



## Taxation and Retirement Annuity Funds

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There have recently been a number of changes to the taxation benefits attached to retirement funds. These include:

### 1. TAXATION TREATMENT OF RETIREMENT FUNDS FOR THE CURRENT ANNUAL TAX YEAR

#### 1.1 Contributions to a Retirement Annuity Fund

Taxpayers can deduct 27,5% of non-retirement taxable income for contributions to a RA Fund, subject to a total of R350 000 per tax year.

Non-retirement taxable income includes any investment income, but excludes income from lump sums taken on retirement. In calculating non-retirement funding income, all attributable tax deductions are taken into account (this would include tax deductions for an individual to a pension fund, which is limited to 7,5% of retirement funding income).

Arrear contributions to a RA Fund are capped at R1 800 per year, although any excess contributions can be carried forward. This carry forward also applies to any contributions to a RA Fund, in excess of the 27,5% of non-retirement funding income.

#### 1.2 Withdrawals from a RA Fund Before Retirement

This would apply to a taxpayer withdrawing contributions to a pension, preservation, provident or RA Fund when changing employment, for instance. This would also include assignment in terms of a divorce order.

Table 1

| PRE-RETIREMENT FUND – LUMP SUM WITHDRAWAL BENEFITS |  |
|--|--|
| Taxable Income (R)                                 | Rate of Tax (R)                                |
| 0 to 25 000  | % of taxable income.                           |
| 25 001 to 660 000                                  | 18% of taxable income above 25 000.            |
| 660 001 to 990 000                                 | 114 300 + 27% of taxable income above 660 000. |
| 990 001 and above                                  | 203 400 + 36% of taxable income above 990 000. |
| <i>Source: SARS.</i>                               |  |

### 1.3 Withdrawals from a RA Fund On Retirement

The taxation of lump sums (one-third of contributions) from a retirement fund, on taking retirement, also apply in the case of death or termination of employment due to redundancy or termination of the employees trade (retrenchments). These also apply to severance benefits which consist of lump sums paid, on arrangement with an employer, for relinquishment, termination, loss, repudiation, cancellation or variation of a person's employment.

Table 2

| POST-RETIREMENT FUND – LUMP SUM BENEFITS OR SEVERANCE BENEFITS |  |
|--|--|
| Taxable Income (R)   | Rate of Tax (R)                                  |
| 0 to 500 000   | % of taxable income.                             |
| 500 001 to 700 000   | 18% of taxable income above 500 000.             |
| 700 001 to 1 050 000   | 36 000 + 27% of taxable income above 700 000.    |
| 1 050 001 and above  | 130 500 + 36% of taxable income above 1 050 000. |

*Source: SARS.*

### 1.4 Excess Contributions

The taxation benefits applicable to RA Funds have the benefits of lowering the investors' income tax liability. If contributions in excess of the tax deductible limits are made to a RA Fund, this unclaimed amount carries forward to subsequent years. If, by retirement age, the full tax credit has not been fully utilised, then the unused deduction can be used against the lump sum take on retirement. If the lump sum is not sufficient to fully utilise the unused tax deduction, then it can be offset against the income received from an annuity, with effect from March 2021.

### 1.5 Death Benefits

Any benefits paid on death from both a retirement annuity fund and a living annuity (after retirement), are excluded from the member's estate. In terms of Section 37c of the Pensions Fund Act, the Trustees of the RA Fund, will distribute any death benefits directly to the beneficiaries and/or dependents of the member and these assets do not form part of the Estate, to be distributed by the executor of the Estate.

This can lead to significant savings in Estate Duties and in the fees payable to the executors of the Estate.

### 1.6 Taxation of Assets and Income in a RA Fund

No capital gains tax or taxation on interest or dividends received in the Fund is payable. So growth in the RA Fund is tax free. This also applies to assets and income in a living annuity fund.

## 2. TAXATION TREATMENT OF RETIREMENT FUNDS FROM MARCH 2015

The Taxation Laws Amendment Act has ushered in a new regime for RA Funds from 2015.

### 2.1 Cash Withdrawals from a Retirement Fund

Investors who currently have less than R274 500 invested in a RA Fund can take the full amount in cash on retirement. This cash portion is taxed as in Table 1.

If the retirement pool is greater than R274 500, when wishing to take retirement, the investor can take one-third in cash, with the rest to be paid as an annuity. Any income received from an annuity is tax as normal income in terms of the current tax tables.

### 2.2 Contributions to a Retirement Annuity Fund

From 1<sup>st</sup> March 2015, contributions of up to 27,5% of the greater of taxable income or remuneration income of the investor, can be deducted from tax when contributing to a RA Fund. This will, however, be subject to an annual limit of R350 000.

In calculating total income, for both remuneration or taxable income purposes, any income from a retirement fund withdrawal or severance benefit, must be excluded. This new definition of income for the purposes of calculating the retirement fund contribution benefits is more generous than the current non-retirement fund income definition.

Any contributions made by an **employer** to a RA Fund for the benefit of an **employee** will be deemed to be an employee contribution and will be taxed in the employees' hands. These contributions by the employer must be added to the employees contribution in qualifying for the deduction of 27,5% of taxable/remuneration income. The R350 000 annual limit will apply, which caps the 27,5% contribution to an income of R1 272 727 per year. However, contributions above the R350 000 or 27,5% annual limit can be carried forward to the subsequent tax year.

For the **employer**, the Taxation Laws Amendment Act allows the employer to deduct any contributions to a retirement fund, including an RA Fund, for their employees. However, from 1 March 2015, the 10% limitation in terms of Section 11(i) of the Act, has been removed. This means that the employer can make unlimited deductions for retirement fund contributions made for the benefit of their employees.

In the case of a partnership, the partner is deemed to be an employee of the partnership and the partnership is deemed as the employer of all partners in the partnership.

In essence, contributions by an employer to a retirement fund are deemed to be fringe benefits in the hands of the employee, who can deduct up to 27,5% of their taxable income, for both employees and employer contributions, subject to the R350 000 annual limit.

The other benefits applicable under the tax and other laws, continue untouched by the Taxation Laws Amendment Act. These include:

- Growth of capital and income in a RA Fund is not taxed.
- Contributions in excess of the annual limits to a RA Fund can be carried forward for deduction in a subsequent tax year. Even if the member leaves the RA Fund, the unclaimed deduction can be used to reduce the taxation of the lump sum or an annuity income when they take retirement.
- The funds held in a RA Fund or living annuity do not form part of the member's estate in the case of death. The Trustees of the RA Fund will award such funds to the members' beneficiaries and/or dependents in terms of Section 37(c) of the Pension Funds Act.

For queries about retirement funds, the etfSA RA Fund products and financial advice, please contact Mike Brown on Tel: 010 446-0377 or Email: [rafunds@etfsa.co.za](mailto:rafunds@etfsa.co.za).

Kind regards

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