 55 or older on 1 March 2021, will have both a vested and a non-vested portion in the new fund. Therefore, unless the value and growth in the non-vested portion in the new fund, at point of retirement, is less than R247 500, the member will only have lump sum (after tax) access to 1/3 of the value in respect of the non-vested portion in the new fund at retirement. The same will happen should the member choose to transfer to a Retirement Annuity Fund.

- Choosing to preserve the retirement interest in a preservation fund will mean that the retirement interest in the provident fund is transferred along with the vested rights attached thereto. As members of preservation funds cannot further contribute to the funds by law, the member's value in the preservation fund will remain vested along with any growth thereon and at retirement the member will have full access to the retirement interest in the fund. The retirement interest paid as a lump sum will be taxed.

What is important for members of provident
funds who are younger than 55 on 1 March 2021, when it comes to withdrawing from the fund upon resignation, dismissal or retrenchment from employment and thus transferring out of the fund?

Members transferring out of their employer's provident fund after
1 March 2021 have some choices to make that could influence their benefits at retirement:

- Remember that the changes mean that for members who are younger than 55 on 1 March 2021, all contributions (plus growth on the contributions and other amounts credited to the member) prior to 1 March 2021, do not form part of the 'retirement interest' for the purposes of annuitisation whilst contributions etc after 1 March 2021 do indeed form part of 'retirement interest'. Transferring to a new provident fund with a new employer, or a Retirement Annuity Fund, will mean that the members who are younger than 55 will transfer both a vested portion and a non-vested portion. A member's value in the provident fund (plus future growth on this value and other credited amounts) is pegged as vested in the fund on 28 February 2021. Any contributions into the new provident fund or retirement annuity fund starting 1 March 2021 (plus growth on these new contributions) will make up the non-vested portion along with any non-vested portions from the original fund (contributions between 1 March 2021 and date of transfer).

At retirement the member will have access to the full value of the vested portion but will only have access to 1/3 as a lump sum in the non-vested portion. Therefore, unless the value and growth in the non-vested portion at the point of retirement is less than R247 500, the member will only have lump sum access to 1/3 of the value (after tax) in this non-vested portion at retirement.

- Choosing to preserve the retirement interest in a preservation fund in future will mean that the retirement interest in the provident fund is transferred as both a vested and non-vested portion. As members of preservation funds cannot further contribute to the funds by law, the member's value in the preservation fund will remain both vested and non-vested along with any growth thereon and at retirement the member will have full access to the vested portion and only 1/3 access as a lump sum (subject to tax) to the non-vested portion.

What does this mean for clients who are members of provident preservation funds on 1 March 2021?

- Considering that provident preservation fund members cannot contribute to the fund after the initial investment, the fact that all contributions (plus future growth on the contributions) becomes vested (has vested rights attached thereto) on 28 February 2021, means that the retirement interest in the fund remains vested.
    - Should the member transfer to another provident preservation fund after 1 March 2021, the transfer value into the new fund will have vested rights and should be indicated as such on the Request of Transfer (ROT). No additional contributions are made into the second provident preservation fund and therefore the retirement interest (plus growth thereon) remains vested until retirement. At retirement the member will have full access (after tax) to the retirement interest transferred into the fund as well as the growth thereon accumulated in the second provident preservation fund.
    - Should the second fund benefit later be transferred to a retirement annuity fund (RA) for example, this situation changes. All contributions into the RA after the date of transfer (plus growth on these contributions) does not carry vested rights and the member will at retirement only be able to access 1/3 of the value unless it is equal to, or less than, R247 500. The member will still have full access to the portion transferred (and all growth thereon) with vested rights from the provident preservation fund.

What is important to explain about taking a withdrawal from a fund prior to retirement?

- Where a member:
  - takes the one allowable withdrawal from his preservation fund or
  - where the member is in the process of transferring to another fund (pension and provident fund members) and elects to only transfer a portion and take the remainder as a withdrawal,

should the member have both a vested and non-vested portion linked to his membership, this means that the withdrawal requested will be made proportionally from both these portions and the member will not be able to choose to apply the withdrawal against the non-vested portion only with a view to preserving the maximum vested rights for retirement.[1]

- When it comes to the provident, preservation or retirement annuity fund receiving an instruction to pay a deduction allowed in the Pension Funds Act to a third party from the value of the member's retirement interest, the deduction will be made proportionally from both the vested and non-vested portions linked to the member. A typical example is where a percentage of the member's pension interest is awarded to an ex-spouse in divorce proceedings. The member spouse will therefore still have a vested and non-vested portion in the fund after the deduction, although the value will be less. The pension interest paid to the non-member spouse however, can have no vested rights attached thereto even in respect of the payment made from the member's vested portion. The vested rights attached to the contributions (plus growth thereon) is linked to the membership of the spouse who was a member of the fund on 1 March 2021, and not to the membership of the ex-spouse of another recipient fund.

Click here to view an infographic. Further information and a brochure will be shared in next week's issue of *Glacier Weekly*.

---

[1] Glacier and Sanlam have prepared to apply legislated withdrawals proportionally from the vested and non-vested portions. This aligns with the legislation and what the industry understands the intent of the legislature to be. The Taxation Laws Amendment Act 2020 confirmed that withdrawals allowed by the Pension Funds Act should be treated proportionally i.e. this is how the new definitions of the types of retirement funds read. There was an oversight in addressing the one allowable preservation fund withdrawal seeing that this withdrawal is possible in terms of the Income Tax Act and not the Pension Funds Act. The anomaly has been brought under the attention of NT and SARS. Glacier and Sanlam will continue to apply proportionality for these withdrawals as well, as we believe this is the legislative intention and how the industry will proceed to implement at large until there is a different indication from the authorities.

Glacier Financial Solutions (Pty) Ltd.

A member of the Sanlam Group
Private Bag X5 | Tyger Valley 7536 | Email client.services@glacier.co.za | Tel +27 21 917 9002 / 0860 452 364 | Fax +27 21 947 9210 | Web www.glacier.co.za | Reg No 1999/025360/07
Licensed Financial Services Provider | Glacier Financial Solutions (Pty) Ltd. is also a Licensed Discretionary Financial Services Provider FSP 770, trading as Glacier Invest | Sanlam Multi-Manager International (Pty) Ltd. | A member of the Sanlam Group

Private Bag X8 | Tyger Valley 7536 | Tel +27 21 950 2600 | Fax +27 21 950 2126 | Web www.smmi.com *|*Reg No 2002/030939/07
Licensed Discretionary Financial Services Provider, acting as Juristic Representative under the Glacier Financial Solutions FSP 770
Glacier International is a division of Sanlam Life Insurance Limited
Sanlam Life Insurance Ltd. | Email life@sanlam.co.za | Tel + 27 21 916 5000 / 0860 726 526 | Fax +27 21 947 9440
Reg No 1998/021121/06 | Licensed Financial Services Provider