

Legal update 2/2024

Withdrawals from the savings component from 1 September 2024

Members should view their retirement savings in their savings component as part of their long-term retirement plan so that they can retire more comfortably. They should only withdraw money from their savings component as a last resort for a financial emergency, and they must understand that:

- Both their member and employer contributions to the Fund are tax deductible up to 27,5% of the higher of their remuneration or taxable income, subject to a maximum of R350 000 per year. This favourable tax provision reduces their overall tax liability but if they make regular withdrawals from their savings component, which is taxed at their marginal tax rate, they will undo the tax savings which they have earned over that period.
- Withdrawals from their savings component are taxed at their marginal income tax rate, and any withdrawal will count as additional income for that tax year. This could potentially move them into a higher tax bracket and mean they must pay more income tax to SARS in that year.
- When a member retires, they must use the money in their retirement component to buy a pension as it cannot be accessed as cash. If they withdraw all the money in their savings component there will be nothing left in it to take as a cash lump sum when they retire. This will limit their choices at retirement and could have an impact on whether they can retire more comfortably.

Terms and conditions applicable to withdrawals from the savings component

1. Members can withdraw from their savings component at any time, meaning they do not have to leave their employer to do so, but they can only withdraw **once every tax year**. A tax year is 12 consecutive months from 1 March until 28/29 February the following year.
2. Members may withdraw from their savings component from 1 September 2024. The only amount in their savings component that they can withdraw will be 10% of their vested component in your Fund on 31 August 2024 or R30 000, whichever is lower since they will not yet have contributed to their savings component on 1 September 2024. If 10% of their vested component in your Fund on 31 August 2024 is less than R2 000, they will not be able to withdraw but will have to wait until the amount in their savings component is at least R2 000.
3. We will process the requests for withdrawals as soon as possible after we receive them. The processing will include disinvesting the withdrawal amount from members' investment portfolio(s), performing a bank verification of the members' banking details, and applying for a tax directive, so it will take at least seven working days to process a withdrawal request. Depending on the number of requests for withdrawals we receive in the first two months after 1 September 2024, it could potentially take us at least 14 working days to process the withdrawal payments.

The processing period will also depend on the member:

- Providing us with all the required information.
- Not having tax issues.
- Not having section 37D deductions pending against their retirement savings.

It could take up to a further three working days for the withdrawal amount to reflect in the member's bank account.

4. We will deduct the marginal tax rate payable on the savings withdrawal amount and the Fund processing fee from the amount that a member wants to take from their savings component before the balance is paid to the member.
5. There is **no limitation on the maximum amount** a member can withdraw from their savings component, meaning they can take the full balance in their savings component once in a tax year.
6. The **minimum amount** a member can withdraw from their savings component is **R2 000** before we deduct the processing fee and tax. An exception to this rule is if a member withdraws from the Fund because of resignation, dismissal, or retrenchment, and they have already withdrawn from their savings component in the same tax year of their withdrawal from the Fund, and the amount in their savings component is less than R2 000, they can withdraw the total amount.
7. A market value adjuster (MVA) may apply to withdrawals from the savings component. An MVA only applies if the money in the member's savings component is invested in an investment portfolio that provides a capital guarantee, and the market value of the assets is below the book value. We will deduct the MVA, tax and processing fee from the amount the member wants to withdraw.

Taxation of withdrawals

1. The Fund must apply for a tax directive on **all** withdrawals made by members from their savings components. These withdrawals made **before their retirement** will be taxed at their **marginal income tax rate**.
2. Marginal income tax rates apply to different levels of income in South Africa. The lowest income earners pay no tax. Above the minimum tax threshold, the income tax rates apply to different income brackets and are between 18% and 45%. The income tax a member pays depends on their level of income, and the income tax bracket that applies to their level of income.
3. The income tax brackets apply to a member's annual taxable income. This is their salary plus any additional income such as a bonus and the amount withdrawn from their savings component, less any tax exemptions and allowable tax deductions like a travel allowance and their contributions to the Fund.
4. Here are examples of the impact of marginal tax on withdrawals from a member's savings component.

Annual taxable income	Rate	Net benefit of a R10 000 withdrawal *	Net benefit of a R20 000 withdrawal *	Net benefit of a R35 000 withdrawal *	Net benefit of a R50 000 withdrawal *
R1 - R237 100	18%	R8 200	R16 400	R28 700	R41 000
R237 101 - R370 500	26%	R7 400	R14 800	R25 900	R37 000
R370 501 - R512 800	31%	R6 900	R13 800	R24 150	R34 500
R512 801 - R673 000	36%	R6 400	R12 800	R22 400	R32 000
R673 001 - R857 900	39%	R6 100	R12 200	R21 350	R30 500
R857 901 - R1 817 000	41%	R5 900	R11 800	R20 650	R29 500
R1 817 001 and above	45%	R5 500	R11 000	R19 250	R27 500

*We have applied the sliding scale tax rates in full and have not considered the Fund processing fee.

5. When members withdraw from their savings component **when they retire**, they will be taxed on the retirement lump sum tax table, which means they can potentially get a lump sum of up to R550 000 tax free. When determining the tax-free amount, these are the considerations:

- Any retirement lump sum benefits a member has already taken in cash during their lifetime before 1 September 2024.
- The amount a member chooses to take as a cash benefit from their vested component when they retire.

Any previous withdrawals from a member's savings component will **not** be considered when the tax-free amount is determined.

Impact of section 37D deductions

The Pension Funds Amendment Bill of 2024 provides that:

1. If a member has divorce proceedings instituted against them, they cannot withdraw from their savings component if:
 - The Fund has received a formal notification from the member or their spouse, proving that divorce proceedings have been instituted, for example, proof that a divorce summons has been issued or notice of motion has been filed, **and**
 - the member's spouse refuses to give consent that the member may withdraw.

We will suspend the payment of the withdrawal from the member's savings component until we receive their final divorce order.

2. If there is a maintenance order against the Fund to deduct maintenance payments from a member's retirement savings for the benefit of their maintenance claimant, the member cannot withdraw from their savings component unless the Fund decides there will be enough money in their vested and retirement components to comply with the maintenance order.
3. If the Fund becomes aware of a pending maintenance order that will be issued against it to deduct maintenance payments from a member's retirement savings for the benefit of their maintenance claimant, the member cannot withdraw from their savings component unless the Fund decides there will be enough money in their vested and retirement components to comply with the pending maintenance order if it is granted. This suspension will only apply if the Fund receives a formal written notice from the maintenance investigating officer.
4. If the employer informs the Fund of a judgment that had already been obtained by them against a member for a fraudulent misconduct employer claim but the judgment has not yet been executed (meaning although the Fund has been notified of the judgment, it has not yet processed the deduction payment to the employer), a member cannot withdraw from their savings component unless the Fund decides there will be enough money in their vested and retirement components to comply with the judgment.
5. If the employer informs the Fund of a pending judgment against a member for a fraudulent misconduct employer claim (meaning proceedings against the member have been instituted by the employer but the employer has not yet obtained a judgment), the member cannot withdraw from their savings component unless the Fund decides there will be enough money in their vested and retirement components to comply with the pending judgment, if it is granted. This suspension will be limited to 12 months, so the employer has 12 months to obtain a judgment against the member before they will be allowed to withdraw from their savings component.

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