

### 3. Implementation of paragraph 2B of the Fourth Schedule to the Income Tax Act

Paragraph 2B of the Fourth Schedule to the Income Tax Act, which comes into operation on 1 March 2022, currently stipulates that if a taxpayer receives remuneration from more than one source (including a pension from a retirement fund or insurer), the tax rebates applicable to the taxpayer are not to be taken into account by the retirement fund or insurer when calculating the taxes to be withheld on the pension. The Taxation Laws Amendment Bill, 2021 proposes that paragraph 2B be amended so that the tax rebates should still be taken into account in the aforesaid circumstances. The retirement fund or insurer paying the pension should instead apply the fixed tax rate as directed by the South African Revenue Service (SARS) in determining the tax to be withheld.

SARS has sent a letter to all stakeholders, in which they set out how paragraph 2B will be implemented from 1 March 2022. In essence, SARS will determine the effective rate of tax in respect of the combined employment and/or pension sources of income of a taxpayer, with reference to the latest data available to SARS, and provide that rate to retirement fund administrators for purposes of withholding Pay-As-You-Earn (PAYE). This will in practice entail the following:

- Prior to 1 March 2022, SARS will, where it deems necessary, provide retirement fund administrators with the PAYE withholding percentage for each of the pensioners on its payroll that qualify.
- Retirement fund administrators will then be required to use the rate provided by SARS in respect of pensions paid from 1 March 2022.
- SARS will provide the PAYE withholding rates by way of an electronic file.
- Where a PAYE withholding rate has not been provided by SARS in respect of a particular pensioner, retirement fund administrators must continue to apply the normal PAYE withholding rates.
- Where SARS provides a PAYE withholding rate, it will be by way of an annual directive. Where a pensioner's circumstances change during the year (for example other employment income ceases, or death and so on), the retirement fund administrator may apply the normal PAYE withholding rate, as opposed to the withholding rate provide by SARS, with effect from the month in which it becomes aware of the change in circumstances.

- Notwithstanding the PAYE withholding rate provided by SARS, a pensioner may at any time request his or her retirement fund administrator to withhold PAYE at a rate higher than the rate provided by SARS.
- Notwithstanding the PAYE withholding rate provided by SARS, a pensioner may request his or her retirement fund administrator to withhold PAYE at a rate that is equal to the PAYE withholding rate under the normal PAYE withholding tables. In such a case, the retirement fund administrator is required to inform the pensioner of the possibility that the PAYE withholding rate may be insufficient to cover the tax liability of the taxpayer on assessment.