

# Tax update – March 2008

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## Taxation laws Amendment Act (20 October 2007)

- Questions surrounding taxation of lump sum benefits at retirement
- Commutation of small annuities
- Transfers of pre 98 tax free amounts in public sector funds to new fund and retain the tax free status
- Withdrawal benefits unchanged
- Extra ordinary lump sum payouts
- Withholding tax on person earning less than R43000.
- Withdrawal of paid up benefits from RA (R7000).

## Revenue Laws Amendment Act - (8 January 2008)

- Section 37 D read with paragraph 2(b) and 2B of the Second Schedule
- Section 7(11)
- Transfer of Divorce awards - Formula "B": (para 6??)
- Fourth Schedule -withholding tax -date change 1 Jan 2009
- Taxation of Maintenance, Divorce and Loans
  - Draft GN 30 Housing loans
  - Draft GN 33 Divorce
  - Draft GN 37 Maintenance

## Practice Notes

- Draft GN 30
- Draft GN 33
- Draft GN 37

$$X = A/C \times B$$

X= amount iro which additional tax directive is required

A= tax as per the first tax directive eg: R15000

B= 100

C = 100 minus the member's effective rate of tax as per first directive eg:  $100 - 30\% = 70\%$

$$\begin{aligned} &R50\ 000/ \\ &70\% = R71\ 428 \end{aligned}$$

Example:

Award to spouse: R50 000. PAYE as determined by SARS is R15000. Tax rate is 30%.  $R15000/70\% = R21\ 428$

2<sup>nd</sup> application for tax on R21 428 will provide R6428.  $R15000 \text{ plus } R6428 = R21428$

Code 3902 R50 000

Code 3902 R21 428

Code 4102 R 21 428

## Taxation Laws Amendment Bill 2008

- **Definition of living annuity**

- RF 1/96 replaced by method or formula prescribed by the Minister ie: regulation
- Assets may be paid as a lump sum if value at any stage falls below amount prescribed by Minister (small annuities).
- On death- may be paid to dependants/ nominees as annuity or lump sum or if none of those to deceased estate as lump sum - RA's too

- **New living annuity providers** - banks, collective Inv; LT insurer; Pension Fund; National sphere of government

- **Normal Retirement Age;** - Minimum retirement date of 55 for RA and Preservation funds ;
  - Sickness; etc or
  - Employer's retirement date for pension and provident

- Upper limit of **70** removed for RA's

- **6 month limit** for commuting annuities has been removed for Pensions and RA's.
  - **A partner** must be regarded as an employee of the partnership, but Retirement Funding employment still includes a partner's fund salary just before he became partner (needs amendment). section 11(k) and S11(l) amended.
  - **Pension Preservation Fund**
    - Membership is **former employees** of a pension fund, where membership terminated by -resignation -retrenchment; - dismissal; - winding up; - 197 LR Act; -
    - Former Members of **another preservation** fund
    - **UNCLAIMED benefits** held for 24 months
    - **NON MEMBER SPOUSES** can join.
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- Upper limit of **70 removed**
  - **Employer / employee relationship** removed
  - **One withdrawal**
  - Retirement on retirement date except **unclaimed benefits** - withdrawal only? Tax?
  - 1/3 lump sum except where 2/3 is **R50 000**.

- Provident Preservation Fund
- **Retirement Annuity Fund**
  - Upper limit of age 70 removed for retirement
  - **Limit of cash benefit** to estate and annuity to dependants/nominees of contributions plus interest is deleted
  - On death of annuitant lump sum can be paid
  - A new **surrender on emigration** is available
  - On winding up of fund annuity purchased need not be same as one provided
  - Deleted security reqd to safeguard interests of annuitants
- **New definitions:**
  - Retirement date
  - Retirement Fund lump sum withdrawal benefit, (as per 2(b))
  - retirement interest
  - withdrawal interest

## •Second Schedule

- Many amendments to apply normal rules to preservation funds
- Paras 2(b) and 2(c) are now combined in one paragraph 2(b) applies average rate to lump sum withdrawal benefits -13 September 2007
- Paragraph 2B: applies to retirement and death. (previous wording? to extent 2b not applicable)
- Para 6 amended - tax free withdrawals of previously taxed non-member spouse divorce awards
- The R1800 applies to divorce awards - called withdrawal benefits
- Appendix 1: 18%/27%/36% - amendment will show it to be once off
- Transfers pension to pension preservation and provident to provident preservation



## The Future?

### Expectations from the Budget

- Simplify the tax relief granted on **contributions** to retirement funds
- Divorce payments to be taxed in hands of **non-member spouse**
- Simplification of **withdrawal benefits** -no detail . Surmise a table like retirement benefits



If you are truly serious about preparing your child for the future, don't teach him to subtract - teach him to deduct.

-- Fran Lebowitz

Thank You  
Questions?