RETIREMENT FUND REFORM 2021.

Government has implemented a number of retirement fund reforms over the last few years in order to promote a culture of savings and ensure retirement fund members have enough money to retire comfortably. Three further changes will come into effect on 1 March 2021. The **first change** will require provident fund members to take a portion of their retirement benefits in the form of an annuity - this is referred to as **'annuitisation'**. The **second change** allows for greater **'portability'** of retirement benefits across a much wider range of retirement funds and the **final change** will be made to the current pre-retirement **'emigration'** withdrawal requirements for members of Retirement Annuities ('RAs') and pension/provident preservation fund members.

What is Retirement Fund Reform?

Retirement Fund Reform is a process whereby Government, through policies and legislation, seeks to:

- Encourage members of retirement funds to **save** and provide adequately for retirement
- Encourage employers to structure retirement saving plans for their employees as part of the **employment contract**
- Ensure that members of retirement funds receive **good value for money** for their retirement savings and are treated fairly
- Improve **standards** of retirement fund governance

What does T-Day mean?

The latest set of Retirement Fund Reform changes will come into effect on 1 March 2021. This day is commonly referred to as **'T-Day'**.

Annuitisation of provident fund benefits

At present, members of provident funds and provident preservation funds can take the full value of their retirement benefits as 'cash lump sums' at retirement. Members of pension funds, pension preservation funds and retirement annuities ('RAs') on the other hand, can only take ⅓ of their retirement benefits as cash lump sums and must take at least ⅔ of their retirement benefit as 'annuity income'. Only if the total value of their retirement benefit is less than R247,500, can members of pension funds, pension preservation funds and RAs take the full value of their retirement benefit as a cash lump sum.

What is changing?

From T-Day, the retirement benefits paid from provident funds and provident preservation funds will be aligned to the retirement benefits paid from pension funds, pension preservation funds and retirement annuity funds. This means that members of provident funds and provident preservation funds will be required to 'annuitise' a portion of their retirement benefits i.e. they will be required to take a portion of their retirement benefits as 'annuity income' This will be subject to the certain 'vested' rights that provident fund and provident preservation fund members will have in respect of benefits that they have already accumulated up to T-Day.

What are 'VESTED BENEFITS'?

Existing members of provident funds and provident preservation funds have accumulated benefits with the expectation of receiving those benefits as a cash lump sums at retirement. In recognition of that expectation, provident fund and provident preservation fund members will have the right to take the benefits they have accumulated up to T-Day plus fund returns on those benefits after T-Day as a cash lump sum when they retire. These benefits will be referred to as 'VESTED BENEFITS'. Contributions made after T-Day as well as fund returns/growth on those contributions will comprise 'NON-VESTED BENEFITS' and will be subject to 'annuitisation'.

Members under and over age 55 on T-Day

Members of provident funds and provident preservation funds who are younger than 55 on T-Day will be required to take an annuity with a portion of their benefits when they retire after T-Day. Benefits accumulated up to T-Day (plus future fund returns on those benefits after T-Day) will comprise VESTED BENEFITS and can be taken as a lump sum at retirement. However, contributions made after T-Day (plus fund returns after T-Day) will comprise NON-VESTED BENEFITS and must be annuitised i.e. Up to 1/3 of the NON-VESTED BENEFITS can be taken as a cash lump sum at retirement but at least 2/3 of the NON-VESTED BENEFITS must be taken as a annuity income. If the value of the NON-VESTED BENEFITS is below R247,500, the full value of NON-VESTED BENEFITS can also be taken as cash lump sum.

Members of provident funds and provident preservation funds who are 55 or OLDER on T-Day have the right to additional VESTED BENEFITS. The benefits they accumulate after T-Day as well as the contributions made after T-Day as well as all fund returns on those benefits will all be regarded as VESTED BENEFITS. All their benefits will be regarded as VESTED BENEFITS, provided they remain in that same provident fund.

Will existing provident preservation fund members be affected?

As the T-Day changes only affect contributions made after T-Day and as provident preservation fund members cannot make contributions, existing members of provident preservation funds will not be impacted by these changes.

Transfers of VESTED and NON-VESTED BENEFITS

VESTED BENEFITS and NON-VESTED BENEFITS transferred to other retirement funds after T-Day will retain their nature in those retirement funds. However, contributions (and fund returns on those contributions) in the new retirement fund will be treated as NON-VESTED and will be subject to annuitisation.

Reductions of VESTED and NON-VESTED BENEFITS before retirement

Retirement fund rules and the Pension Funds Act allow for pre-retirement withdrawals and the reduction of benefits due to divorce and maintenance orders, loan recoveries, compensation paid to employers. If a member has both VESTED BENEFITS and NON VESTED BENEFITS and pre-retirement withdrawal or reduction will have to be applied proportionally against the VESTED BENEFITS and NON-VESTED BENEFITS.

Portability of retirement fund benefits across different types of retirement funds

Portability of retirement benefits refers to the transfer of retirement benefits between different types of retirement funds.

What is changing?

The requirement to for provident fund and provident preservation fund members to annuitise a portion of their benefits from T-Day onwards means that the distinctions between 'restrictive' retirement funds such as pension funds and 'less restrictive' retirement funds such as provident funds will fall away. As a result of the alignment of retirement funds, the ability for retirement fund members to transfer their benefits 'tax-free' to a wider range of retirement funds will be possible after T-Day. For example, members of pension funds will now be able to transfer their benefits to a provident fund 'tax free', whereas such a transfer is currently taxed.

What will not change?

Members of RAs will still only be able to transfer their benefits to other RAs 'tax-free'.

Retirement Annuity ('RA') and pension/provident preservation fund withdrawals on **'emigration'**

Members of RAs, pension preservation funds and provident preservation funds are able to take pre-retirement withdrawals under very specific conditions, such one partial (or full) pre-retirement withdrawal for preservation fund members or the pre-retirement withdrawal allowed for RA members when the value of their RA is less than R7000. One the other very specific conditions that allows RA members and pension/provident preservation fund members to take a withdrawal before retirement is if that member emigrated from South Africa and that emigration is recognised by the South African Reserve Bank ('SARB') for the purposes of exchange control.

What will change?

'**Exchange control'** and the concept of **'emigration'** will be phased out from T-Day. As **'emigration'** will no longer be formally recognised, the current basis of allowing members of RAs and preservation fund as a consequence of emigration will have to change.

With effect from T-Day, RA and pension/provident preservation fund members will be able to take a pre-retirement withdrawal if:

- They are or were South African residents who emigrated from South Africa and that emigration was recognised by the South African Reserve Bank ('SARB') for purposes of exchange control in respect of applications received on or before 28 February 2021 and approved by the SARB or a South African bank on or before 28 February 2022; or
- They are not SA residents for an uninterrupted period of three years or longer on or after 1 March 2021.