

Tax update

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Proposed legislative
amendments

Midnight
in the
garden of good and evil



Topics covered

- **Divorce**
- **Transfers between funds**
- **Withdrawal & retirement regimes**



Divorce orders

- Granted prior to 13 Sept 07
 - Who: Member
 - When: Earlier of –
 - Date of election by non-member or
 - End of 120 period
 - How much:
 - Accrual pre 1 March 09
 - Highest average rate of current or previous tax year
 - Accrual post 1 March 09
 - Stand alone withdrawal tables



Divorce orders (2)

- NB if accrual date is in subsequent period, apply flow chart as if court order was granted in
- Granted between 13 Sept 07 and 1 Nov 08
 - Who: Member
 - When: Date of court order
 - How much: Highest average rate of current or previous tax year



Divorce orders (3)

- Granted between 1 Nov 08 and 1 March 09
 - Who: Member
 - When:
 - 45 days after the non-member submitted the court order to the fund **OR**
 - Earlier of date of election or 45 days from non-member being requested to make an election (alternative interpretation)
 - How much: Highest average rate of current or previous tax year



Divorce orders (4)

- Granted after 1 March 09
 - Who: Non-member
 - When:
 - Date of election by non-member or
 - End of 120 period
 - How much: Stand alone withdrawal table



Transfers between funds

- Revenue Laws Amendment Act, 60 of 2008
 - Transfers from pension or pension pres. fund to provident or provident pres. fund
 - Taxable on date of transfer
 - Effective date problematic
 - No effective date specified, general effective date applies
 - 1 March 08 – at time of transfer this amendment was not announced
 - No withholding tax on transfer
 - Member has to pay tax on assessment
 - New effective date required



Transfer between funds (2)

- Taxation Laws Amendment Bill, 2009
- All transfers between funds deemed to be withdrawal benefits but deductions for certain transfers (par 6 of 2nd schedule)
- No tax directive required for section 14 transfers unless transfer is taxable
- Proposed effective date: transfers made on or after 1 March 2009



Previous dispensation – withdrawals

- What constituted a withdrawal benefit?
 - Par 2(b) of the 2nd schedule
 - Divorce orders (whilst a membership cont.)
 - Lump sums* (other than retirement lump sums) payable from or in consequence of membership of past membership of a retirement fund (catch-all clause)
 - *including insurance policy transfers between funds



Previous dispensation – tax calculation

- Withdrawal benefits – tax-free portion (deduction)
 - ROT's & insurance policy transfers–
 - RAF to RAF
 - Prov to any fund
 - Pension to pension, pension pres or RAF
 - Pres fund to the same type of pres fund
 - R1,800 per annum



Previous dispensation – tax calc.(2)

- There is a minimum deduction calculated as the lesser of:
 - The amount of the withdrawal;
 - The sum of:
 - After tax contributions to this fund or any fund of which he was previously a member (provided that the fund interest was transferred to this fund); and
 - The portion of the benefit relating to pre-1 March 1998 public sector service
 - Limitation on tax-deduction from withdrawals from public sector funds relating to pre-1998 service



Current tax dispensation - withdrawals

- Effective date – 1 March 2009
- What constitutes withdrawals?
 - Same amounts as previous dispensation
 - Transfers from pens. or pens. pres funds to prov. or prov. pres funds
 - *all section 14 transfers w.e.f 1 March 2009 (draft legislation)*



Current dispensation – tax calculation

- Tax-free amount (deduction)
 - Transfers between funds (prev. disp)
 - R1,800 deleted
 - After-tax contributions to all funds including after-tax amounts transferred to UBF
 - Pre-1998 public sector service



Current dispensation – tax calculation(2)

Amount of withdrawal	Rate of tax
0 - 22,500	0%
22,500 - 600,000	18%
600,001 - 900,000	27%
900,001 +	36%



Current dispensation – tax calculation(3)

- Stand alone table applies to aggregate of withdrawal & retirement benefits over lifetime of taxpayer
- Aggregate calculated on post 1 March 09 withdrawals and post 1 Oct 2007 retirement lump sums



Current dispensation – tax calculation(4)

- **Value** of all previous withdrawal and retirement lump sums taken into account for calculation purposes
- Nature of payment and tax paid is irrelevant
- Calculation:
 - Add withdrawal & retirement lump sums (excl after tax contributions)
 - Apply withdrawal table (tax is item 1)
 - Add all withdrawal & retirement lump sums (excl after tax contributions & this withdrawal lump sum)
 - Apply withdrawal table (tax is item 2)
 - Deduct item 2 from item 1 = tax on this withdrawal



Example (1)

- Mr A
 - 1 April 2009
 - Withdraws from Fund A
 - R300,000
 - R50,000 after tax contributions
 - Tax paid R40,950
 - 1 June 2010
 - Withdraws from Fund B
 - R600,000
 - R30,000 after tax contributions



Example 1 (cont.)

- Calculate Item 1:
 - Tax on R820K $((300K-50K)+(600K-30K))$
 - R157,275
- Calculate Item 2:
 - Tax on R250K $(300K-50K)$
 - R40,950
- Deduct item 2 from item 1:
 - R157,275 – R40,950
 - R116,320

