Adv. Brett Ladoucé

PENSIONS for Palookas

ADDENDUM 2023

Illustrated by Micah Ladoucé

Introduction

Pensions for Palookas was published in November 2021 and contained the legal and regulatory information that was applicable on the date of publication. Certain regulatory and legislative changes have since been promulgated that have an impact on some of the information contained in *Pensions for Palookas*. It is the purpose of this update to provide a list of the changes that took place in 2022/2023 and those that are on the cards for 2024 and to what extent it has an impact on information contained in *Pensions for Palookas*.

The following significant legislative and regulatory changes were announced in 2022 and 2023:

1. Regulation 28 that prescribes the asset classes in which funds can invest was updated in 2022. The effect thereof was that funds are now allowed to invest more money in foreign assets and that the investment in home loans granted to fund members was significantly reduced.

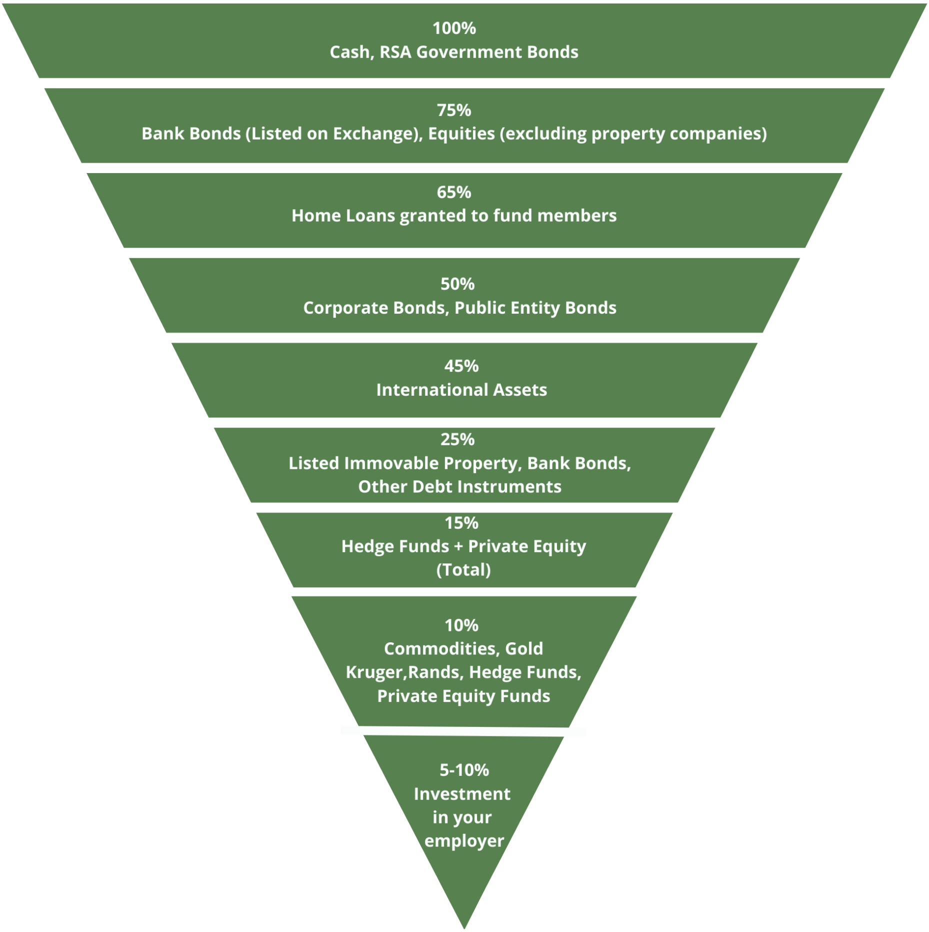
2. The lump sum withdrawal tax scale was amended as from 1 March 2023.

3. The lump sum retirement/death/retrenchment tax scale was amended as from 1 March 2023.

4. The two-pot system for the limitation of lump sum withdrawal benefits was proposed for implementation on 1 March 2024.

Regulation 28 amendments:

As from 1 March 2022, regulation 28 must be applied as follows:



Tax on Lump Sum Withdrawal Benefits Scale:

The table below shows the effect of the change of the tax table as from 1 March 2023:

Taxable Income 2022	Rate of Tax	Taxable Income 3/2023	Rates of Tax
R0-R25 000	0%	R0-R27 500	0%
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

Any reference in *Pensions for Palookas* to the first R25 000 of the lump sum withdrawal benefit that is tax-free, should be replaced with the new tax-free amount of R27 500.

The table below shows the effect of the change of the tax table as from 1 March 2023:

Lump Sum Amount	Tax Payable 2022	Tax Payable 3/2023	Tax reduction
R20 000,00	R0,00		R0,00
R50 000,00	R4 500,00	R4 050,00	R450,00
R100 000,00	R13 500,00	R13 050,00	R450,00
R200 000,00	R31 500,00	R31 050,00	R450,00
R300 000,00	R49 500,00	R49 050,00	R450,00
R400 000,00	R67 500,00	R67 050,00	R450,00
R500 000,00	R85 500,00	R85 050,00	R450,00
R600 000,00	R103 500,00	R103 050,00	R450,00
R700 000,00	R125 100,00	R121 050,00	R4 050,00
R800 000,00	R152 100,00	R145 710,00	R6 390,00
R900 000,00	R179 100,00	R172 710,00	R6 390,00
R1 000 000,00	R207 000,00	R199 710,00	R7 290,00
R1 500 000,00	R387 000,00	R371 700,00	R15 300,00
R2 000 000,00	R567 000,00	R551 700,00	R15 300,00
R3 000 000,00	R927 000,00	R911 700,00	R15 300,00
R5 000 000,00	R1 647 000,00	R1 631 700,00	R15 300,00
R10 000 000,00	R3 447 000,00	R3 431 700,00	R15 300,00

Tax on Lump Sum Retirement, Retrenchment and Death Scale:

The table below shows the effect of the change of the tax table as from 1 March 2023:

.

Taxable Income 2022	Rates of Tax	Taxable Income 2023	Rates of Tax
R0- R500 000	0%	R0-R550 000	0%
R500 001- R700 000	18% on taxable income above R700 000	R550 001-R770 000	18% on taxable income above R770 000
R700 001-R1050 000	R36 000 + 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	R130 500 + 36% of taxable income above R1 050 000	R1 155 001 and above	R143 550 + 36% of taxable income of above R 1 155 000

Any reference in *Pensions for Palookas* to the first R500 000 of the lump sum retirement benefit that is tax-free, should be replaced with the amount of R550 000.

The reduction of the tax payable on the lump sum benefit has the following effect:

Lump Sum Amount	Tax Payable 2022	Tax Payable 3/2023	Tax reduction
R500 000,00	R0,00	R0,00	R0,00
R550 000,00	R9 000,00	R0,00	R9 000,00
R600 000,00	R18 000,00	R9 000,00	R9 000,00
R700 000,00	R36 000,00	R27 000,00	R9 000,00
R800 000,00	R63 000,00	R47 700,00	R15 300,00
R900 000,00	R90 000,00	R74 700,00	R15 300,00
R1 000 000,00	R117 000,00	R101 700,00	R15 300,00
R1 500 000,00	R292 500,00	R269 550,00	R22 950,00
R2 000 000,00	R472 500,00	R449 550,00	R22 950,00
R3 000 000,00	R832 500,00	R809 550,00	R22 950,00
R5 000 000,00	R1 552 500,00	R1 529 550,00	R22 950,00
R10 000 000,00	R3 352 500,00	R3 329 550,00	R22 950,00

The Proposed Two Pot System- Limitation of Access to Retirement Savings before Retirement:

The government intends to introduce the Two Pot System on 1 March 2024 to regulate access to retirement savings before the date of retirement. Currently, members have no access to their retirement savings while they are still active members of the fund, but they have access to all their retirement saving as a withdrawal benefit when they resign or get retrenched and withdraw from the fund.

In terms of the proposed Two Pot System, members will have limited access to their retirement savings while they are still active members of the fund as well as limited access to withdrawal benefits before the date of retirement if they leave the fund before retirement.

Three investment pots will be created, namely a vested pot, a retirement pot, and a savings pot.

The vested pot will consist of all contributions up to a certain date (currently proposed to be 29 February 2024). The current retirement fund regime will remain applicable to this pot. Members will have access to the full fund value as a lump sum withdrawal benefit if they exit the fund before retirement. Lump sum withdrawal benefits will be taxed according to withdrawal tax table that is applicable on the date of withdrawal.

The retirement pot will consist of two thirds of all fund contributions (and growth thereon) accumulated as from 1 March 2024. Members cannot access money in this pot before the date of retirement. Government is considering limited income-based withdrawals from this pot in case of retrenched members who have already fully utilized the money in the vested and savings pots and have exhausted all UIF benefits. At retirement, money in this pot must be used to buy an annuity. Where the sum of the retirement pot and two thirds of the vested pot is less than R165 000 on the date of retirement, the full amount can be taken as a lump sum cash benefit.

The savings pot will consist of one third of all fund contributions (and growth thereon) accumulated from 1 March 2024. Money in this pot will be accessible during fund membership. Once-off seeding (transfer) of capital from the retirement pot might be allowed to "fund" this pot and make money immediately available to members as from 1 March 2024. A limitation of one withdrawal of at least R2 000 (up to full value in the pot) per annum is proposed. All withdrawals made from this pot by active members will be taxed at their marginal tax rate as it will be added to member's taxable income for the tax year in which the withdrawal is made. At the death or retirement of a member, the money in this pot can be taken in cash or transferred to the retirement pot. The lump sum cash death benefit will be taxed according to retirement tax scale.

Provident fund members who were 55 years of age or older on 1 March 2021 will have the option to keep all their retirement benefits and new contributions after 1 March 2024 in the vested pot or to create a savings and retirement pot for contributions made as from the proposed implementation date (1 March 2024).

The proposed new system has benefits as well as unintended consequences. From a saving for retirement viewpoint, it forces members to retain the bulk (at least two thirds) of their retirement contributions and savings for retirement by granting them no access to the retirement pot before date of retirement and therefore ensuring that this money is available at retirement to provide an income stream for fund members once they retire. From an emergency fund perspective, active fund members who have not created an emergency savings fund, can now use the savings pot as an emergency fund to fund unexpected expenses, for example medical expenses not covered by their medical schemes. It does however also create the possibility of active fund members using the money withdrawn from the savings pot for non-essential expenses such as holidays or the purchase of luxury items.

The limitation of access to withdrawal benefits removes the possibility of members who have high interest debt to improve their overall financial situation by using withdrawal benefits to pay off debt and using the money saved on debt repayments as extra contributions to their retirement funds as the average annual rate of return on the retirement savings will in all probability be less that the average annual interest rate paid on unsecured debt. Fund members will therefore have more savings for retirement, but less assets at retirement due to the money "lost" in terms of interest paid on debt.

Conclusion

It is my opinion that the changes to Regulation 28 and the lump sum benefit tax scales as well as the proposed introduction of the Two Pot System will not negatively affect your long-term retirement planning process to provide an annuity income after your date of retirement.

The increased opportunity to invest in foreign investment markets might benefit you if the South African currency weakens in future. The reduced taxes on lump sum benefits are relatively small if they are calculated as a percentage of the benefit payable and should therefore not have a significant impact on the amount you choose as a lump sum cash benefit.

The Two Pot System will put the focus on building up as much capital as possible in your retirement pot to ensure that you can purchase an annuity at your retirement that can provide your required income stream after retirement.

What are the stupid questions you are afraid to ask when it comes to your retirement planning? What are the things you think you are supposed to know and be comfortable with when it comes to your retirement fund? If you look back over the span of your career, what are the things you would have done differently to make better provisions for your retirement?

Pensions for Palookas is written as a conversation starter. It provides readers with a better understanding of how their retirement fund works and the things they need to be aware of when constructing a retirement plan. This book is not meant to replace the sound advice of a skilled financial advisor, but is rather meant to help readers prepare for the conversations they will have with their advisors and other stakeholders in crafting a retirement plan that best suits their tailored needs and wants.

The goal of Pensions for Palookas is to assist readers to take control of their retirement planning today by equipping them with the knowledge to ask the right questions when consulting with fund trustees, principal officers, the HR department of employers and financial advisors.

You control your retirement destiny and you owe it to yourself to put yourself in the best position to make informed decisions regarding your retirement plan.

About the author

Brett Ladouce is an Advocate of the High Court. He is a pension lawyer working at a leading financial services company and an associate member of the Compliance Institute of South Africa. Adv. Ladouce obtained his B.Proc and LLB degrees from Nelson Mandela University as well as an MBA from Stellenbosch University and a Post-Graduate Diploma in Financial Planning from the University of the Free State. He has more than 20 years of experience in the financial services industry as a legal advisor, product manager, senior development manager, compliance officer and as the managing director of a financial services provider.

ISBN 978-1-77636-098-7
9 781776 360987