Media Release
Association for Savings and Investment South Africa (ASISA)
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New regulations to further ease exchange controls have been misrepresented

The decision by National Treasury to phase out the concept of formal emigration by 28 February 2021 with the aim of further easing exchange controls has unfortunately been misrepresented as an attempt by government to block people from accessing their retirement savings, according to Peter Stephan, senior policy adviser at the Association for Savings and Investment South Africa (ASISA).

As a result, a number of South Africans are feeling pressured into applying for formal emigration before the end of the current tax year for the sole reason of accessing their retirement annuity (RA) and/or preservation fund savings, often with unintended tax consequences.

Stephan explains that by doing away with formal emigration, National Treasury is making it easier for citizens who want to relocate to another country without cutting all financial ties with South Africa to also access their RA and preservation fund savings where one withdrawal has already been made, albeit only after three years. Currently citizens have to formally emigrate, which is a complex process with consequences like bank accounts becoming blocked Rand accounts, before they can cash in their RAs and preservation funds."

The new regulations, contained in the draft 2020 Taxation Laws Amendment Bill (TLAB) expected to be gazetted shortly, propose that South Africans will be required to prove that they are a non-tax resident for an uninterrupted period of three years from 1 March 2021, before they can cash in their retirement savings held in RAs and preservation funds.

Stephan points out that the new regulations only impact on retirement savings in RAs and preservation funds where members have already made their one withdrawal. Retirement savings in pension and provident funds are not affected, since members are already allowed to withdraw their benefits on resignation.

He adds that the argument being presented by some that government is trying to hold on to retirement benefits for the sake of introducing prescribed assets* is therefore unwarranted.

While ASISA considered the three-year period too long and unnecessary, and therefore opposed the proposal in the feedback given to National Treasury, we did not oppose the principle of levelling the playing field, says Stephan. "We understand that by phasing out formal emigration, citizens who relocate for a period will find it easier to eventually return to South Africa. Equally, those who decide not to return after three years will be able to cash in their retirement savings."

Stephan encourages South Africans who are panicking about having to rush formal emigration before the 28 February 2021 deadline to consider the following:

- Depending on your financial affairs, applying for formal emigration with the South African Reserve Bank (SARB) could result in unintended income tax and capital gains tax consequences. Even if your formal emigration application is straightforward and successful, you are likely to face an exit capital gains tax. It is therefore crucial that you consult a specialist tax adviser before making a decision to formally emigrate.
- Many South Africans tend to relocate rather than formally emigrate. The option of cashing in an RA and preservation fund will be available to everyone who has moved abroad after three years of being a non-tax resident, whereas this is not possible under the current laws.
- The new regulation does not affect pension and provident funds, because members who resign from their employers are already able to withdraw the benefits, pay the withdrawal tax and take their money out of the country subject to meeting the foreign exchange control requirements.
- Also not affected are preservation funds where the member still has their one withdrawal. This means that if you have not yet exercised your right to one withdrawal, you have the option of paying the withdrawal tax and cashing in.
- Once you reach the retirement age specified in your RA contract, you are allowed to retire from your RA, take a third in cash, which can be remitted offshore, and buy a compulsory annuity with the rest. The annuity payments would pay into a local account but could then be remitted abroad. It is important to note that once you have reached the specified retirement age, you cannot cash in 100% of your RA.

Stephan concludes that South Africans planning on moving to another country should carefully weigh up the pros and cons with the help of a tax specialist instead of hastily cashing in their RA or preservation fund based on unfounded fears.

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*** Note to editors:** More information on ASISA's views on prescription and proposed amendments to Regulation 28, can be found here.

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ASISA represents the majority of South Africa's asset managers, collective investment scheme management companies, linked investment service providers, multi-managers, and life insurance companies.