momentum

Retirement Funds – Tax Rules (V3 February 2018)

	Retirement Annuities	Pension Fund	Provident Fund	Preservation Fund	Living Annuity
General (All sections are from the Income Tax Act)					
General Description	This is a fixed term retirement savings policy with individuals as members	This is an employment based retirement fund – membership is dependent on the employer-employee relationship		This is a retirement vehicle specifically designed to preserve retirement funds until retirement	This is a compulsory annuity which is used post retirement to provide monthly income
Applicable Legislation	Pension Fund Act Income Tax Act Estate Duty Act	Pension Fund Act Income Tax Act Estate Duty Act		Pension Fund Act Income Tax Act Estate Duty Act	Income Tax Act Estate Duty Act Certain sections of the Pension Funds Act
Investment Term	The minimum term is linked to the retirement age of the member – which is from 55 There is limited access before the retirement date: - Disability - Where the paid up fund value is less than R7 000 - Where the member formally emigrates - Where the member is a non-national and that person's working or visitation visa expires - Divorce and maintenance orders.	The intention of the fund is to provide a benefit to the employee upon retirement. The retirement age is predetermined in the fund rules and is generally from the age of 55 onwards. The retirement date for income tax purposes is the day on which the member formally retires from the fund. From 1 March 2018 the member can transfer the full retirement benefit to a retirement annuity for post-retirement preservation. The entire fund value is accessible upon resignation or retrenchment.		The term is until the member's retirement age, anytime from 55. One withdrawal is allowed prior to retirement – in terms of RF1/2012 any cash withheld prior to the transfer will no longer be seen as the one withdrawal At retirement the nature of the fund will dictate accessibility – the pension fund is restricted to 1/3 as a lump sum whilst the provident fund is fully accessible. Funds are accessible ito the Divorce Act (post Nov 2008 divorce orders)	The annuitant cannot access the capital in the investment unless the fund value is below R75 000 where no commutation was made at retirement or R50 00 where commutation was made at retirement. Income can be withdrawn at a rate ranging between 2.5% and 17.5% per annum, which can be changed annually on the anniversary date/ The Divorce Act does not apply to the living annuity and therefore access to the capital is not possible.
Investment Risk	The fund selection will dictate the investment risk Prudential guidelines (Reg 28 to the Pension Funds Act) must be followed, limiting investment into certain asset classes				Fund selection will dictate investment risk Reg 28 is NOT applicable
Income Tax in Fund	Retirement funds are exempt from tax All income earned accrues tax-free				
CGT in the Fund	Retirement funds are exempt from CGT				

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Dividends Withholding Tax in Fund	Retirement funds are exempt from DWT				
Estate Duty	Retirement funds are not included in the dutiable estate for estate duty purposes				
Estate Duty and disallowed contributions	Where a person dies with disallowed contributions made to retirement funds from 1 March 2015 that did not rank as a deduction under section 11F or was not applied to determine the taxable lump sum in terms of the Second Schedule (paragraph 5 and 6) or was not applied as an exemption in terms of section 10C, it will be included in the estate of the deceased, if the date of death is any time after or on 1 January 2016.				
Protection against creditors	During the lifetime of the member and whilst the funds are invested in the retirement fund, it is protected against the creditors of the member Once the member retires from the fund, any lump sum and income received from an annuity can be attached by the member's creditors Upon the death of the member prior to retirement, the retirement fund proceeds will be protected as long as there is a dependant to receive the proceeds (dependants include the spouse, children and those that can prove financial dependency) If the proceeds are payable to a nominated beneficiary (other than a dependant, as defined), the trustees will be obliged to first settle any debts (insofar the aggregate liabilities exceed the aggregate assets in the estate) before making payment to that nominee.				During the lifetime of the annuitant and whilst the funds are in the living annuity, the capital is protected against the creditors of the member, however, the income can be attached Upon the death of the annuitant, the fund value will be protected against the creditors of the annuitant as long as there is a nominated beneficiary – if not and the capital is paid to the deceased estate as a lump sum, the after tax lump sum will be attachable by the creditors of the deceased estate

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<tr><th></th><th>Retirement Annuities</th><th>Pension Fund</th><th>Provident Fund</th><th>Preservation Fund</th><th>Living Annuity</th></tr>
<tr><td colspan="6">Contributions
(All sections are from the Income Tax Act)</td></tr>
<tr><td>Employer</td><td colspan="3">Section 11 (l) – total contribution is allowed as a tax deduction
Employer is obliged to add the contributions made to the employee’s gross income as a fringe benefit</td><td>N/A</td><td>N/A</td></tr>
<tr><td>Employee</td><td colspan="3">All contributions, including those made to pension, provident and retirement annuity funds, made by the employee and the employer (as long as it was added as a fringe benefit to the gross income of the employee) will be deductible in terms of section 11F.
The deduction is limited to the lesser of: R350 000, OR 27.5% of the greater of remuneration (excl retirement fund and severance benefit lump sums) or taxable income (excl retirement fund or severance benefit lump sums, this retirement contribution and the deduction for donations), OR taxable income (excl this retirement contribution and taxable capital gains) .
Where the deduction is not allowed due to it being in excess of this limit, it will roll-over to the following year of assessment and be deductible in that following year as if it was made in that year – subject to the normal limits.</td><td>Transfer from pension fund to pension preservation fund or provident fund to provident preservation fund or pension preservation fund is tax-free</td><td>Transfer from retirement fund to living annuity is tax-free</td></tr>
<tr><td colspan="6">Proceeds upon Withdrawal</td></tr>
<tr><td>When can withdrawal be made?</td><td>Withdrawal can be made:
-If fund value in registered fund is below R7 000
-If the member is no longer a tax resident
If a non-national member’s visa expires</td><td colspan="2">Upon resignation from employment or retrenchment</td><td>One lump sum withdrawal is allowed prior to retirement</td><td>Withdrawal can be made:
-No upfront lump sum taken and fund value less than R75 000, or
-Upfront lump sum taken and fund value is less than R50 000</td></tr>
<tr><td>Taxable party in the event of divorce</td><td colspan="4"><u>Divorces prior to 13 September 2007</u> – where the accrual takes place after 1 March 2009, no tax is payable
<u>Divorces post 13 September 2007</u> – the non-member spouse be liable as per the table below</td><td>N/A</td></tr>
<tr><td>Taxation of lump sum</td><td colspan="5"><u>Taxable lump sum is determined by deducting the following from the withdrawal lump sum:</u>
-Contributions that did not qualify as a tax deduction, previously taxed divorce awards that were transferred to an approved retirement fund, any previously taxed transfer amounts to the retirement fund and pre-1998 amounts transferred from a public sector fund.
- Any amount transferred from this retirement fund from which the withdrawal is made, to another approved retirement fund;
<u>Plus</u>: All withdrawal lump sums previously received (the tax paid on these withdrawal amounts will be deducted from this calculated amount).
<u>The taxable lump sum will be taxed in terms of the following table:</u>
<table><tr><th>Taxable income from lump sum benefit</th><th>Rate of Tax</th></tr><tr><td>R0 –R25 000</td><td>Nil</td></tr><tr><td>R25 001 – R660 000</td><td>18% of taxable income exceeding R25 000</td></tr><tr><td>R660 001 – R990 000</td><td>R114 300 plus 27% of the amount exceeding R660 000</td></tr><tr><td>R990 001 and above</td><td>R203 400 plus 36% of the amount exceeding R990 000</td></tr></table></td></tr>
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	Retirement Annuity	Pension Fund	Provident Fund	Preservation Fund	Living Annuity
Proceeds upon retirement, retrenchment and death (includes payments made in the event of disability)					
Fund restrictions: Retrenchment	No access to funds	Full withdrawal of funds can be made		One lump sum withdrawal is allowed prior to retirement	No access to funds will be possible
Fund restrictions: Retirement	Maximum of 1/3 as a cash lump sum, 2/3 must be applied to provide for a monthly income Where the retirement fund value in the registered retirement fund is less than R247 500 the total amount can be accessed as a lump sum.		Full withdrawal of funds can be made	Pension preservation fund – same as pension fund Provident preservation fund – same as provident fund	N/A
Post retirement preservation	Not applicable	From 1 March 2018 the member can transfer the full retirement benefit to a retirement annuity tax-free.		Not applicable	
Fund restrictions: Death	Trustees of fund will evaluate beneficiary nomination in line with section 37C of the Pension Fund Act Beneficiary/dependent will have the choice to withdraw the full amount as a lump sum or to transfer the entire fund value or a portion to a compulsory annuity or a combination thereof.				S 37C can also apply if the living annuity is fund owned. If not, the nominated beneficiary will receive the benefits. If no beneficiary exists, a lump sum is payable to the estate Beneficiary has option to continue with the annuity or to withdraw the fund value or a combination thereof
Taxation of lump sum	**Note – in the event of death it is deemed that the lump sum accrued to the deceased immediately prior to death** **<u>Taxable lump sum is determined by deducting the following from the retirement lump sum:</u>** -Contributions that did not qualify as a tax deduction, previously taxed divorce awards that were transferred to an approved retirement fund, any previously taxed transfer amounts to the retirement fund and pre-1998 amounts transferred from a public sector fund. - Any amount transferred from this retirement fund to another approved retirement fund, **<u>Plus:</u>** the taxable portion of all lump sums received previously (tax credit will be given for the proportionate tax payable on this amount) **<u>The taxable lump sum will be taxed in terms of the following table:</u>**				

Taxable income from lump sum benefit	Rate of Tax
R0 –R500 000	Nil
R500 001 – R700 000	18% of taxable income exceeding R500 000
R700 001 – R1 050 000	R36 000 plus 27% of the amount exceeding R700 000
R1 050 001 and above	R130 500 plus 36% of the amount exceeding R1 050 000