



Revenue Laws Amendment Bill 2023 and Revenue Laws Amendment Bill 2024

The **Revenue Laws Amendment Bill 2023 (RLAB 2023)** is a significant piece of legislation that introduces the two-pot system. We dealt with earlier drafts of the RLAB 2023 in *On the Scales* 10 and 12 of 2023.

The RLAB 2023 has been approved by Parliament and is waiting for the President to assent to it before it becomes law.

The RLAB 2023 confirms that the two-pot will start on 1 September 2024.

However National Treasury have also issued **Revenue Laws Amendment Bill 2024 (RLAB 2024)**, which addresses some of the concerns raised on RLAB 2023. RLAB 2024 has not been approved by Parliament. We will highlight some of the changes in RLAB 2024 in this publication, but please note these could change in the final legislation.

Which funds and members does the two-pot system apply to?

The two-pot system will be applied to all retirement funds, including:

- pension and provident funds
- umbrella and standalone funds

- defined contribution and defined benefit funds
- retirement annuity funds
- preservation funds

The two-pot system will not apply to unclaimed benefit members and pensioners as at 1 September 2024, as well as legacy retirement annuity funds, beneficiary funds, liquidating and terminating funds.

Tax law changes

Fund rules must be amended to include the three different components dealt with below.

Vested component

The vested component will be the full value of members' fund credits that existed immediately before 1 September 2024, less the seed capital allocation.

Members cannot make contributions to the vested component from 1 September 2024, except for members of a provident fund who were 55 years or older on 1 March 2021. These members can continue to contribute to the vested component from 1 September 2024 or they can opt in to the two-pot system.

The existing rules for accessing and taxing benefits will apply to the vested component. For example, a member who leaves employment after 1 September 2024 will be able to access their vested component as a lump sum and will pay tax in accordance with the lump sum tax tables applicable on withdrawal.

Savings component

Every member of a fund will have an amount of 10% of their fund credit on 31 August 2024, limited to a maximum amount of R30 000, allocated to the savings component on or after 1 September 2024 (called 'seed capital'). This seed capital will be deducted proportionately off a member's vested and non-vested portions in their fund credit.

After 1 September 2024 one-third of the ongoing monthly contributions will be allocated to the savings component. The monthly contribution is defined to exclude risk premiums and expenses.

Savings withdrawal benefits

The "savings withdrawal benefit" is the amount that members can access from their savings component without leaving employment or leaving the fund.

Members can take one withdrawal from their savings component during a year of assessment.

Members must withdraw a minimum of R2 000 from their savings component.

If a member leaves service and has taken their one withdrawal for the year already, and they have less than R2 000 in their savings component, they will be able to withdraw that balance.

Withdrawals from the savings component will be taxed at marginal rates.

Members can transfer the amount in their savings component to their retirement component in the same fund.

On a member's death, any amount in the savings component can be paid as a lump sum to the member's dependents or nominees.

Amounts taken in cash from the savings component on death or retirement will be taxed using the retirement lump sum tax table.

If a member has more than one contract in a fund (typically this would occur in a retirement annuity fund), then the components would be set up for each contract and a member could have more than one withdrawal a year, as the withdrawal would be per savings component in each contract.

Retirement component

Two-thirds of a member's monthly contribution will be allocated to a retirement component from 1 September 2024. Monthly contribution is defined to exclude risk premiums and expenses.

The retirement component can only be accessed on retirement and must be paid as an annuity.

If a member leaves employment, they must preserve their retirement component in their existing fund or transfer it to another fund.

Defined benefit funds

Defined benefit funds are also subject to the two-pot system.

The allocation to the savings component and the retirement component for a defined benefit fund is determined by reference to the member's pensionable service as set out in the rules of the fund. If a defined benefit fund cannot implement this methodology, the fund can seek approval from the FSCA to apply another method of allocation.

Provident fund members age 55 or over on 1 March 2021

An exception exists for members of a provident fund age 55 years or over on 1 March 2021 who are still members of the same provident fund on 1 September 2024 in that they can opt in to the two-pot system.

This category of members was excluded from the T-day annuitisation that took place on 1 March 2021. All of their contributions since 1 March 2021 have been allocated to their vested portions and they will not be required to annuitise when they retire from the provident fund.

With the introduction of the two-pot system, this category of members will be excluded from two-pot, unless they elect to opt in to the two-pot system.

RLAB 2024 says that

- *these members will have 12 months from 1 September 2024 to make an election to opt in to the two-pot system; and*
- *their seed capital will be based on the value of their vested component on the last day of the month in which the election is made.*

Transfers

Within the same fund

Members will be able to move money from their savings component and vested component to their retirement component in the same fund, but not vice versa.

Between two different funds

All three components must be transferred to the same fund. The receiving fund must allocate the value in each component to the same component in that fund.

RLAB 2024 proposes to allow for a transfer to more than one fund subject to a proportionate share of each component being transferred to each fund. For example, this will allow a member to transfer a proportionate share of an occupational fund to a preservation fund and a retirement annuity fund.

Ceasing to be a South African resident

Currently when a member ceases to be a resident, they can access the vested component at the lump sum withdrawal table. RLAB 2023 and RLAB 2024 changes this to make such persons wait three years before being able to access their vested component.

Comment: we have raised a concern on both RLAB 2023 and RLAB 2024 that the three-year waiting should be removed in respect of the vested component.

Transaction fees

The RLAB has a definition of “total retirement contributions”, which is the amount which is split between the savings and retirement components from 1 September 2024.

The amount to be allocated excludes fund expenses and risk premiums. Additional voluntary contributions will also be split one-third and two-thirds between the savings component and retirement component.

If you need more information, please contact your Consultant.

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