Vickers & Peters

LIFESTYLE AND ASSET PLANNING

"Around the Table with Vickers & Peters Financial Planning"

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Withdrawals from your retirement fund can be taxing

At Vickers & Peters Financial Planning (VPFP), we have always encouraged our clients not to be tempted to dip into their retirement savings due to the loss of compound growth and the often high replacement cost associated with having to set up a new investment or substitute retirement asset. The recent change in retirement fund tax legislation and the way SARS calculates your tax is adding another reason why making a pre retirement withdrawal should not be considered an option.

Withdrawing funds from your retirement savings before you retire, not only **reduces the tax-free amount available to you when you retire**, but also causes **the benefit that you take at retirement to be taxed at a higher rate**.

Therefore, by deferring withdrawals until you retire, you may reduce your total tax bill.

Making sense of your potential tax bill

There are two main categories of benefits that retirement funds pay members.

1. Withdrawal benefits: Payable before retirement (for example if you resign or get divorced).

2. Retirement benefits: Payable when you retire from the fund or upon your death.

Before 1 October 2007, the tax on retirement and withdrawal benefits received from retirement funds (including pension, provident and retirement annuity funds) was determined by a complex ratings formula. This formula was simplified from 1 October 2007, with further changes coming into effect on 1 March 2009 and 1 March 2010 respectively. In terms of the latest provisions, your tax liability for retirement and withdrawal benefits is determined by 'special rate' tables – please see appendix.

If you are a member of a retirement fund, **you do not pay tax on the first R315 000 when you retire from the fund**, or upon your death. However, if you withdraw cash before you retire, **only the first R22 500 is tax free**. In both instances, the tax free amount is a 'once-in-a-lifetime' concession.

The 'special rate' tables take into account all withdrawal and retirement benefits you received or accrued on or after 1 October 2007. In other words, all the benefits you received on or after 1 October 2007 are added together to calculate how much tax you owe when you withdraw or retire from your retirement fund.

The tax is calculated using the special rate tables that apply to the current event, and all previous lump sums taken (past withdrawals or retirements) are added together and included in the new tax calculation.

What happens next is where the crunch comes.

A few years ago **Mr A** took a lump sum withdrawal benefit from one of his retirement funds. Tax was calculated using the special rate tables (**Table 1** – Pre retirement) for the year in which he made the withdrawal.

Withdrawal amount	:	R654 732.75
Less tax	:	(R118 727.84)
Net lump sum benefit	:	**R536 004.91**

Now **Mr A** has reached retirement age and wishes to retire from his current retirement fund. He chooses to take R490 500 as a lump sum benefit. SARS then adds the lump sum that he wants to take now to the lump sum taken in a previous tax year. And the special rate table (**Table 2** – Post retirement) is applied.

The calculations are shown below:

Total lump sum withdrawals

Previous lump sum withdrawn	:	R 654 732.75
Plus new withdrawal amount	:	R 490 500.00
Total lump sum benefit	:	**R1 145 232.75**

Tax applied on this total amount:

0	-	315 000.00	0%	315 000.00	-
315 001.00	-	630 000.00	18%	315 000.00	56 700.00
630 001.00	-	945 000.00	27%	315 000.00	85 050.00
945 001.00	+		36%	200 232.75	72 083.79
					213 833.79

SARS then takes the previous lump sum and applies the ***current retirement tax tables*** to determine the theoretical tax on the previous lump sum taken.

0	-	315 000.00	0%	315 000.00	-
315 001.00	-	630 000.00	18%	315 000.00	56 700.00
630 001.00	-	945 000.00	27%	24 732.75	6 677.00
					63 377.84

The R63 377.84 is not the actual tax paid on the previous withdrawal benefits, but rather the amount of tax Mr A would have paid on his withdrawal benefits had he postponed them until his retirement.

The **theoretical tax** on the previous transaction is deducted from the total tax due on the two lump sums added together, to get the actual amount of tax that will be due as a result of this retirement.

So, while Mr A in fact **already paid R118 727.84** in tax when he took his withdrawal, **SARS only deducts an amount of R63 377.84 from the current tax due.**

The tax now due at retirement will be R213 833.79 - **R63 377.84** = **R150 455.95**
and **not** R213 833.79 **- R118 727.84** = **R95 105.95**

Mr A has effectively paid R55 350.00 in additional tax that he will never recover.

In summary, based on the new tax legislation regarding pre retirement and post retirement lump sum withdrawals, members will be penalized for electing to make a pre retirement cash withdrawal from Provident Funds, Pension Funds, Preservation Funds and/or Retirement Annuities. Tax will now be paid immediately on withdrawal and on retirement your tax free lump sum will either be reduced or lost depending on the amount withdrawn. The end result is no tax free portion and an increase in your tax liability on your retirement lump sum benefit.

In short, defer your lump sum benefits until retirement and reduce your tax bill.

Appendix

Table 1 – Pre-retirement tax table

Taxable amount	Rate of tax
Not exceeding R22 500	0%
R22 501 < R600 000	18%
R600 001 < R900 000	R103 950 plus 27% of amount exceeding R600 000
Exceeding R900 001	R184 950 plus 36% of amount exceeding R900 000

Table 2 – Post retirement tax table

Taxable amount	Rate of tax
Not exceeding R315 000	0%
R315 001 < R630 000	18% of the amount over R315 000
R630 001 < R945 000	R56 700 plus 27% of amount exceeding R630 000
Exceeding R945 000	R141 750 plus 36% of amount exceeding R945 000

Estate planning - The danger of appointing an Executor who faces a conflict of interest

We hear a lot nowadays about the importance of avoiding a conflict of interest, and a recent court case illustrates, somewhat dramatically, the effects of an unresolved conflict. This case is Elena van Niekerk v Kathleen van Niekerk and the Master of the High Court 2011 (2) SA 145 (KZP).

Mr Basil van Niekerk divorced his wife Kathleen in 1987, and in 2005 travelled to Russia where he married Elena Karipova in Volgograd according to Russian law. Returning to South Africa, the couple got married in 2008 under SA law by ante-nuptial contract. Mr van Niekerk died late in 2009, and in his Will it was found that he had appointed his former wife Kathleen as his executrix and sole heiress. She obtained an appointment as executrix from the Master. Elena lodged two claims against the deceased estate, one for half the estate based on an allegation that they had married in community of property, and a second claim for maintenance in terms of the Maintenance of Surviving Spouses Act.

The deceased left a substantial estate. The executrix rejected Elena's first claim outright, and offered an amount described by the court as 'parsimonious'. Hence the widow Elena's application to court. She alleged that the executrix had disagreed with an opinion from her own (the Executrix's) attorney which was in favour of her (the widow's) claim. She alleged that the executrix and her son had attempted to evict her and her school-going daughter from the family home and had damaged and removed certain property, and had threatened her life. Indeed, she appears to have experienced the truth of the old adage "Hell hath no fury like a women scorned."

The Administration of Estates Act 1965, in section 54 thereof, specifies the circumstances in which the court may remove an executor. Firstly, if the executor attempts to obtain for any heir, debtor or creditor of the estate any benefit to which that person is not entitled, he may be removed by the court. Secondly, if he has by way of misrepresentation or offer of any reward tried to persuade someone to facilitate his appointment as executor. Thirdly, if he has indicated that he is willing to accept a benefit/reward from anyone he employs to perform work on behalf of the estate. Finally, a catch-all paragraph allows the court to remove an executor if it is satisfied that it is not desirable he should act in that capacity.

The court was not impressed by the obvious conflict of interest faced by the executrix who would benefit personally as heiress if she could reject or diminish the claims of the widow. Since it was satisfied that this was not a desirable situation, the court removed the executrix.

The problems caused by not taking professional advice and not using a professional executor when finalising one's Will are well illustrated by this case.

It is recommended to review your will at least every three years or in the event of a change in the family i.e. the birth or death of an intended beneficiary or change in your asset composition or situation.

If you would like further information on a new will or if you have any questions relating to your existing will please contact us on 011 803 7399 or clientservicing@vpfp.co.za

Vickers & Peters Financial Planning will gladly assist in reviewing and drafting your will.

Thanks to Sanlam Glacier for their contribution.

VPFP can help you access the benefits of your UK Pension Fund

If you are a non UK resident and have previously accrued UK Pension Benefits, ***Vickers & Peters Financial Planning*** **(VPFP)** can help you maximise the taxation and financial opportunities available to you.

VPFP have joined efforts with FNB International Trustees Limited (FNBIT) and Momentum Wealth International Limited (MWI) to offer individuals access to a market leading investment structure.

Introducing the **Plaiderie Pension Scheme** - a Qualifying Recognised Overseas Pension Scheme (**QROPS**), offering significant advantages in managing pension fund assets.

On 6 April 2006, the UK tax authorities (HMRC) amended their pension legislation to allow British expats to transfer their accrued UK pension benefits (other than the State pension) to an approved offshore investment structure or QROPS.

The benefits to you include lower tax rates as South African tax laws apply (annuity income and lump-sum payments are tax free under current legislation, provided the income was not generated while the individual was resident in SA), investment flexibility, as well as the option to withdraw up to 30% tax free of the investment as a lump sum on retirement at age 55 – 75. Under Section 10(1)(gC)(ii) of the Income Tax Act, benefits received by a South African tax residents from offshore pension funds are free of South African income tax. This also applies to any lump sum and/or annuity payments.

In addition, transfers to the QROPS Scheme are tax free provided the value is below the lifetime allowance, currently £1.8m reducing to £1.5m from April 2012. Since the fund is based in Guernsey, and Guernsey tax rates are zero, growth within the fund is not subject to income tax, capital gains tax or VAT. The entire fund can be passed on to your beneficiaries on death. Once you have been non UK resident for 5 years, the normal UK taxation on death of 55% is not applicable.

You can also transfer multiple UK pension funds into one QROPS Scheme. The only requirement to be met is the minimum initial investment of USD 50 000 and as well as the USD 15 000 minimum additional investment.

UK Final Salary pensions are currently in a deficit and there is a 100% reliance on the former employers' ability to meet its obligations. QROPS removes the risk and control from these organizations and places control back into your hands.

VPFP can assist you in transferring your benefit and advise you in selecting an investment structure that is appropriate to your needs.

Please contact us if you are interested in hearing more about this great opportunity.

Market Update – *Q3 2011 - by Tarryn Cameron of Celtis Capital*

Macro Overview

Unrelenting fear and risk aversion continued to drag markets lower through the third quarter on fears of a double dip recession in the US and lingering concern over EU sovereign debt woes.

The US marginally avoided a sovereign default in August when it raised its debt ceiling at the eleventh hour, after reaching its authorized debt limit of $14.3 trillion in May 2011. However, just days later, Standard & Poor's cut the long term US credit rating for the first time ever from AAA to AA+ on concerns of growing budget deficits.

The US Federal Open Market Committee (FOMC) continues to hold interest rates at historically low levels and has indicated that there would be no hike in interest rates until at least mid-2013. In their latest meeting, the Fed committed to maintaining low interest rates for an extended period, as long as unemployment is high and inflation remains subdued.

While the US FOMC was widely expected to embark on an additional round of quantitative easing at its previous meeting, instead it announced the launch of "Operation Twist", in which it would sell $400bn worth of shorter dated Treasuries (3 years or less) in favour of long term securities (6 to 30 years), in an attempt to lower long-term borrowing rates and help make broader financial market conditions more accommodative.

Across continents, we have seen no improvement in the state of the EU situation. The Greek two year bonds reached record highs once again, and the risk of default remains ever present and looming.

The European Central Bank (ECB) halted its monetary policy tightening measures, after hiking rates twice (as expected) and then holding steady at 1.50%.

As a result, risky assets took a beating over the quarter, while "safe-haven" assets outperformed. A reversal of foreign inflows into local equities and bonds has led to a material weakening of the rand, which lost 19.70% to the US dollar over the quarter.

Performance – *what added and what detracted?*

Global Equities were the worst performer over the quarter, driven by emerging markets on the back of risk aversion. The significantly weaker rand helped compensate for the downside in international equities, leading to a positive contribution to the local portfolios.

A positive return from global bonds, amplified by the weaker rand, also contributed positively towards performance, however to a lesser degree, due to the underweight allocation.

Local equities fared marginally better than their global counterparts, but a negative performance detracted from the performance of the portfolios.

Position going forward

We remain cautious amid current global volatility but continue to see the greatest upside potential from global equities and thus maintain an overweight position in this asset class. We remain underweight bonds, locally and particularly globally. Although this asset class has seen immense strength in recent months, along with gold and certain currencies like the Swiss franc and Japanese yen, this return has been sentiment driven by perceived "safe-haven asset" demand. We cannot support this strength through valuation methodology, and therefore cannot justify increasing this position.

We continue to examine the global economic environment closely for further direction.

VPFP Fund Performance for the Period Ending 30 September 2011

	3 Month		6 Month		12 Month		24 Month		36 Month	
	Return	**Risk**	**Return**	**Risk**	**Return**	**Risk**	**Return**	**Risk**	**Return**	**Risk**
VPFP CPI + 2	2.89%	1.637	4.74%	2.225	7.83%	1.978	18.27%	2.701	28.80%	3.634
Investment Objective (CPI + 2%)					7.44%		13.42%		23.05%	
VPFP CPI + 4	0.89%	3.639	1.55%	3.37	6.42%	2.883	16.61%	3.87	26.40%	5.242
Investment Objective (CPI + 4%)					9.54%		17.90%		30.40%	
VPFP CPI + 6	-0.30%	5.333	-0.38%	4.698	6.38%	4.386	17.09%	6.028	25.82%	7.764
Investment Objective (CPI + 6%)					11.64%		22.46%		38.04%	
JSE All Share Index	-6.87%	5.198	-7.86%	6.566	0.74%	9.678	19.12%	13.678	24.49%	17.987

(CPI Benchmark as at 31 August 2011)

Source: MoneyMate

If you have any questions about your investment portfolio please contact your financial advisor on the details provided on page 7.

At your service…

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Our services include…

- Pre and Post Retirement Planning
- Local and Global Investments
- Business Assurance – Keyperson and Partnership
- Personal and Group Life Assurance
- Employee Benefit Advice and Products
- Tax and Estate Planning

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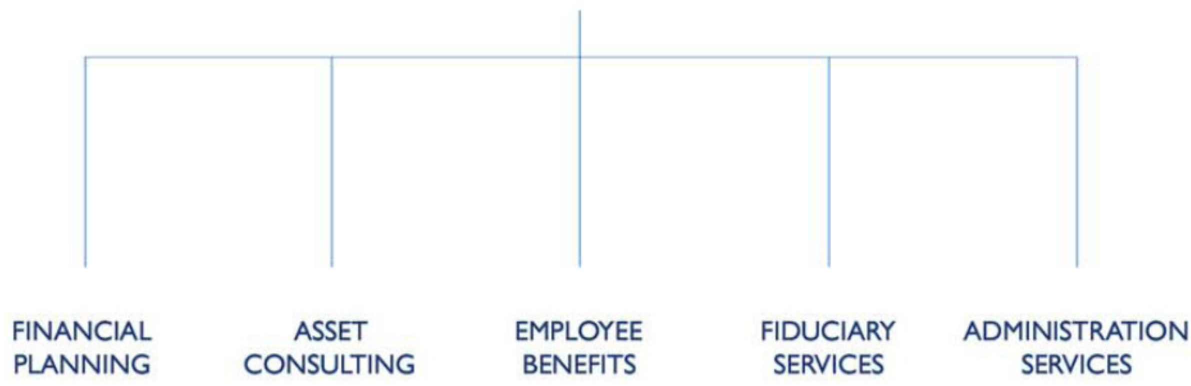

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