Tax changes that may affect you.

A fiduciary update about the final tax bills being tabled as part of the Medium-Term Budget Policy Statement (MTBPS).

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Nedbank Private Wealth, an authorised financial services provider through Nedgroup Private Wealth Pty Ltd Reg No 1997/009637/07 (FSP828), a registered credit provider through Nedbank Ltd Reg No 1951/000009/06 (NCRCP16), a member of JSE Ltd through Nedgroup Private Wealth Stockbrokers Pty Ltd Reg No 1996/015589/07, an authorised financial services provider (FSP50399) and a registered credit provider (NCRCP59).

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In this guide

Benefit overview

What follows is a summary of the proposed tax changes contained in the final tax bills tabled as part of the Medium-Term Budget Policy Statement (MTBPS). This excludes the proposed introduction of a 'two-pot' system for retirement savings also proposed in the MTBPS.

During the MTBPS it was proposed that measures to boost household savings by increasing preservation before retirement and to increase flexibility through partial access to retirement funds be introduced through a 'two-pot' system. Under this system individuals would be able to access contributions to the one pot while contributions to the other pot would be saved until retirement. These measures would, however, require legislative changes and further consultations. National Treasury will shortly publish a discussion document on the details of this proposal for input before further announcements are made in the 2022 Budget.

1.1 Retirement-related reforms

The proposal relating to a deemed withdrawal from a retirement fund by anyone ceasing to be a tax resident has been withdrawn.

The proposal contained in the 2021 Draft TLAB to introduce a deemed withdrawal from a retirement fund and application of interest (applied to the notional tax due on the deemed withdrawal amount) on anyone ceasing to be a tax resident has been withdrawn. Further amendments will be considered in the next legislative cycle to address the complexities that were raised by the public comments. This is a positive development for now.

Who may be affected?	What may change?	Summary of the potential impact
Retirement fund members retiring from their fund.	Retirement fund members who are retiring from their fund may use their retirement savings to acquire multiple annuities.	✓ **Overall impact: Positive** You will have more flexibility to purchase different types of annuities from different insurers.
Retirement fund members who are 55 or over and not yet retiring.	Retirement fund members who are 55 years or over may transfer from one retirement fund to another tax-free.	✓ **Overall impact: Positive** If you are not ready to retire by the time you reach your retirement fund's retirement age, you will be able to continue growing your savings in another fund without incurring tax prematurely.
Anyone receiving multiple annuities from retirement funds and insurers.	Retirement funds and insurers that pay annuities must apply a fixed rate when calculating pay-as-you-earn (PAYE) tax withheld on annuities.	✓ **Overall impact: Positive** Your final tax liability will be more accurate and unexpected tax payments at a later stage will be unlikely.

1.2 Other income tax changes

The proposal to make inter-trust loans subject to section 7C has been withdrawn.

The proposal contained in the 2021 Draft TLAB to bring inter-trust loans into the ambit of section 7C (which means donations tax will apply) has been withdrawn and a more specific anti-avoidance measure will be considered in the future. This is a positive development for now.

Who may be affected?	What may change?	Summary of the potential impact
Anyone who is inheriting from a deceased estate.	The date when an heir acquires assets from a deceased estate will be specified.	✓ **Overall impact: Positive** It removes the uncertainty around timing of the disposal by the estate and acquisition by the heir(s) of any assets.
Companies that: • have a positive taxable income position before offsetting assessed losses; • operate in cyclical industries; and • are start-up businesses. **Individuals who have an endowment with an individual policyholder fund (IPF) that is regarded as a company for tax purposes.**	The assessed losses that companies can offset against their taxable income will be limited to R1 million or 80% of company taxable income for the current year, whichever is highest.	✗ **Overall impact: Negative** • Companies that are in a positive taxable income position before offsetting the balance of assessed losses may be required to pay corporate income tax on at least 20% of their taxable income. • Companies operating in cyclical industries that experience super-cycle profits will likely face increased income tax liabilities. • The partial loss offsets may have a negative impact on a start-up business' cash flow and investments. • If you have an endowment with an IPF that is regarded as a company for tax purposes and you're benefiting from assessed losses of the IPF, you may be negatively affected.
Individual shareholders in companies (ie not corporate shareholders).	Companies making distributions in the form of return of capital will have to do this for all shareholders in equal proportions.	✗ **Overall impact: Negative** If the company decides to make a distribution of dividends instead of return of capital, you may be negatively affected since you are not exempt from dividends tax like corporate shareholders.

1.3 Tax administration changes

Who may be affected?	What may change?	Summary of the potential impact
• **Public benefit organisations (PBOs) issuing section 18A tax receipts (tax certificates for tax-deductible donations).** • **Individuals who donate to section 18A-approved organisations.**	The requirements for receipts issued for tax-deductible donations will be extended to include additional information.	**PBOs** ✗ **Overall impact: Negative** This will likely increase the compliance cost of providing the required information to SARS in the prescribed format. ⓘ SARS is cognisant of the impact third-party reporting may have on smaller PBOs. They are therefore considering a differentiated approach by, for example, providing a simpler mechanism for third-party reporting by smaller PBOs. **Individuals who donate** ✓ **Overall impact: Positive** SARS will be able to pre-populate your tax return with the required information relating to your donation(s), which means less tax admin from your side.

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The proposals in more detail

2.1 Retirement-related reforms

Who may be affected?	What may change?	The proposal in more detail	The impact in more detail	Effective date if enacted
Anyone who is: • retiring from their retirement fund; and • the value of the fund exceeds R165 000.	Retirement fund members who are retiring from their fund may use their retirement savings to acquire multiple annuities.	• Retiring retirement fund members can use the full value of their retirement savings (or at least two-thirds in certain cases) to purchase a combination of living and guaranteed annuities with different insurers. • Each annuity must be purchased for at least R165 000.	✓ **Overall impact: Positive** If you are retiring from your retirement fund, you will have more flexibility to purchase different types of annuities from different insurers to improve your retirement outcomes.	1 March 2022, applying to annuities purchased on or after this date.
Anyone who is: • a member of a retirement fund; • 55 years or over; and • not ready to retire yet.	Retirement fund members who are 55 years or over may transfer to another retirement fund tax-free.	• Retirement fund members who have reached normal retirement age according to the fund rules but do not want to retire yet can transfer their savings to another retirement fund tax-free. • The new fund must be an equal or more restrictive fund in terms of how much of their savings members can withdraw as a lump sum.	✓ **Overall impact: Positive** If you are 55 and older and not ready or willing to retire by the time you reach your retirement fund's retirement age, you will be able to continue growing your savings in another fund without incurring tax prematurely, ie while keeping the full value of your savings intact.	1 March 2022, applying to years of assessment commencing on or after this date.
Anyone who receives multiple annuities from retirement funds or insurance policies.	Retirement funds and insurers that pay annuities must apply a fixed rate when calculating PAYE withheld on annuities.	Individuals who receive multiple annuities from various retirement funds or insurers are at risk of underpaying on PAYE, which can lead to a bigger tax liability on final assessment. To remedy this, it is proposed that retirement funds and insurers paying annuities must apply for a tax directive to obtain and apply a fixed tax rate to calculate PAYE withheld on annuities.	✓ **Overall impact: Positive** If you receive multiple annuities, this fixed tax ratio will help ensure that your final tax liability is more accurate and that you won't have to make unexpected tax payments at a later stage.	1 March 2022

2.2 Other income tax changes

Who may be affected?	What may change?	The proposal in more detail	The impact in more detail	Effective date if enacted
Anyone who is inheriting from a deceased estate.	The date when an heir acquires assets from a deceased estate will be specified.	The proposed amendment clarifies that the date of disposal of assets by the deceased estate to the relevant heir(s) is the earlier of the date on which that asset is disposed of or when the liquidation and distribution (L&D) account becomes final. This would be when: • the L&D account has been open for inspection at the Master's office for the required 21 days and no objection has been lodged; or • if any objection is lodged, after a further 21 days (until no objections are raised).	✓ **Overall impact: Positive** This is a welcome proposal for the deceased estate as well as the heir(s) as it removes the uncertainty around timing of the disposal by the estate and acquisition by the heir(s) of any assets.	1 March 2022, applying to L&D accounts finalised on or after this date.

Companies that: • have a positive taxable income position before offsetting assessed losses; • operate in cyclical industries; and • are start-up businesses. **Individuals who have an endowment with an IPF that is regarded as a company for tax purposes.**	The assessed losses that companies can offset against their taxable income will be limited.	The amendment limits the offset of assessed losses carried forward by companies from previous years to R1 million or 80% of company taxable income for the current year, whichever is highest. **This extends to both the:** • accumulated losses from the date of implementation (the date when the taxable income of a company is first reduced after announcement by the Minister of Finance in the annual national budget); and • the balance of assessed losses at this date.	✕ **Overall impact: Negative** The proposed amendment will have a negative impact on the following: • **Companies that are in a positive taxable income position before offsetting the balance of assessed losses** If the company's accumulated assessed losses exceed R1 million or 80% of its current-year taxable income (whichever is highest), the company will be required to pay corporate income tax on 20% of taxable income. The balance of any remaining assessed loss will be carried forward to be offset against income in subsequent years. • **Companies operating in cyclical industries** For companies subject to cyclical fluctuations in profits and losses, super-cycle profits will likely result in taxable income and therefore increased tax liabilities. • **Start-up businesses** Start-up businesses generally experience losses in the first few years. The partial loss offsets may therefore have a negative impact on the business's cash flow and investments. • **Certain endowment policies** If you have an endowment policy where: – the endowment contract has a repricing right; and – you are currently benefiting from assessed losses of the IPF, you may be negatively affected as the extent of the assessed loss will be limited.	The date when the taxable income of a company is first reduced after announcement by the Minister of Finance in the annual national budget1, applying to the years of assessment commencing on or after this date. *(The date has been postponed from what was initially proposed in the 2021 budget to coincide with the reduction in the corporate tax rate to 27% as part of broadening of the tax base.)*

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Companies making distributions in the form of return of capital.	Individual shareholders in companies (ie not corporate shareholders).	Distributions by companies in the form of return of capital (which reduces contributed tax capital or CTC) will have to be made to all shareholders within the same class in equal proportions. This means companies can no longer split a distribution into dividends for certain shareholders and return of capital for others within the same class of shares (which would usually have been the case in corporate actions).	✕ **Overall impact: Negative** If you are an individual shareholder in a company and the company decides to make a distribution of dividends instead of return of capital, you may be negatively affected since you are not exempt from dividends tax like corporate shareholders.	1 January 2022, applying to distributions made on or after this date.

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2.3 Tax administration changes

Who may be affected?	What may change?	The proposal in more detail	The impact in more detail	Effective date if enacted
• **Public benefit organisations (PBOs) issuing section 18A tax receipts (tax certificates for tax-deductible donations).** • **Individuals who donate to section 18A-approved organisations.**	The requirements for receipts issued for tax-deductible donations will be extended to include additional information.	It is proposed that the information required in section 18A receipts (as prescribed by section 18A of the Income Tax Act, 58 of 1962) must be extended to include information: • that will be prescribed by the Commissioner by public notice from time to time; and • relating to third-party reporting.	**PBOs currently issuing section 18A receipts** **Overall impact: Negative** This will likely increase the compliance cost of providing the required information to SARS in the prescribed format. SARS is cognisant of the impact third-party reporting may have on smaller PBOs. They are therefore considering a differentiated approach by, for example, providing a simpler mechanism for third-party reporting by smaller PBOs. **Individuals who donate to section 18A-approved organisations** **Overall impact: Positive** SARS will be able to pre-populate your tax return with the required information relating to your donation(s), which means less tax admin from your side.	Effective on the date of promulgation of the Act.

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