RETIREMENT FUNDS
A GUIDE TO THE
PROPOSED REFORMS

Over the last half century various attempts to reform the South African pensions system have been explored. In late 2004 , National Treasury published a 70 page document on its' recommendations for the future of retirement funding for all South Africans.

MAJOR FOCUS

- Access to retirement savings for informal sector and low income earners.
- Regulation and governance of retirement funds.
- May 2012-National Treasury published overview of proposals- "**Strengthening retirement savings**" (proposals made in the 2012 budget)

IMPRESSION GAINED

Intention to establish a national retirement fund proved more complex than anticipated.

Pressing need to reform current retirement funding dispensation.

Discussion on the national retirement funding dispensation would continue in parallel.

- Series of 5 papers published to explain the proposals in detail.
- **Paper A**– Retirement fund costs (still to be published).
- **Paper B**– Enabling a better income in retirement.
- **Paper C**– Preservation, portability and governance of retirement funds.
- **Paper D**– Incentivising non retirement savings.
- **Paper E**– Improving tax incentives for retirement savings.

m CUBED EMPLOYEE BENEFITS

- 4 July 2013- National Treasury published the 2013 Taxation Laws Amendment Bill for comment.
- Many of the proposals in Papers C and E have been drafted into legislation.

It is important to note that the proposals are not yet law and that different implementation dates are envisaged.

PROPOSED EFFECTIVE DATE- MARCH 2015

- **Will be known as-“T” Day :-**

Employer contributions to retirements funds
will become a fringe benefit in the hands of employees for tax purposes.

- Individuals will be able to receive a tax deduction on employer and employee contributions to a pension fund, provident fund or retirement annuity fund up to 27.5% of the greater of remuneration and taxable income.

- A ceiling of R 350 000 per annum will apply

- Any contributions that do not attract tax relief may be carried forward to tax years where the ceiling is not encountered and any remaining amount may be added to the tax free element of any cash commutation taken at retirement

- All fund members irrespective of the type of vehicle used for retirement funding– will now enjoy a level of tax relief previously only available to members of pension funds.
- The employer contribution (including if the contribution is to a retirement annuity fund)is added in the nature of a “fringe benefit” but employee able to obtain tax relief on his and employers contributions and be in a tax neutral position (subject to the R 350 000 limit). This replicates the current position, albeit obtained by a different method.

DEFINITION OF- TAXABLE INCOME/REMUNERATION

Broadly speaking:-

Taxable Income- income earned from formal employment.

Remuneration- taxable income together with remuneration earned from other sources e.g. interest earned and property rental income.

PROPOSED DATE- MARCH 2015

- Will be known as-“ P” Day :-
- Full vested rights with respect to withdrawal from retirement funds will be protected.
- Amounts in retirement accounts at “P” day and growth can be taken in cash but from a preservation fund and subject to taxation as currently.

- After “P” day – retirement fund must indentify a preservation fund and transfer member’s fund credit into that fund or another preservation fund when the members withdraw from the fund before retirement.
- Existing preservation funds rules will be relaxed to allow one withdrawal per annum– but the amount of the withdrawal will be limited– 10% per annum has been intimated–not yet confirmed.

- Unused annual withdrawals may be carried forward to future years.

- Withdrawal limits will account for vested rights.

- Payments resulting from divorces will also be paid into preservation funds rather than being paid in cash.

- Annuitisation requirements of provident and pension funds will be harmonised.
- Annuitisation rules will only apply to new contributions and growth made after "P" day.
- Existing fund credits in provident funds and future growth on these fund credits accumulated prior to "P" day will not be subject to annuitisation.

IMPACT ON ADMINISTRATORS

- An extra record of pre and post March 2015 contributions will need to be maintained in order to ensure the correct tax treatment upon eventual retirement and to confirm commutation/annuity requirements.
- This adds **complexity** and **costs** at a time when there is **immense** pressure to bring these costs **down**

m CUBED EMPLOYEE BENEFITS

Members over the age of 55 at “P” day

- Will not be subject to the new requirement including any of their retirement benefit which could be attributed to contributions made on or after “P” day.

- However, must remain a member of the **same provident fund**–if moves to another fund –will be in the same position as an under 55 year old– in other words the accumulated post “P” day contributions will be subject to compulsory annuitisation

IMPACT ON ADMINISTRATORS

- **Members over age 55 years on “P” day–**
- Provident funds will have to keep a split record for these members – just in case the member should transfer to another fund before retirement

- To “soften” the impact on provident members the means test for the OldAgeGrant will be phased out by 2016

- If capital to purchase two-thirds pension at retirement R 150 000 or less can take the capital in cash (currently R 75 000) but no longer per pension fund/retirement annuity now will apply across all funds from which a member retires from.

PRE-RETIREMENT PRESERVATION

- Rules of preservation funds to also change on "P" day.
- Vested rights will be protected- individuals will be able to access this amount in cash, at any time after they leave the fund/preservation section of the fund.
- From "P" day – pension and provident funds will not be permitted to pay cash withdrawals pre- retirement.

- Pension and Provident funds will be required to identify a default preservation option for their members.
- Can be a section inside the fund or a fund outside it.
- Trustees must abide by a set of principals in the selection or design of this fund.
- Trustees will be given a degree of legal protection in respect of this choice- provided:-

- Certain tests including design, charges, transparency, investment strategy and investment options are met

- Further, the Trustees have given access to commission-free independent financial advice ,when a member retires/leaves the fund.

- Trustees:
  - Will be required to guide members through the retirement process;
  - Identify a default retirement product;
  - Automatically shift members into that product unless the member requests otherwise;
  - Living annuities will be eligible for selection as the default product (certain criteria must be met)
  - Providers other than registered life offers will be allowed to sell living annuities.

Further proposed changes that effect the duties/responsibilities of Trustees:-

- PF 130 -Governance issues- revised and elevated to a Directive;
- Elevating the current Trustee Toolkit into a basic independent and compulsory free training toolkit;
- FSB to be notified of any new trustee appointments/changes to the Board;
- Role of P.O.- reviewed to ensure highest standard of accountability, professionalism compliance and

m CUBED EMPLOYEE BENEFITS

Financial Services Laws General Amendment Bill stipulates that;

- Trustees must obtain training within 6 months of their appointment;
- Protect whistle blowing trustees from victimisation and liability;

- FSB directive will be issued outlining the minimum requirements that Trustees must meet to guide members through the process of converting their defined contribution lump sum accumulation to an income at retirement.

- To monitor these reforms, detailed reporting will be required from funds on:-
- Annuities purchased by retiring individuals
- Charges and asset mix on living annuities
- Purchase prices and terms of conventional annuity policies

Summary

- Increased administration/record keeping for retirement funds and preservation retirement funds-could well increase administration costs. Upfront costs may need to increase to develop admin system and ongoing administration fees.

- Extra responsibilities for Trustees -could result in independent Trustees increasing their fee structure and overall general reluctance to assume the position of a Trustee.

m CUBED EMPLOYEE BENEFITS