Sanlam

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Insurance | Financial Planning | Retirement | Investments | Wealth

Newsletter of Sanlam Employee Benefits: Legal

1. 2017 National Budget

The following of the 2017 Budget proposals are relevant to the employee benefits industry:

Preservation of benefits after retirement

With effect from 1 March 2015 amendments were made to the Income Tax Act to allow fund members who retire from service to elect when to retire from the fund. In terms of these amendments the lump sum benefit accrues (for tax purposes) when the member elects to retire from the fund. Currently, once the individual elects to retire, the Income Tax Act does not cater for the transfer of lump sum benefits from one retirement fund to another. National Treasury proposes that transfers of retirement benefits be allowed from a retirement fund to a retirement annuity fund, subject to the rules of the funds concerned.

It is unclear why only a transfer to a retirement annuity fund, and not any other type of retirement fund, was mentioned. This may be a drafting error. There should be more clarity when the draft Tax Bill, 2017 is released for comment later this year.

Tax-exempt status of pre-March 1998 build-up in public sector funds

The Income Tax Act currently makes provision for the tax-free transfer of pre-March 1998 lump sum benefits from a public sector fund to a private sector retirement fund, but not in the event of subsequent transfers. It is proposed that the tax-free status of such lump sum benefits be retained upon subsequent transfers to another retirement fund.

Removing time limit to join an employer umbrella fund

In terms of the Income Tax Act existing employees have a choice to join a fund when their employer starts to participate in such fund, which choice has to be exercised within 12 months. If they do not exercise their choice within 12 months, they would be unable to join the fund later. To encourage employees to contribute towards their retirement, Treasury proposes, with regard to umbrella funds, that the 12-month limit be removed, and that the aforesaid existing employees be allowed to join without time restriction, subject to the rules of the fund.

It is not clear why removal of the limit should apply to umbrella funds only. There is in principle no reason why it should not apply to all pension and provident funds. There should be greater clarity on Treasury's intention once draft legislation is released in this regard.

Pension Funds Act amendments

During 2017 amendments to the Pension Funds Act will be considered with a view to introducing the concept of an umbrella fund in the Act (currently umbrella funds are not dealt with in the Act), and to clarify the extent, purpose and interpretation of the powers of the Registrar of Pension Funds to deal with funds that do not have properly constituted boards. Treasury will also engage with the Financial Services Board to find a sustainable policy solution to the challenge of unclaimed benefits.

Annuitisation for provident fund members

The Revenue Laws Amendment Act, 2016 postponed the annuitisation of retirement benefits for provident funds to 1 March 2018 to allow for further consultation with the National Economic Development and Labour Council (NEDLAC) and others on retirement reforms. Discussions in NEDLAC and with other interested parties will continue, with the aim of reaching consensus on the need to annuitise at retirement. Should no agreement on annuitisation be reached, government will review the continuation of the tax deduction for member contributions to provident funds, to ensure the tax system is equitable across all retirement funds.

Treasury will also engage with the industry to provide appropriate annuity products that take better account of the needs of low- and middle-income members of retirement funds.

Automatic enrolment in retirement funds

According to Treasury, South Africa has a well-developed occupational pension system, but there is limited coverage and a large number of funds.
In November 2016, government tabled a discussion paper on social security reform at NEDLAC. While NEDLAC engagement is expected to take some time to conclude, a parallel process is expected to consider more urgent retirement reforms that can be implemented. For example, government is considering automatic enrolment as a key and urgent initiative to ensure more workers save for their retirement. This initiative would encourage or require employers to automatically enrol their workers into a retirement fund, which could be sponsored by the employer or sourced from a third party.

Application of the cap on deductible retirement fund contributions

The 2017 Budget review states that it is currently not clear how the overall annual cap of R350 000 on contributions to pension, provident and retirement annuity funds should be applied when determining monthly employees' tax. It is proposed that the amount of R350 000 be spread over the tax year, which is deemed to be a more prudent approach.

Old age grant

From 1 April 2017, the State old age grant is expected to increase from R1505 to R1600 per month.

2. Information Circular 1/2017: Submission of annual financial statements

In terms of the Pension Funds Act the board of every fund must submit its annual financial statements within 6 months of the expiry of its financial year. Failure to do so is a contravention of the Act as well as non- compliance with the object and duties of the board and may lead to the Registrar finding that the board is not fit and proper to hold office.

The circular states that the Registrar intends to impose a penalty of R60 per day for the late or non-submission of 2015 annual financial statements. Notification letters will be sent to the funds concerned and funds will be provided an opportunity to respond to the notification, as indicated in the letters.

Retirement funds or other clients requiring more information should not hesitate to contact their consultant.