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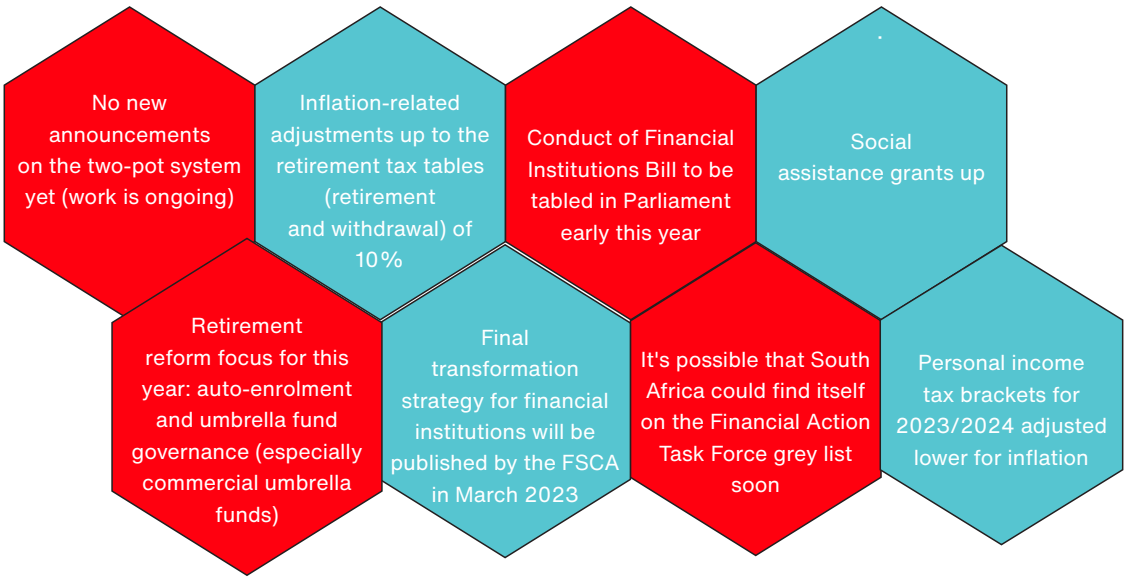
NATIONAL BUDGET - AN EMPLOYEE BENEFITS FOCUS

Finance Minister Enoch Godongwana delivered his 2023 Budget on Wednesday, 22 February 2023.

From an employee benefits perspective, there were no big announcements, and the Revenue Laws Amendment Bill containing the amendments for the two-pot system was not released, as work is ongoing. The Minister announced some welcome inflationary adjustments (10%) for the retirement and withdrawal tax tables as well as for social assistance grants. In addition, there were several technical changes announced for retirement funds. Personal income tax brackets were adjusted up.



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THE TWO-POT SYSTEM

There was nothing new in the Budget about the two-pot system, with Treasury confirming the effective date of 1 March 2024 and stating that additional work is still required on the proposals.

> It is hoped that Treasury will complete its work and release the two-pot legislation as soon as possible, as there is much work to be done to ensure readiness by 1 March 2024.

Treasury set out the additional areas of work that require finalisation in legislation:

- Seeding: how much of a member's fund credit already in the fund as of 1 March 2024 may be accessed by the member (for example through a transfer (seeding) from the vested pot to the savings pot)? What conditions will apply to this access (for example, so that fund liquidity is not negatively affected)?;
- Defined benefit funds: defined benefit fund benefits are determined by formulae and not contributions. Treasury is considering how to include defined benefit funds in the two-pot legislation;
- Legacy retirement annuity funds: many old retirement annuity funds are structured in unusual ways and Treasury is consulting on whether this will require special attention in the two-pot system; and
- Withdrawals due to retrenchment: Treasury states that this proposal will only be reviewed as a second phase of implementation, suggesting this proposal will take the form of an amendment to the legislation only after it has been finalised. As retrenchment is involuntary, there was a request that retrenched persons should be given access to their retirement pot on withdrawal from the fund. Treasury is considering the conditions that will be attached to this access, for example, limiting the amount, paying it as income, and only if UIF payments are depleted and the member is not in receipt of other income. Any withdrawals from the accessible "savings pot" would be taxed as income in the year of withdrawal at the member's marginal tax rate.

RETIREMENT REFORM

Set out below are some of the retirement reform themes that will receive attention from Government going forward. Treasury has stated in the past that they will consider the two-pot system before looking at fund governance (in particular, commercial umbrella fund governance).

Conduct of Financial Institutions Bill

The Bill is expected to be tabled in Parliament early this year. Treasury refers to the fact that COFI will introduce a new legal framework for the regulation and supervision of the conduct of financial institutions. This includes a shift to an activity-based licensing approach. Treasury mentions that a financial institution will only be granted one licence (but can be licensed for more than one activity). Thus, the FSCA levy will be an aggregated amount based on the type and number of activities that the licensee provides.

Auto-enrolment

Treasury will be considering auto-enrolment this year as it finalises policy proposals on expanding the participation and coverage of all formal and informal workers in a retirement fund without excessively burdening their disposable income. Treasury referred to its December 2021 paper entitled "Encouraging South African Households to Save More for Retirement". It also stated that it will consider a voluntary and flexible savings scheme for informal workers.

Improving the governance of retirement funds

Treasury will need to build on the proposals it made, in December 2021, in a paper entitled "Governance of umbrella funds". National Treasury stated in the Paper that while some umbrella funds appear to be well run, it is concerned about the governance of others and the effect that poor governance has on member outcomes. It announced in the paper that it would embark on a consultation process with industry, labour unions and interested stakeholders on measures to improve governance.

Treasury is likely to focus particularly on commercial umbrella funds and states that it will publish proposals in 2023.

OTHER EMPLOYEE BENEFITS MATTERS

Unclaimed assets

A discussion paper on unclaimed assets (which include unclaimed benefits in funds) was issued in September 2022. The National Unclaimed Benefit Fund is one of the options for housing unclaimed assets and the National Revenue Fund is the other option mentioned by Treasury. Unclaimed assets will be required to be transferred to the national fund or the National Revenue Fund.

Further consultation on the FSCA recommendations will take place in 2023, with a final paper being published in 2024.

Financial education policy

Treasury states that in 2023, it will publish a consumer financial education policy document for public comment. This policy document addresses consumer protection in the financial sector in the context of financial inclusion and transformation.

Information technology governance and risk management
We have seen the FSCA issue several draft documents dealing with the Information Technology (IT) management and the management of cyber risk of financial institutions. To mitigate IT and cyber risks to companies and consumers, the FSCA and the Prudential Authority will soon finalise joint standards aimed at ensuring better IT governance and risk management.

The FSCA and the Prudential Authority (Authorities) have recently issued, for comment, the second draft of the Joint Standard: cybersecurity and cyber resilience requirements. This Joint Standard is detailed and comprehensive.

Transformation and financial inclusion
The FSCA issued the draft Transformation Strategy, for financial institutions, for public comment on 28 February 2022. Treasury expects the final strategy will be published by the FSCA in March 2023.

One of the FSCA's strategic objectives is to promote the development of an innovative, inclusive, and sustainable financial system and this includes the transformation of the financial sector. The Draft Transformation Strategy for promoting transformation of the financial sector (including retirement funds) follows a phased approach, considering what the FSCA will do now and then under the Conduct of Financial Institutions Act, once enacted. The FSCA will follow a proportionate approach that will not unduly burden small businesses.

The FSCA will first engage with industry and other stakeholders on the current legal landscape governing transformation. Following this, it will set and supervise specific licensing and regulatory requirements for financial institutions in line with the relevant legislation.

PROPOSED TECHNICAL CHANGES FOR RETIREMENT FUNDS

A number of technical tax amendments affecting retirement funds are proposed for the upcoming legislative cycle, these include those set out below.

Non-tax resident contributions to retirement funds
An amendment is proposed to the Income Tax Act for an individual who ceases to be a South African tax resident. To ensure there is alignment with the Income Tax Act's other provisions for individuals ceasing to be tax residents, it is proposed that changes be made to section 11F(2)(a) to apportion the annual limit on the deduction of retirement funds contributions.

Clarifying the amount of employer contribution to a retirement fund that is deductible
Section 11F(4) of the Income Tax Act deems an employer contribution to a retirement fund a contribution made by the employee. The amount is calculated as equal to the cash equivalent of the value of the taxable benefit. However, there is no requirement that the calculated cash equivalent be included in the employee's income. Treasury sees this as contrary to policy. To address this, it proposed that the Income Tax Act is amended to require that the cash equivalent of the taxable benefit for employer retirement fund contributions be included in an employee's income before a tax deduction is allowed.

Transfers between retirement funds by members who are 55 years or older
There are some instances where contributing pension and provident fund members who have reached retirement age and have been involuntarily transferred to another pension or provident fund may have their transfer benefit taxed.

As this is not Treasury's intention, it is proposed that members of pension or provident funds who have reached the normal retirement age, as per the rules of a fund, but have not yet opted to retire and who are transferred out of the fund will be able to transfer on a tax neutral basis (as long as the transfer is from a less restrictive to a more restrictive retirement fund). The value that is transferred must remain in the receiving fund until the member retires (i.e. the member can't withdraw it prior to retirement).

THE FATF 'GREY-LIST'

The South African Government is a member of the Financial Action Task Force (FATF), which is an inter-governmental global anti-money laundering (AML) and counter-terrorist financing (CTF) body. FATF sets international standards to prevent AML and CTF. As a member of FATF, South Africa must adhere to its recommendations.

Following a FATF review of South Africa, FATF made findings identifying several deficiencies in South Africa's legislative framework as well as recommendations that South Africa must remediate. Failure to remediate may lead to South Africa being placed on the FATF "grey-list", which could have "materially negative consequences for the country as a whole".

The legislative deficiencies identified by FATF have been/will be addressed in legislation, regulations, and practices.

Treasury stated that at its February 2023 plenary, the FATF will pronounce on South Africa's progress and the extent to which it will face enhanced monitoring, including possible grey listing. Government has asked the FATF to formally reassess South Africa's compliance during its June 2023 plenary.

PERSONAL INCOME TAX

Treasury announced welcome inflation-related adjustments to transfer duties and the retirement tax tables, which have been adjusted up by 10% from 1 March 2023.

- The tax-free amount at retirement increases to R550 000 (from R500 000).
- The tax-free amount on withdrawal increases to R27 500 (from R25 000).
- Properties below R1.1 million avoid transfer duty payments.
- Treasury did not adjust the cap on contribution deductibility.

Retirement tax tables

Table 4.8 Personal income tax rates: Retirement fund lump sum benefits

2022/23		2023/24	
Taxable income (R)	**Rates of tax**	**Taxable income (R)**	**Rates of tax**
R0 - R500 000	0% of taxable income	R0 - R550 000	0% of taxable income
R500 001 - R700 000	18% of taxable income above R500 000	R550 001 - R770 000	18% of taxable income above R550 000
R700 001 - R1 050 000	R56 700 + 27% of taxable income above R700 000	R770 001 - R1 155 000	R39 600 + 27% of taxable income above R770 000
R1 050 001 and above	R141 750 + 36% of taxable income above R1 050 000	R1 155 001 and above	R143 550 + 36% of taxable income above R1 155 000

Source: National Treasury

Table 4.9 Personal income tax rates: Retirement fund lump sum withdrawal benefits

2022/23		2023/24	
Taxable income (R)	**Rates of tax**	**Taxable income (R)**	**Rates of tax**
R0 - R25 000	0% of taxable income	R0 - R27 500	0% of taxable income
R25 001 - R660 000	18% of taxable income above R25 000	R27 501 - R726 000	18% of taxable income above R27 500
R660 001 - R990 000	R114 300 + 27% of taxable income above R660 000	R726 001 - R1 089 000	R125 730 + 27% of taxable income above R726 000
R990 001 and above	R203 400 + 36% of taxable income above R990 000	R1 089 001 and above	R223 740 + 36% of taxable income above R1 089 000

Source: National Treasury

Transfer duties

Table 4.7 Transfer duty rate adjustments

2022/23		2023/24	
Property value (R)	**Rates of tax**	**Property value (R)**	**Rates of tax**
R0 - R1 000 000	0% of property value	R0 - R1 100 000	0% of property value
R1 000 001 - R1 375 000	3% of property value above R1 000 000	R1 100 001 - R1 512 500	3% of property value above R1 100 000
R1 375 001 - R1 925 000	R11 250 + 6% of property value above R1 375 000	R1 512 501 - R2 117 500	R12 375 + 6% of property value above R1 512 500
R1 925 001 - R2 475 000	R44 250 + 8% of property value above R1 925 000	R2 117 501 - R2 722 500	R48 675 + 8% of property value above R2 117 500
R2 475 001 - R11 000 000	R88 250 + 11% of property value above R2 475 000	R2 722 501 - R12 100 000	R97 075 + 11% of property value above R2 722 500
R11 000 001 and above	R1 026 000 + 13% of property value above R11 000 000	R12 100 001 and above	R1 128 600 + 13% of property value above R12 100 000

Source: National Treasury

Personal income tax brackets for 2023/2024

- Treasury states that the brackets will be adjusted in line with the 'expected inflation rate of 4.9 per cent'.
- The personal income tax brackets are adjusted lower for inflation, so taxpayers will pay less.
- The tax-free threshold increases from R91 250 to R95 750 for a person under the age of 65.

Table 4.5 Personal income tax rates and bracket adjustments

2022/23		2023/24	
Taxable income (R)	**Rates of tax**	**Taxable income (R)**	**Rates of tax**
R0 - R226 000	18% of each R1	R0 - R237 100	18% of each R1
R226 001 - R353 100	R40 680 + 26% of the amount above R226 000	R237 101 - R370 500	R42 678 + 26% of the amount above R237 100
R353 101 - R488 700	R73 726 + 31% of the amount above R353 100	R370 501 - R512 800	R77 362 + 31% of the amount above R370 500
R488 701 - R641 400	R115 762 + 36% of the amount above R488 700	R512 801 - R673 000	R121 475 + 36% of the amount above R512 800
R641 401 - R817 600	R170 734 + 39% of the amount above R641 400	R673 001 - R857 900	R179 147 + 39% of the amount above R673 000
R817 601 - R1 731 600	R239 452 + 41% of the amount above R817 600	R857 901 - R1 817 000	R251 258 + 41% of the amount above R857 900
R1 731 601 and above	R614 192 + 45% of the amount above R1 731 600	R1 817 001 and above	R644 489 + 45% of the amount above R1 817 000

Rebates are as follows:

Rebates		**Rebates**	
Primary	R16 425	Primary	R17 235
Secondary	R9 000	Secondary	R9 444
Tertiary	R2 997	Tertiary	R3 145
Tax threshold		**Tax threshold**	
Below age 65	R91 250	Below age 65	R95 750
Age 65 and over	R141 250	Age 65 and over	R148 217
Age 75 and over	R157 900	Age 75 and over	R165 689

Source: National Treasury

Medical tax credits
Medical tax credits are increased by expected inflation, to R364 per month for the first two members, and to R246 per month for additional members.

SOCIAL ASSISTANCE GRANTS

Expenditure on social grants will increase from R233 billion in 2022/2023 to R248.4 billion in 2025/2026 due to increases in the number of recipients and the value of the grants. Excluding the Covid-19 social relief of distress grant, social grant coverage is expected to increase from about 18.6 million beneficiaries in March 2023 to 19.6 million beneficiaries by March 2026.

R36 billion will fund the extension of the R350 COVID-19 social relief distress grant until 31 March 2024.

The grants increase as follows:

Grant	Increase 1/4/2023	Increase 1/10/2023
Old age and disability grants	From R1 990 to R2 080 (R90)	*From R2 080 to R2 090 (R10)*
Child support grant		*From R480 to R510 (6.3%)*
Foster care grant		*From R1070 to R1130 (5.6% increase)*

Please contact your consultant if you require further information.