

# Retirement fund initiatives will encourage saving

**A**N EMPLOYER is entitled to a tax deduction of any amount contributed during the year of assessment for the benefit of employees to any pension fund, provident fund or benefit fund.

The South African Revenue Service (SARS) Commissioner may under certain circumstances disallow contributions made by the employer to the extent that the fund contributions exceed 10% of "approved remuneration".

In terms of section 11 (l) (ii) of the Income Tax Act, the commissioner may only disallow that portion of the employer contribution that exceeds 10% of "approved remuneration" if he is satisfied that the aggregate contribution and the total remuneration is excessive or unjustifiable in relation to the value of the services rendered by the employee.

From the wording of the provision it becomes evident that the commissioner may only disallow that portion of the contribution that is excessive. In determining what is excessive he must consider the value of the employee's services.

In practice, the commissioner's approach to section (11) (l) is to disallow the value of an employer's contribution exceeding 20% of the employees' remuneration without having regard to the subjective determination of the value of the services.

The effect of this is most prevalent in the lower-income groups, where retirement fund and medical aid contributions often exceed 20% of the employee's cash component or remuneration. It is also at this level of employment that it must be questioned whether it can be said that such employee's remuneration is excessive in relation to the value of his services.

It is arguable that a continued narrow application of section 11(l) may be in conflict with the government's recent initiatives to encourage savings,

especially for retirement, as many employers would have to restructure packages to bring benefit-fund contributions in line with practice limitation.

Some of the initiatives mentioned above and recently introduced by the government to facilitate the retirement fund industry reform, and encourage saving in general among South Africans, include:

- Abolition of tax on retirement funds that will result in greater returns for fund members;
- Increase in the tax-free threshold of retirement fund lump sum withdrawals to R300 000. Although the aim of regulation in this area is to encourage individuals to take their retirement benefits as an annuity, the government does recognise that upon retirement there are circumstances where part of the retirement benefit is needed as a lump sum, such as to pay off a mortgage;
- Withholding taxes on lump-sum benefits to persons whose taxable income is below the threshold will be abolished;
- The taxable portion of the lump sum benefit will be subject to tax at the following preferential rates:

R	R	%
300 001	600 000	18
600 001	900 000	27
900 001	and above	36

- The proposed mandatory contributions to the national social security fund and private pension funds are aimed at providing a minimum standard of living in retirement to all South Africans. These mandatory contributions, subject to limitations, could be fully or partially subject to income-tax relief.

Further details on the above and other proposed retirement fund incentives will be released during the year.

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