Vickers & Peters
LIFESTYLE AND ASSET PLANNING

Around the Table with Vickers & Peters Financial Planning

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Making a full withdrawal from your Retirement Annuity Fund as a result of Emigration

In 2008, the definition of a retirement annuity fund as contained in the Income Tax Act was amended to allow members of a retirement annuity fund to withdraw their retirement interest prior to retirement if they can prove that they have emigrated or are emigrating. Please note this amendment does not apply to preservation funds.

A process is in place which can be used to process applications for a withdrawal for the purposes of emigration.

Requirements to qualify for withdrawal

- The member/client must not have retired yet from the fund. This would apply even if the client is over 55 years old.
- The member/client must have discontinued his/her contributions to the fund.
- The member/client must have formally emigrated or must be in the process of formal emigration. Formal emigration is one that is duly recognised by the South African Reserve Bank.

<u>A member/client that who has dual citizenship and living abroad is not considered an emigrant.</u>

Necessary Documentation

The rules of the RA fund must allow for the commutation, and the member must be in possession of:

- A completed RA withdrawal form – obtained from applicable life company.
- A copy of the Tax Clearance Certificate issued by SARS [IB-IT21(a)].

  Note that the IB-IT21(a) should bear the date stamp of the SARS Office where the tax clearance application was submitted. If the member/client has re-registered for income tax, registration must be done in order to obtain a Tax Clearance Certificate.

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- A copy of the SARB's response (MP336) to the application to recognise the emigration for the purposes of exchange control (less than 3 months old)

- A confirmation letter from an SA bank confirming the member's SA currency blocked banking account*.

- A tax directive** from SARS indicating the tax that should be deducted from the lump sum paid to the member/client.

In order to apply for a tax directive you must obtain **proof that the Reserve Bank recognises the emigration for purposes of exchange control. To obtain this proof the following must be done:

- The member must contact an Authorised Currency Dealer. This is a person that has been authorised by the National Treasury to deal in foreign exchange. The Authorised Dealer will request the member to complete Form MP 336(b), (application for foreign capital allowance) and furnish full details of the nature and value of his/her assets, both in and outside South Africa as well as similar information pertaining to any liabilities which will be outstanding in South Africa after his/her departure.

- The Authorised Dealer will hand form MP 336(b) in at the South African Revenue Services (SARS), together with a tax clearance application Form IB-IT21 (a) in order to obtain a Tax Clearance Certificate for the member.

- Once the Authorised Dealer has accepted the Form MP 336(b) and Tax Clearance Certificate, he/she has to apply to the Reserve Bank to recognise the emigration for the purposes of exchange control.

- The SARB will respond stating whether the emigration is recognised, and will also state whether the RA policy may be paid out to the member. The Authorised Dealer will provide the member with a copy of the Reserve Bank's response.

- The Authorised Dealer will also assist the member with opening an SA currency blocked banking account* in the name of the member. A blocked account will only be opened when application is made to the SARB by the member for emigration from South Africa, and proof is provided to them. SARB will give the SA bank permission to open such an account.

Taxation of RA on formal emigration

The withdrawal benefit will be taxed as per the Withdrawal Tax Table set out below:

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 000	R184 950 plus 36% of amount exceeding R900 000

The taxable withdrawal benefit is the lump sum benefit derived other than iro death, retirement or retrenchment/redundancy, less the following amounts:

If they have not enjoyed deductions before:

- Contributions;
- Previously taxed transfer of divorce awards to the retirement fund;
- Previously taxed transfer of benefits to the retirement funds; and
- Pre–1998 amounts transferred from public sector funds

VPFP will assist clients in obtaining the required documentation which is necessary for a formal emigration application.

Notes:

***Blocked banking account:** this is the vehicle via which all capital transfers out of South Africa must flow for exchange control purposes, once your emigrant status has been recorded with the South African Reserve Bank. Acquiring such status will allow you to utilise emigration allowances which are currently R4 000 000.00 for an individual and R8 000 000.00 for a family unit. As an emigrant you may cash in your retirement annuities and transfer the proceeds to your offshore bank account, via the blocked account, using the said allowance. Exchange control does however place restrictions upon the purposes for which funds held in a blocked account may be used.

Severance benefits - *Funding method is crucial*

'Tis the season for severance, courtesy of the current economic climate. If you receive a termination of service award (termed a 'severance benefit' in the Income Tax Act), various concessions apply, provided that your (ex) employer didn't fund it through an insurance policy. The award is taxed under the retirement fund table:

Table 1

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

The following requirements must be satisfied:

- the amount must be paid for the relinquishment, termination, loss, repudiation, cancellation or variation of an office or employment or of an appointment;
- the payment must be made reasonably contemporaneously with the termination of employment or office; and
- any one of the following three situations must apply:

  (1) the exemption is obviously intended, exclusively, for employees or office holders who have come to the end of the employment road, so to speak, so that the award will not be exempt unless they have attained the age of 55 years;

  (2) the relinquishment of employment or office must be due to sickness, accident, injury or incapacity through infirmity of mind or body; or

  (3) the employee's services are terminated owing to the employer's ceasing to carry on his trade or because the employee has become redundant; in addition, the employee must have become redundant owing to his employer having effected a general reduction in personnel or a reduction of personnel of a particular class.

The tax concessions will not apply if the employee or office holder at any time held more than 5% of the issued shares or members' interest in the employer company or close corporation, or if the severance benefit was funded by an insurance policy. Herein lies the inequity. Thanks to the specific wording of the definition of a 'severance benefit', if the award from the employer is funded from cash reserves or an investment, the concessional tax treatment applies, but not if a policy was the funding medium. So much for level playing fields in the taxation of savings.

Why you need to take estate planning seriously

All of our clients need to consider estate planning as part of their financial plan. For the younger generation who are just starting out, this may entail securing debts such as bond cover. For those with families, it may mean ensuring that dependants are taken care of and for those who are more mature; it can provide the opportunity to leave a legacy.

What is estate planning?

The starting point is to establish what is meant by estate planning. There are many definitions, but fundamentally it is the process of arranging your affairs in such a way that, in the event of death, the estate can be wound up with ease and transferred to the people you intended to benefit. There are a couple of obvious points that flow from this:

- While you do know that death is inevitable, you do not know exactly when this will happen. The plan needs to be one that works for you during your lifetime as well as on death, so whatever is put in place needs to be flexible to cater for changing and unpredictable life circumstances.

- There could be debt to settle in the event of death and therefore there needs to be liquidity in the estate to do so – selling assets such as your house may not provide the necessary level of liquidity and you may sell for below market value. Cash needs to be available and your best safety net is life insurance cover.

- Taxes and administration costs (executor and master fees) will reduce the amount available for distribution to the ultimate beneficiaries, therefore you should strive to eliminate or limit your deathbed expenses as much as possible.

- Wealth created should be protected – for example, in the event of minors inheriting a Trust should be set up.

Clearly, where there are a number of needs, some sort of prioritisation must be done – which of the aspects above are most important to you and how best are they achieved?

The role of a will

- The most basic starting point of any estate plan is to ensure that you have a valid will, which clearly reflects your wishes and intentions and which is actually enforceable. Ideally you should make certain that you have a copy of the will in your possession to ensure that it does actually exist and that it reflects your intentions accurately. You should also ascertain where the original is kept and make sure that it can be produced when needed. The Master will only accept original wills, and if none can be found, then the deceased in fact dies intestate.

- Does the distribution of your assets make sense in the context of your marital regime? For example, if you are married in community of property, you cannot bequeath the holiday home to his children. You can only bequeath your half of the holiday home to your children. What is your true intention and how does the will give effect to this intention, bearing in mind the practical implications?

- Can your estate afford any specific bequests that are made? In winding up the estate, the executor must first pay any creditors (including SARS, any accrual claim in favour of the surviving spouse etc) and only then will beneficiaries receive their inheritance. If you have left R20 000 to each grandchild, and there are 6 grandchildren, these bequests will be satisfied before the residual heir will receive. If there is insufficient liquidity, assets might have to be sold and the residual heir, in many instances the surviving spouse, could be left in a precarious financial position as a result.

- Are there any maintenance provisions in terms of a divorce order that must be complied with? Again, these will be met before distribution to the heirs.

- Who is the executor and is this person qualified to do the job, or is the person sufficiently well informed to appoint an appropriate person to act as his agent in winding up the estate? Remember, an agent acting on behalf of the executor may charge more than the statutory 3.5% (plus VAT), especially if he charges his professional fee instead of a fixed fee. Be aware of the consequences of appointing an unqualified family member as executor of your estate in an attempt to save on fees and costs!

Securing a beneficiary's inheritance

- Are the beneficiaries competent to receive the benefits directly? Remember inheritances in favour of minors (people under the age of 18) could be paid into the Guardians Fund, with very little access to the funds until age of majority. Clients should make use of a Testamentary Trust to overcome this obstacle.

- In addition to wanting to avoid the Guardian's Fund, at what age are people mature enough to receive benefits and to deal with them appropriately? Would an 18 year old be competent to deal with a sizeable inheritance, or would it be squandered? A Testamentary Trust can serve the purpose of protecting wealth for future generations; at the same time allowing you to retain effective ownership and control during your lifetime. If the need for the Testamentary Trust passes and the beneficiaries achieve the identified age before your death, you can simply amend your will to remove reference to it.

The tax implications in estate planning

- Income Tax and Capital Gains Tax (CGT) will be payable by the estate each year until it is wound up. Death results in a deemed capital gains tax event, the deceased "disposes" of his assets to his estate, and unless his spouse is the heir to these assets (in which case there will be a CGT rollover), CGT will be calculated on the value of the assets as at date of death and will be paid in the tax return in that relevant year. The current effective rate of CGT for a person at a 40% marginal rate of tax is 13.3%, with a R300 000 exclusion at death. This can be a large drain on the liquidity in a deceased estate, and careful consideration should be given to including CGT in your liquidity calculations.

- Outstanding tax returns and tax disputes can severely hinder the speedy winding up of an estate, so it is vitally important to keep your tax affairs in order and up to date.

- Estate duty, while only payable once the estate has been finalised, is also going to impact negatively on the liquidity in the estate. If the surviving spouse inherits the estate, then the effect of section 4(q) of the Estate Duty Act is that no duty will be payable. It will rather be postponed until the death of the last dying spouse.

- Remember that a South African resident will pay estate duty on his worldwide estate, not just his South African estate, and with the world becoming a global community and legislation such as FICA, it is virtually impossible for a resident to successfully "hide" his offshore assets. It is best to acknowledge the extent of your estates, to legitimise assets that need to be considered, and to cater for the taxes that will in any event be levied.

Securing a holistic estate plan

In order to make sure that you have a holistic estate plan; you will need to consider different aspects of estate planning at different stages of your life. Ultimately any estate plan needs to take into account the following:

a) A mechanism to ensure that effect is given to your wishes – in many cases a well drafted and thought through will would suffice; and

b) Cash to ensure that there is liquidity in the estate to pay creditors and the administration costs and to settle any specific bequests, ensuring that the beneficiaries are actually able to receive the assets intended for them.

Life insurance is the ideal product to create such liquidity:

- it can be used to settle creditors directly (such as bond cover);
- or to pay to the estate, so that the executor has the cash to settle debt and wind up the estate without delay; or
- to pay directly to dependants to ensure that they have cash flow immediately after the death of a breadwinner, until such time as the estate is wound up, or for a longer period, as the need may be.

Market & Fund Performance Update

Macro Overview

The final quarter of 2012 was a continuation of the experience of the preceding quarters with a great deal of economic uncertainty, political instability and government interference, capped off with significant central bank stimulus.

This is a cocktail that resulted in short term market instability and volatility, however, the overall experience was positive as the "risk- on" trade continued to prove resilient.

The whole of 2012 was characterised by a central theme that is likely to intensify in 2013 – the search for yield.

Investors in general have become accustomed to the reality that interest-bearing assets do not offer sufficient yield, which has forced many to raise their own risk profiles and has in turn reduced the overall risk premium of many higher risk assets.

This trend continued in the fourth quarter with emerging market and other higher risk assets (as perceived by developed market investors) performing exceptionally well, particularly in China, where the stock market has been under pressure for the past few years. This in turn resulted in most emerging markets performing well, with stronger performance seen in Japan and Europe as well. US stocks lagged most other markets due to US dollar weakness against most other currencies – with the South African rand, Brazilian real and the Japanese yen being the notable exceptions.

Central banks across the globe have continued to pump large volumes of liquidity into just about every market, including continued stimulus in the US on the back of "QE unlimited" and the interim resolution of the "Fiscal Cliff", massive stimulus out of Japan and China with both the new regimes continuing to focus on improving internal consumer growth, and even a committed approach out of Europe to deal with the various issues facing the region.

At Ampersand, we are very aware of the prevailing conditions and believe that although macro-economic issues and news will likely continue to dominate 2013, our approach remains entrenched in an uncompromised focus on our proven and tested disciplines with the most pertinent being the following:

- Focus on Valuation,
- Avoid permanent value destruction,
- Diversification

1. Performance – *what added and what detracted?*

Assets higher up on the risk curve continued to perform well in the last quarter of 2012, particularly equity assets, while developed government bonds came under some pressure due to rising yields. This was however reasonably mild and with risk appetite remaining fickle the trend could change very suddenly.

The entire spectrum of assets generated positive returns in rand terms with the top performer being local equity (+10.3%). Local interest-sensitive assets, like bonds (+2.6%) and listed property (+2.8%), continued to generate strong returns, and the offshore exposure within the portfolios contributed positively as the rand weakened around 3.0% during the quarter.

The performance of the portfolios has been strong over all periods, based on asset price revaluation after the 2008 financial crisis, continued central bank stimulus and risk appetite from local and foreign investors. Many of these tailwinds cannot and will not continue into perpetuity. Although the global economy has remained much more resilient and robust than most market participants and economists have expected, many risks still prevail.

At Ampersand, we are cautiously positioned, yet we remain committed to ensuring the long term growth of all our portfolios.

2. Position going forward

We continue to view global assets as imperative to ensure sufficient diversification and protection against valuation risk, based on local equity assets being relatively overpriced versus global equity assets. Global assets also provide a margin of protection against risk aversion due to the rand hedge qualities. We continue to evaluate our global exposure and will be introducing more active management in the first quarter of 2013. We believe this will not only enhance future returns, but increase the overall downside sensitivity of the portfolios.

From an asset allocation perspective, we remain heavily weighted in local cash across all portfolios due to our view that bonds (both locally and globally) remain expensive. We have retained a reasonable allocation to SA listed property and we have introduced an active component to this mandate to bring a tactical slant into the portfolios and to enhance the risk management and downside protection within the portfolios.

It is our pleasure to inform you that the name change of the VPFP Fund Range to "Ampersand Momentum" took place on 1 December 2012. We believe our brand will grow in stature over the coming years and that it will further enhance our relationship with you – our client.

We are also pleased to announce the impending launch of the Ampersand Equity Fund, a dedicated equity portfolio which will be introduced across our fund range. It will also address the request from various clients for a more aggressive, equity-orientated investment option. The anticipated launch date of the Ampersand Equity Fund is February 2013. A more detailed communication will be sent out in this regard once finalised.

We will continue to focus on reengineering ourselves, continuously improving, and striving for excellence in everything we do.

VPFP Fund Performance for the Period Ending 31 December 2012 (please see page 11 below)

Fund or Benchmark	3 Month	6 Month	1 Year	2 Years	3 Years	4 Years	Inception	
	Return	Return	Return	Return	Return	Return	Return	Risk
VPFP CPI + 2	**3.30%**	**8.42%**	**13.99%**	**24.51%**	**37.21%**	**46.21%**	**50.82%**	**4.53**
Investment Objective (CPI + 2%)	1.31%	3.61%	7.70%	16.56%	23.14%	32.92%		
VPFP CPI + 4	**4.27%**	**10.22%**	**15.24%**	**23.56%**	**36.72%**	**50.22%**	**45.20%**	**6.39**
Investment Objective (CPI + 4%)	1.80%	4.62%	9.80%	21.16%	30.50%	43.61%		
VPFP CPI + 6	**5.43%**	**11.97%**	**16.78%**	**24.00%**	**38.93%**	**59.45%**	**39.15%**	**9.35**
Investment Objective (CPI + 6%)	2.29%	5.62%	11.90%	25.84%	38.14%	54.93%		

Inception 12/05/2008 *(CPI Benchmark as at 30 November 2012)*

Source: MoneyMate

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LIFESTYLE AND ASSET PLANNING

Financial Planning	Asset Management & Consulting	Employee Benefits	Fiduciary Services	Administration Services

Our services include…

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

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