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University of the Witwatersrand, Johannesburg

Faculty of Commerce, Law and Management
School of Accountancy

A research report to be submitted to the Faculty of Commerce, Law and Management, University of the Witwatersrand, Johannesburg, in partial fulfilment of the requirements for the degree of Master of Commerce specialising in Taxation.

An assessment and comparison of South Africa's retirement tax reforms

by

Sphiwe Johannah Setshedi

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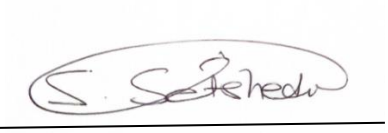
Declaration

I declare that this research report is my own unaided work. It is submitted in partial fulfilment of the requirements for the degree of Master of Commerce (Specialising in Taxation) at the University of Witwatersrand, Johannesburg. It has not been submitted before for any other degree or examination at any other university.



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“I can do all things through Christ which strengtheneth me.”
Phil 4:13

Abstract

The purpose of this research is to establish whether the retirement tax reforms effected in South Africa are beneficial for individuals. The research analyses whether individuals are better off, given the introduction of the amendments and investigates whether there are any shortcomings from a policy perspective. This paper also takes into consideration whether policy-makers could have implemented a different set of retirement tax reforms.

The retirement tax reforms were formally introduced in the Taxation Laws Amendment Bill of 2019 (hereafter TLAB). The main purpose was to ensure uniform tax treatment across the various retirement funds (Taxation Laws Amendment Bill of 2019). In an attempt to achieve these objectives, the tax treatment of provident funds was amended, as follows (Taxation Laws Amendment Bill of 2019):

- Employer contributions to provident funds would be treated as a taxable fringe benefit in the employee's hands.
- Members of provident funds, similar to other retirement funds, are required to annuitize upon retirement.

The research also investigates whether South Africans are saving enough for retirement, as well as the incentives adopted by the South African government to promote savings for retirement and beyond.

During the 2021 Budget Speech, Finance Minister, Tito Mboweni, emphasised that "the proposed amendments to Regulation 28 seek to make it easier for retirement funds to increase investments in South Africa's infrastructure" (Mboweni 2021). He also reiterated that "provident fund members will continue to enjoy a tax deduction on their retirement contributions, thus continuing the objective of encouraging people to save more towards their retirement" (Mboweni 2021).

Once the above has been investigated, South Africans' retirement tax reform is then compared with the retirement tax regimes of other developing African countries, namely, Namibia and Nigeria's retirement tax regimes. This comparison is conducted as a means of assessing whether South Africa's retirement tax provisions are better than the countries mentioned above.

This will prove that South Africa's retirement tax reform is developing, and that government is set on modernising the tax provisions for the benefit of individual taxpayers.

Key Words: Retirement tax reform, Amendments, Regulation 28, Contributions, Retirement Funds, Beneficial, investment, National Treasury, Taxpayer, South Africa, Namibia, Nigeria, Individuals, Member.

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Chapter 1: Introduction

The Labour Relations Act 66 of 1995 does not stipulate the mandatory **retirement age**. The applicable retirement age is ordinarily set out in the employment contract by the employer. Early retirement in South Africa is possible from the age of 55. At this age, the employee can elect to retire or may choose to continue working until they reach the age of 60, but then once an employee reaches the age of 50, they may retire from his or her respective retirement funds (Sullivan 2020).

Retirement may be the most exciting time for many who have reached that stage and are about to retire. This is the time whereby the retiree will be able to obtain his or her retirement lump sum from the retirement savings that they would have accumulated during his or her years of employment. This is usually savings that have been accumulated over one's lifetime (Cameron & Fourie 2019:2).

A financial planner noted that, irrespective of how an employee may choose to spend his or her funds after retirement, one factor remains the same for everyone: in order to have funds to access at retirement, one needs to have saved throughout his or her working years. This can be achieved by participating in either compulsory or discretionary saving (Cool 2021:1-2). Saving, in general is important and it is an exercise that everybody is encouraged to practise. Saving allows one to enjoy greater security in life. This security is achieved by ensuring that one also has sufficient funds set aside for emergencies should something unexpected happen and not only saving for the day-to-day living expenses (Nedbank Financial Education Booklet 2019:1-14).

According to Cameron and Fourie, the difference between what you believe you require at retirement and what you will actually receive, is called a Retirement Gap. Therefore, when saving, it is wise to consider also saving a little more in order to cover any potential retirement gaps that may arise when one retires (Cameron & Fourie 2019:1-14). In the event that there is a difference between these two figures, more financial resources will be required to fill that hole. Cameron and Fourie noted in their second edition of the *Ultimate Guide to Retirement*, that in South Africa, the main ways to fill the hole, is either to "postpone retirement or to get a job after retirement" (Cameron & Fourie 2019:1-14).

A financial planner at one of the leading investment companies, has cited that less than ten percent of employees retire with enough income, two percent will retire comfortably, and the rest will either rely on family or government grants (Sullivan 2020:1-5). It may also be worth noting that most individuals are not well informed on the benefits or tax implications arising from either compulsory or discretionary investments (Cameron & Fourie 2019:23-35). This may then further inhibit the employee's ability to save. These factors make it even harder for individuals to save for retirement, thus resulting in many individuals relying significantly on government provided social grants, which are funded by amounts collected from taxpayers (Cameron & Fourie 2019:15-22). As a result, it cannot be denied that employees may wish to either save more during the employee's years of employment or alternatively, delay retirement as long as possible while they work on accumulating as much as possible.

South Africa, and other countries alike, offer a variety of saving solutions and products for individuals; these include both compulsory and discretionary saving vehicles. The saving vehicle chosen by an individual will be greatly influenced by that person's primary reason for wanting to save in the first place. As would be expected, each type of saving vehicle will have different benefits and tax consequences for the investor. The type of vehicle chosen will also inadvertently impact the investor's ability to access his or her funds. Broadly speaking, the difference between compulsory savings and discretionary savings can be briefly defined as follows (Coutinho 2021):

- **Compulsory savings** refers to retirement savings and;
- **Discretionary savings** refers to non-retirement or optional savings.

The characteristics and tax implications of compulsory and discretionary savings are discussed later in the research.

An article by a financial planner at one of the leading investment companies noted that "a third of South Africa's working population do not have any retirement savings at all, and that only eight percent will have saved enough to live on three-quarters of the employee's salary once they have retired" (Cool 2021:1-2). She also noted that this is due to strains on the employee's income, such as high debt levels and an overall non-saving culture, South Africans generally do not save (Cool 2021:1-2).

To encourage and promote saving into retirement savings vehicles, the preferential tax treatment is used. This preferential tax treatment can come in one of two forms, namely (Carbonnier, Direr & Houti 2014):

- Exempting contributions into said vehicles, exempting growth on said investments, and only taxing withdrawals from said vehicles;
- Taxing contributions into said vehicles (i.e., contributions are made with post-tax income), taxing growth realised on said investments (either fully or partially), and exempting withdrawals from said vehicles.

South Africa currently applies the first of the two preferential tax treatments. To further promote retirement savings, as well as to remain globally competitive, several retirement tax reforms have been undertaken in South Africa (Taxation Law Amendment Bill of 2019). These reforms, which focus on the harmonisation of tax treatments across the various retirement funds, were first introduced in 2016 (Taxation Law Amendment Bill of 2019). The effective dates of these reforms had to be segmented. As a result, a portion of the reforms came into effect in 2016, while the bulk of the reforms had to be postponed. Owing to the complexity associated with the bulk of these reforms, various discussions with taxpayers and their representatives were required (Taxation Law Amendment Bill of 2019). The proposed reforms finally came into effect on 1 March 2021. A more detailed discussion of these reforms is contained later in this research.

In view of the above, the research provides an understanding of the tax benefits receivable on and after retirement. The benefits receivable depends greatly on the decisions taken by an individual at retirement. The paper provides a clear comparison of the retirement regimes applicable in South Africa, Nigeria, and Namibia. This is achieved by analysing the respective retirement-related provisions in each of the respective countries. Once the comparison has been achieved, we should also be able to determine which country is more developed in terms of their retirement tax reforms between the three countries.

Chapter 2: Important Retirement Terms

For one to make the right choices when deciding on saving for his or her retirement, or just saving in general, one must understand the meaning of the retirement industry terms that are used. These terms are used worldwide and not only in South Africa.

Retirement Funds

A retirement fund is a fund of cash or assets which is made up by the contributions made by either the employee or the employer or in most instances by both the employer and employee, during the duration of employment until retirement. According to The Metal Industries Benefit Funds Administrators (hereafter MIBFA), "the funds are set up by means of an agreement that is negotiated between an employer and the employees. Each fund is set up in terms of rules that determine who should pay contributions, at what rate, and who receives benefits. Should a tax-relief on the contributions and benefits be required, then the Commissioner of the South African Revenue Services (hereafter SARS) must also approve the structure of the funds" (The Metal Industries Benefit Funds Administrators 2020:1-3).

There are several retirement funds which one can be part off through his or her employment or by going through external fund administrators. These funds are, namely, pension funds, provident funds, preservation funds and retirement annuity funds. In South Africa, retirement funds are governed by the Pension Funds Act No 24 of 1956 (hereafter Pension Fund Act), which came into operation on 01 January 1958. Since then, all retirement funds must be registered in terms of this Act. Retirement funds are administered by fund administrators as well as long-term insurers (Pension Fund Act of 1956).

Further to the above funds, there are some funds not subject to the Pension Fund Act. These are state-guaranteed funds, established under other specific statutes, including the Government Employees Pension Fund, which are administered in terms of Government Employees Pension Law (Government Employees Pension Law 1996) and three funds established in terms of the Transnet Pension Funds Act namely "the Transnet Pension Fund, Transnet Retirement Fund and Second Defined Benefit Pension Fund", these funds are

governed and administered in terms of the Transnet Pension Funds Act (Transnet Pension Funds Act 1990). These funds are not discussed further in the research.

"The main purpose of the Pension Funds Act is to register and regulate all entities operating as retirement funds, protect the rights of members, make sure that funds maintain minimum solvency standards, and that employers do not go back on their commitments to employees and leave them destitute in their old age. It is also to treat the funds as separate legal entities, ensuring balanced ownership and accountability of the participating parties, and to dissolve funds that are financially unsound or that wilfully violate the Act" (The Metal Industries Benefit Funds Administrators 2020:1-3).

MIBFA additionally noted that the main purpose of retirement funds is to primarily provide a retirement benefit, either as a lump sum, a regular monthly income or both, to a member who reaches retirement age (The Metal Industries Benefit Funds Administrators 2020:1-3). Another purpose is to provide a lump sum or monthly income to persons who are no longer able to remain actively employed before reaching retirement age, for reasons such as permanent disability or ill-health (The Metal Industries Benefit Funds Administrators 2020:1-3). Furthermore, it is to provide for the dependants of an employee who may die before the member reaches retirement age and, sometimes, even after retirement (The Metal Industries Benefit Funds Administrators 2020:3-5).

Regulation 28 gives effect to Section 36(1) (bB) of the Pension Fund Act, which aims to limit the amount to which retirement funds, such as retirement annuities, may be invested in certain types or categories of assets. The main purpose of Regulation 28 "is to protect the members' retirement provision from the effects of poorly diversified investment portfolios" (Sanlam 2018). This is therefore achieved by restricting the maximum exposure to more aggressive asset classes when selections for investment fund are done (Sanlam 2018). Regulation 28 thus plays a significant part in ensuring that members' retirement savings provide them with enough income when in retirement and making sure that no superfluous risks are taken with the members' retirement money (Sanlam 2018).

Regulation 28 applies to pension, provident and retirement annuity funds. In essence, it creates boundaries for asset managers from allocating the members' retirement savings to certain asset classes. The asset classes consist of equities, property, and foreign assets

(Jordaan 2021). Currently, the regulation rules limits equity exposure in retirement funds to seventy-five percent for local or offshore investment allocation. Furthermore, exposure to local or international property is limited to twenty-five percent and foreign investment exposure is limited to thirty percent (Jordaan 2021). There are also other additional sub-limits for alternative investments and the percentage of a portfolio that can be held offshore, among others, these above limitations are prescribed by the Reserve Bank (Jordaan 2021).

Lump sum benefit pay-outs from retirement funds are therefore included in the member's gross income for that year of assessment. This is stipulated in paragraph 2(1)(a)(i) of the Second Schedule of the Income Tax Act 58 of 1962 (hereafter Income Tax Act), which states that "the amount to be included in the gross income of any person for any year of assessment in terms of paragraph (e) of the definition of 'gross income' in section 1 of the Income Tax Act shall be – that any amount that is received or accrued to a person by way of a lump sum benefit resulting from his or her retirement benefit;…" (Income Tax Act of 1962).

Funds

Section 1 of the Pension Fund Act states that "a fund means a pension fund organisation, and pension fund or registered fund has the same meaning;" (Pension Fund Act of 1956). The Oxford dictionary defines a fund to be an amount of money that has been put together or saved over time and will only be available for a specific purpose (Oxford Dictionary 2021).

The Income Tax Act is an imperative source of reference, as well as guidance, in the retirement industry as it makes a distinction between the funds, while the Pension Fund Act does not make a distinction between the pension funds and provident funds. It encompasses the necessary requirements to which funds should conform to and be able to benefit from the various taxes that are set out by the Commissioner (Tax and Investment Easiguide 1999:20-25). Retirement and withdrawal benefits, as well as in-service death benefits are governed by the requirements and laws set by the Income Tax Act. For this reason, it is not practicable to provide disability benefits under a retirement fund, except those paying out benefits on early retirement due to incapacity (Tax and Investment Easiguide 1999:20-25).

There are mainly four types of retirement funds, which are – pension funds, provident funds, preservation funds (either pension or provident) and retirement annuity funds, also known as

RAFs (the funds are discussed in-depth in the research). Pension and provident funds function on an employer-employee relationship, meaning members can invest in these funds while still in employment and the contributions come from either the employee or employer (Van Rensburg 2014:6-10). In most instances, contributions come from both, while retirement annuity funds and preservation funds were designed for individuals. Therefore, those funds allow for any individual, whether employed or self-employed, to also be able to be part of a retirement fund and be able to save for their retirement as well. There are also tax benefits that come with being part of a retirement annuity fund (Van Rensburg 2014:6-10).

Fund Member

According to the Glossary of Statistical Terms by the Organisation for Economic Co-operation and Development (hereafter OECD), "a fund member is an individual who is either an active member, working or contributing, and henceforth actively accumulating assets; or a passive member who is retired and therefore receives benefits from the fund; or a deferred member or beneficiary who is holding deferred benefits in a retirement fund" (OECD 2005:1-32). Thus, fund members are regarded as investors in the funds (OECD 2005:1-32).

Fund members' contributions are normally a certain percentage of the employee's pensionable salary. In most instances, the contributions are structured at a certain percentage by the member and the other percentage is contributed by the employer. As of 1 March 2016, "all contributions made by an employer to a retirement fund for the benefit of the employee will be taxed as a fringe benefit in the hands of the employee" (Gordon 2021:3). The fringe benefit is calculated in accordance with paragraph(2)(a)(i) of the Seventh Schedule of the Income Tax Act and the employer must provide the employee with a contribution certificate. This will then be repopulated on the member's income tax return from the IRP5 data submitted by the employer, as well as the tax certificate that is issued to the member for the year of assessment (Gordon 2021:3-5).

There are certain limitations to deductions in respect of contributions to retirement funds made by the employee and employer combined. As per the provisions in section 11F(2)(a)-(b) of the Income Tax Act, "contributions are tax deductible up to twenty-seven-point-five percent of pensionable income, subject to an annual maximum of R350 000" (Income Tax Act of 1962). If the total contributions for that year of assessment exceed the set limitations,

then the extra contributions are then carried forward to the following year of assessment and are then deemed to be contributed to that following year. The amounts carried forward are then reduced by the contributions set off against the retirement fund lump sums and against the retirement annuities (De Hart, 2021:546-548)

Any contributions that are made by the employer to an employee's retirement fund do not constitute a receipt or accrual in the hands of the employee as that contribution does not form part of the employee's gross income (Oosthuizen, 2021:233-242). This is in terms of the definition of gross income in section 1 of the Income Tax Act, nor are those employer contributions included in gross income through any of the special inclusions to the gross income definition (Income Tax Act of 1962). But rather, the contributions by the employer to the employee's pension or provident funds will be deductible from his or her income as expenses incurred in the production of income under the general deduction formula in section 11(a) of the Income Tax Act (Oosthuizen, 2021:233-242).

Long-Term Insurer

According to the Long-term Insurance Act 52 of 1998 (hereafter Long-term Insurance Act), the Long-term Insurance Act intends "to provide for the registration of long-term insurers, for the control of certain activities of long-term insurers and intermediaries for any matters connected therewith" (Long-term Insurance Act of 1998). Section 1of the definitions in the Long-term Insurance Act states that a Long-term insurer "means a person registered or deemed to be registered as a long-term insurer under this Act" (Long-term Insurance Act of 1998).

In a publication by one of the insurance company providers in South Africa, it noted that "long-term insurance is about big, life-changing events, such as retirement, disability, and death. One pays a monthly premium to an insurer, and then the insurer pays out a lump sum if or when the event insured against, happens. Unlike a short-term insurance, you may expect the premiums of long-term insurance to remain stable over the period of the policy" (Old Mutual 2020:2-3). Additionally, a pension fund may also elect to invest either some or all of its assets by way of an insurance policy with a life insurer and it may also outsource the administration function to the life insurer (Old Mutual 2020:5-7).

Long-term insurers are taxed according to section 29A and 28B of the Income Tax Act. They are then taxed on the grounds of the trustee principal. Therefore, the insurer then holds the assets on the behalf of the different types of taxpayers. This is as per section 29A(5) of the Income Tax Act, which then seeks to tax the income resulting from these assets in the same way they would have been taxed had the assets been held directly by the taxpayer. Life insurers should be taxed on the profits derived from conducting its business (Income Tax Act of 1962). According to section 29A(4)(a)-(e) of the Income Tax Act, the Long-term insurer uses the five funds approach. Depending on the nature of the beneficiary, the policies are divided into five funds. Each fund is then allocated assets, according to the risk carried by the fund (Income Tax Act of 1962).

Each of the five funds is treated as a separate taxpayer and taxed at the applicable rate of that type of fund. These rates are "thirty percent for individual policyholder funds, zero percent for untaxed policyholder funds, and twenty-eight percent for company policyholder funds, risk policy funds, and corporate funds (a corporate fund being the company itself)" (Income Tax Act of 1962). Section 29A(8) of the Income Tax Act, states that "a transfer of any assets between these funds is deemed to be a disposal at market value" (Income Tax Act of 1962). Therefore, in terms of paragraph 12 of the Eighth Schedule of the Income Tax Act, "the transfer shall then be regarded as a deemed disposal in the one fund and an acquisition in the other for the purposes of capital gain taxes" (hereafter CGT) (Price Water Coopers (Hereafter PWC) 2021:1-3).

In terms of section 29A(11)(g) of the Income Tax Act, premiums received are not taxable and claims paid are not deductible. The basic concept of the section is to tax a fund on its investment income and to only allow as a deduction, expenses that are directly incurred to produce this income (Income Tax Act of 1962). In addition, each fund is allowed to deduct a portion of its selling and administration expenses, as well as the portion of all other expenses that are not directly incurred to produce exempt income, such as local dividends obtained (Van Rensburg 2014:6-10).

Fund Administrators

A fund administrator is liable for the everyday management of the fund, inclusive of the contributions received, benefit pay outs, drafting of financial statements, et cetera. The

administration of the fund can be undertaken by the fund itself, the employer, or by a third party. A fee is then charged to the employee's retirement fund for the service provided regardless of who administers the fund. Additionally, the fund administrators act as an intermediary between fund managers and investors to verify and distribute assets tied to investments (Van Rensburg 2014:6-10). The roles of a fund administrator can vary. This can either be private equity fund administration, hedge fund administration, et cetera. However, roles may include the following, but is not limited to, facilitation of the fund expenses, fund accounting and regulatory compliance (Van Rensburg 2014:6-10).

An administrator of any pension fund, provident fund, retirement annuity fund or any other fund that pays remuneration is specifically included in the definition of employer, as per the Fourth Schedule of the Income Tax Act (Income Tax Act of 1962). The administrator is therefore required to withhold Pay-As-you-Earn (PAYE) from lump sum and annuity payments to members in the same manner as would a retirement fund that is self-administered. The administrator must therefore issue a corresponding employee's tax certificate, as defined in the Fourth Schedule of the Income Tax Act for the tax withheld on the lump sum, or the annuity payment to the member (Income Tax Act of 1962).

Brokers and Financial Advisers

Brokers and financial advisers, also called financial planners, are differentiated by the services that they provide. Financial advisers advise on the product in which one can invest one's money and brokers sell the investment product. One would normally encounter either service when one wants to purchase retirement fund products that are not offered through the employer, but rather provided by registered fund administrators. A commission is earned by the broker on the sale of the investment and a financial adviser earns money by giving people advice on their money (Van Rensburg 2014:6-10).

Therefore, it is imperative for a financial adviser to know one's financial profile to assist the investor in making sound investment choices, according to his or her financial and investment needs. Cameron and Fourie have noted that a good financial adviser or planner is able to counterbalance the investor's personality type and help keep focus on the long-term investment goals (Cameron & Fourie 2019:100-101).

Chapter 3: Compulsory and Discretionary Investments

Compulsory and discretionary investments are saving mechanisms that people utilise to save towards their set goals. They both offer different products which come with their own benefits, as well as some disadvantages. These are discussed further. Saving in either of the two is dependent on the individual's purpose and financial profile. Rita Cool, a financial planner from one of the biggest investment companies, has explained that it makes more sense to save in compulsory products rather than in discretionary products. Individuals are not only limited to saving in either compulsory products or discretionary products, but it is also a good investment decision to be invested in both. But one must consider the restrictions of Regulation 28, which governs compulsory investments. Therefore, it might be wiser to save in a discretionary investment without restrictions (Cool 2021:1-2).

What we see in most instances is that individuals are invested in a compulsory product, and they supplement savings through investing with the alternatively offered discretionary products. Again, their choices are dependent on their purpose (Cool 2021:1-2). She also cited that "This all depends on the reason you are saving. Do you want more tax benefits gained from compulsory investments, or are you looking for easy access to the money? Compulsory investments provide yearly and ongoing tax benefits, but you cannot access them whenever you want. Discretionary accounts, conversely, provide accessibility but limited tax benefits." (Cool 2021:1-2).

Compulsory Investments

Compulsory investment or saving is done through investing in retirement products. As noted above, these are pension funds and provident funds. These funds are normally invested through one's employment. Compulsory investments are a safer option as they are restricted by Regulation 28, therefore the additional growth that is gained by unrestricted discretionary investments is made up through the various tax benefits (Cool 2021:1-2).

Making an investment in any product has its advantages and disadvantages. Compulsory investment products are no different. According to Cameron and Fourie, the advantages and disadvantages of investing in compulsory investments are as follows (Cameron & Fourie 2019:63-94):

Advantages of compulsory investments:

- Substantial tax benefits.
- Contributions are made with pre-tax money.
- Subject to Regulation 28, thus the investment is protected from being invested in other assets.
- Beneficiaries have direct access to the funds because they are not subject to estate duty or estate administrations.
- When a member exists the fund, the profits are not subject to CGT.
- Funds are protected from creditors.

Disadvantages of compulsory investments:

- Beneficiaries may not receive full funds due to scheme rules.
- Limitations on withdrawals may result in liquidity problems.
- Regular withdrawals from the funds are not permitted.
- Funds are not easily accessible until the employee is at retirement age, the only exceptions are when there is a case of ill-health or disability.

Pension Funds

A pension fund is a retirement fund that receives regular contributions which are usually monthly. Pension funds were introduced with the objective of providing employees with a regular income when he or she retires, and that income is referred to as an annuity income. Many employers make it a requirement for employees to join his or her company-provided pension fund, however they provide the employee with the option of contributing a certain percentage of the employee's salary, which is generally between five percent and fifteen percent of the employee's taxable income and the contributions can be wholly or partly made by the employee. Thus, pension funds can only be joined through the company by which one is employed and the contributions that one makes to a pension fund are managed by selected trustees and they then decide in which assets the funds are invested (Old Mutual 2021).

When an employee retires, they are allowed to take a maximum of one-third of the savings in a cash lump sum. The cash lump sum is taxable as per the retirement lump sum tax table rates (figure 1). The two-thirds' balance must then be used to purchase a living annuity, through which they will receive regular income and that income will be subject to tax. If the total retirement value in the fund is less than R247,500 then the employee may take the full amount as a cash lump sum, but the cash amount will be subject to tax (Old Mutual 2021).

If an employee leaves his or her employer before retirement age, on basis of a resignation, retrenchment, dismissal or work retirement, the employee will have to move with the accumulated retirement savings. However, the employee can take up to one-third as a cash pay-out which will be subject to tax in terms of the withdrawal tax table rates and the rest of the benefit can either be transferred to the new employer's pension fund, or transferred to a preservation fund, or to a retirement annuity fund (Old Mutual 2021).

At retirement	Early withdrawal	Tax rate
R0 – R500,000	R0 – R25,500	0%
R500,001 – R700,000	R25,001 – R660,000	18%
R700,001 – R1,050,000	R660,000 – R990,000	27%
+R1,050,000	+R990,000	36%

Figure 1: Retirement and withdrawal lump sum tax table

Figure1: Sourced from SARS

Provident Funds

The main objective of provident funds was to provide employees with a lump sum at retirement. With effect from 1 March 2021, these funds are subject to the same annuitisation provisions as pension funds. Prior to 1 March 2021, when an employee resigned or retired, they could take the entire benefit as cash, on which they would then be taxed, and they would not need to purchase a living annuity (Old Mutual 2021). Since the introduction of the retirement reforms, effective from 1 March 2021, provident funds scheme rules are now the same as pension funds. According to Old Mutual, the following now applies; "fund members are required to take one-third of the benefit as a lump sum, subject to the above tax table rates

and they must use the remaining two-thirds to buy a living annuity that will provide a monthly income" (Old Mutual 2021). However, when the employee resigns or unfortunately gets retrenched from his or her employment, the employee then has the choice of transferring the savings in the provident fund to a retirement annuity or a provident preservation fund. If the new employer of the employee has their own company pension fund, the employee may also transfer to the new employer's fund. Transferring of the funds is a non-taxable event. As per the pension fund regulations, it is not allowed for an employee to transfer from a provident fund into a pension preservation fund (Taxation Law Amendment Bill of 2021).

Members with a vested benefits in the provident fund can still opt to take this portion entirely as a cash lump at retirement. The vested benefit is the opening balance, as of 1 March 2021, and all investment returns thereon. Contributions made after 1 March 2021, and the accumulated returns thereon, will fall under the new standardised rules (Taxation Law Amendment Bill of 2021).

Retirement Annuity Funds (RAFs)

Retirement annuity funds are funds which are essentially an individual's savings plan with a tax advantage. Retirement annuity funds are therefore not considered to be discretionary income products as this is a product that is used in the build-up to one's retirement. The continuing contributions have an advantage when one retires. Monthly contributions are usually made by the member, and this is entirely independent by the employer. The member can decide which funds they want to invest in within the limits set out by the retirement fund regulations. Retirement annuity funds are applicable to Regulation 28 restrictions. The same lump sum tax tables and annuitisation requirements apply as for a corporate pension fund, with one difference being that you cannot withdraw from a retirement annuity fund. You can only retire from the fund at age 55 and onward (Cameron & Fourie 2019:23-48).

There are exceptions to the above rule relating to emigration, divorce, and early retirement due to ill-health, but otherwise you are required to use at least two-thirds of your fund balance to buy an annuity, if the fund balance exceeds R247,500. Therefore, when an employee changes jobs, it will have no impact on his or her retirement annuity, as it is independent of the employer (Cameron & Fourie 2019:23-48).

However, should a member wish to surrender from the retirement annuity fund before the age of 55, they may. Section 1 (b)(x)(cc) of the Income Tax Act, in the definition of retirement annuity fund, provides for a *de minimis* surrender value so that members who are unable to continue contributing can recoup some of the contributions made, to avoid charges over time (Income Tax Act of 1962). Effective from 1 March 2021, it was announced that "the *de minimis* surrender value applicable to retirement annuity funds would be increased from R7000 to R15000" (Gordon 2021:5). This then means that if the value of a retirement annuity fund is R15000 or lower, a member may withdraw the full amount. Since it is a withdrawal benefit and not a retirement benefit, it will be taxable on the withdrawal table (Gordon 2021:1-10).

Preservation Funds

Preservation funds are specifically designed to receive lump sum benefits from a pension or provident fund when an employee resigns from his or her employment before retirement. Once the funds are transferred into a preservation fund, the capital continues to grow (Old Mutual 2021). In terms of legislation, preservation fund is only funded by money from an approved retirement fund through means of a transfer from that fund, meaning that no other additional contributions can be made towards the fund at the employee's own capacity and the transfer to the preservation fund is tax free. Preservation funds provide some degree of flexibility as members are allowed one partial, or full withdrawal from the fund before they reach the age of 55. Thereafter, the balance can only be accessed at the of age 55 and above (Old Mutual 2021).

When one retires from the preservation fund, the same annuitisation rules apply for pension and provident preservation funds as for pension and provident funds, respectively. If a member has made a partial withdrawal from his or her pension preservation fund before retirement, they can no longer avoid the annuitisation requirement on the balance unless this is less than R247,500 (Old Mutual 2021).

Discretionary Investments

Investing in discretionary products is optional. One can invest in such products while still employed or when retiring. Individuals invest in discretionary products for different reasons; either to supplement the employee's income by investing lump sums from his or her retirement lump sum pay-outs or investing for rainy days in the future. There are many investment products, and it is imperative to invest wisely by choosing the right products. For this research, we will focus mainly on tax-free savings and investment accounts, which are some of the flexible and easy investments in which to partake (Cameron & Fourie 2019:63-94).

According to Cameron and Fourie, the advantages and disadvantages of investing in discretionary investments are as follows (Cameron & Fourie 2019:63-94):

Advantages of discretionary investments:

- Nominated beneficiaries will receive funds, no scheme rules.
- Not subject to Regulation 28, therefore there are no limitations to invest in wider assets.
- Funds can be easily accessed, but subject to CGT.
- Provides liquidity in retirement.

Disadvantages of discretionary investments:

- Contributions are made with after-tax money.
- Limited tax benefits.
- Beneficiaries do not have direct access to the funds because funds are subject to estate duty or estate administrations.
- Creditors are allowed to claim from the funds not if need be.
- Beneficiaries maybe be delayed from accessing the funds due to the winding up process.
- In a divorce settlement, the capital from the investment maybe used to determine the overall agreement.

Tax-Free Savings- and Investment Accounts (TFSAs)

Tax-free savings accounts or investments were introduced by the Finance Minister, Nene, in 2015, as an incentive to inspire South Africans to save more, and to assist in reducing households that are indebted and vulnerable. During the final notice, the Minister noted that the tax-free savings and investment accounts would therefore complement the initiatives and incentives to encourage retirement savings. They will also strengthen the long-term economic growth (Treasury 2015:3-10). The tax-free savings and investment accounts were made available as from 1 March 2015 and were enabled in terms of section 12T of the Income Tax Act. Tax-free investments are regarded as financial instruments (Income Tax Act of 1962).

According to the National Treasury, "tax-free savings and investment accounts may only be issued by regulated institutions, such as registered banks, long-term insurers, managers responsible for collective investment schemes, the government (through the retail savings bond scheme), mutual banks and co-operative banks. Service providers must be designated by the Minister in the government gazette". As per the current regulation, only the above are designated. The service providers must then provide taxpayers with this information pertaining to his or her investment in a tax-free savings and investment account by issuing a Tax-Free Investment certificate annually IT3(s) (Treasury 2015:3-10).

The benefits of tax-free savings and investment accounts are as follows:

- You do not have to pay income tax, dividends tax or capital gains tax on the returns from these investments.
- A person is limited to an annual set limit, as well as a lifetime limit.

The annual contributions have since increased each year ever since the investment's inception. The current annual contribution is limited to R36 000 for the current year of assessment and R500 000 over an individual's lifetime. This is in accordance with section 12T(4)(a)-(c) of the Income Tax Act. Nevertheless, the balance in these accounts may exceed the R500 000 limit due to accumulated earnings and capital gains overtime. In essence, a tax-free savings account grows the investment due to the benefits provided by no tax on interest earned, or dividends received and no capital gains tax when funds are withdrawn from the investment (Treasury 2015:3-10).

Chapter 4: South Africa's Retirement Tax Reform

Brief History of South Africa's Tax System

The modern income tax was introduced in 1799, to finance the Napoleonic wars in Britain, which ended the tax revolts which had begun years ago in 1215, but it was then repealed in 1815. The main purposes of the introduction of income tax were for government to source income so that it will be able to cover its expenses (Vivian 2021:8-9). In 1842 the tax system was reintroduced as a temporary measure to conquer the government deficit that had been raised due to the rise in government expenses, but no income being raised from the collection of taxes. Then in 1849, the Board of Inland Revenue was created to administer taxes. Even two-hundred years after the income tax was imposed, it was still regarded as temporary tax and it required new legislation every year (SARS 2011:3-16).

In South Africa, the legislation is governed by the Income Tax Act, which was initially passed in 1914 and it was based on the New South Wales Act of 1895. The Income Tax Act of 1962 was passed and is currently the one that is being used as reference for tax law. Personal Income Tax and Corporate Income Tax are levied in terms of the Income Tax Act. The same rules may apply across the board, but there may be some special rules based on the type of person the taxpayer is or the type of industry in which the company is operating (SARS 2011:3-16).

The South African income tax system has evolved over the years. According to the fifth report by the Katz Commission, "the primary function of the tax system is to raise revenue for the government. South Africa's first income tax laws were based on the principle that tax would be levied only on income that the taxpayer earned from a source within the country, which is known as the source-based tax system" (Katz Commission 1997:4-5).

In January 2001, the residence tax system was introduced. Under the residence basis, tax is levied on the residents of a country, in practice, the tax system encompasses elements of both (SARS 2011:3-16). The reason for the introduction of the residence-based tax system was because of the increasing capital investment off-shore. This was purely from a revenue point of view that a worldwide system will therefore be more effective in securing the tax revenue on income from offshore investments. It then led to the view that it was then time to move to

the residence basis and as most countries around the world had already implemented the residence-based tax system (SARS 2011:3-16). Therefore, the residence-based tax system recognises South Africa's growth into the world's economy and creates the opportunity for local companies to grow internationally (SARS 2011:3-16).

To assist in remedying the fundamental shortcomings in the income tax and improving the overall impartiality and effectiveness of South Africa's tax system, capital gains tax was also introduced in 2001. CGT came into effect from 1 October 2001 and applies to the disposal of assets on, or after that date. South African residents are subject to CGT on the disposal of his or her assets in South Africa, as well as any assets that they own around the world. This is founded on the residence-based tax system (SARS 2011:3-16). All capital gains and capital losses made on the disposal of assets are subject to CGT, unless specifically excluded. Section 26A of the Income Tax Act states that the taxable capital gain must be included in taxable income. CGT forms part of income tax and the CGT provisions are contained in the Eighth Schedule of the Income Tax Act (SARS 2021:4-10).

Retirement Tax Reforms

Retirement Fund System

The retirement fund system has been in place for a long time and has well established legislation governing it and it is legislated in the Pension Funds Act, promulgated in 1956. Reviewing of the Act aims at consolidating and integrating retirement funding arrangements. It contributes to a more consistent and clear structure and the regulation of the broader social security system in South Africa (National Treasury 2004:2-6). The retirement fund system has changed significantly and the recommendations of the tax commissions, such as the Katz Commission and Smith Commission, to note two, have been considered in making the tax system more efficient. The changes arising from the recommendations included the establishment of an independent tax and customs administration, better known as SARS, the expansion of the tax base, and the lowering of marginal tax rates (The Davis Tax Committee 2013). These and other changes have therefore contributed to the development of a relatively robust and competitive tax system. Today, South Africa's tax policy and tax administration

compares favourably with those of many developed and emerging economies (The Davis Tax Committee 2013).

For tax purposes, the basis of income tax in South Africa is recognised when it accrues to the taxpayer. In the third report of the Katz Commission, they noted that this basis is breached in most of the retirement industry. That is because the recognition of tax in the retirement industry is deferred until the income is actually paid, either in the form of a pension or lump sum, and the deferral of tax then leads to a sacrifice of current revenue. Without income accruing now, therefore there is no tax to be collected now (Katz Commission 1995:56-61). The Katz Commission noted that SARS loses a lot of revenue because of this. They stated that "the loss of current revenue is in the region of seven-point-five-billion rands a year", and that was in 1995. The Katz Commission noted that it does not dispute the reasoning that the retirement industry is essentially to encourage people to save in order to decrease the risk of individuals becoming a burden on the government when they reach old age, but the Katz Commission "notes that reducing a risk involves a cost, and that balancing the two is no easy matter" (Katz Commission 1995:56-61).

The South African retirement industry tax regime is based on the Exempt Exempt Taxable system, notably known as EET. The encouragement to save for retirement given to individuals while they are employed is through the EE, part of the EET formula which is purchased at high cost (Katz Commission 1995:56-61).

- First E (Tax Exempt): Contributions made by individuals to funds from pre-tax income (any fund).
- Second E (Tax Exempt): Investment income earned by funds, such as interest and dividends (any fund).
- Lastly, T (Taxable): Receipts drawn from the fund by pensioners or beneficiaries (any fund).

Retirement Tax Reform Changes

The main reason why individuals save for retirement is to provide an income when they reach retirement age. The government supports this and has been encouraging individuals to save for retirement through offering tax-efficient retirement fund products and saving vehicles,

such as tax-free accounts. With individuals saving, it reduces the burden on an already struggling social grant system. Over the past years, government has been reviewing and changing the laws that regulate the retirement fund industry. Head of Legal, Jenny Gordon of Alexander Forbes, noted that "the retirement tax reforms aim to ensure that individuals save enough for their retirement, that their savings are protected, and that the objective of the reform is to streamline the retirement savings environment and ensure that members are able to satisfy their primary objective during retirement, namely a regular income to replace their salary" (Gordan 2021:2-4). The changes were initially supposed to have happened in March 2015 and have now become effective as of 1 March 2021. This is referred to as T-Day. In January 2021, the President of South Africa signed into law The Taxation Law Amendment Act. This then brought into effect the long-awaited legislation which then affords for the annuitisation rules that apply to members of pension funds, pension preservation funds and retirement annuity funds, to be applied to members of provident funds and provident preservation funds after T-Day (Gordan 2021:1-5).

Shaun Duddy from Allan Gray said that "The harmonisation of provident and provident preservation funds with pension and pension preservation funds are part of the National Treasury's broader retirement reform initiatives and aims to enhance the preservation of retirement fund benefits so that retirement fund members are able to provide a better income for themselves in retirement, which we believe is a good thing." (Duddy 2020:3).

Annuitisation Rules

Annuitisation occurs when members of pension funds, pension preservation funds and retirement annuity funds are required to transfer a percentage of his or her benefits to a living annuity at retirement. On the contrary, members of provident funds and provident preservation have always been able to take the full value of the benefits as taxable cash lump sums at retirement (Coutinho 2021:2). The retirement rules have now been changed and are in effect. James Coutinho from Liberty additionally stated that "as from T-Day, new members joining provident funds will also be required to annuitize their benefits at retirement. They will also be required to annuitize those benefits if they subsequently preserve them in a provident preservation fund. It will still be possible for them to take up to one-third of their benefits as a taxable cash lump sum, but at least two-thirds of their benefits will have to be taken as annuity income. If the value of their retirement benefits is R247 500

or less, the full value of their retirement benefits can then be taken as a taxable cash lump sum" (Coutinho 2021:3).

The annuitisation rules will be taken into consideration to the non-vested benefits of all the pre-retirement funds going forward. As of T-Day, fund administrators will be expected to keep separate records of amounts in funds which apply to the vested benefits and non-vested benefits (Gordon 2021:3-5). This will therefore be applicable to all the funds. when members transfer benefits to an approved fund, records of the vested benefits will need to be kept in the new fund and administrators will need to keep separate records of vested and non-vested benefits for the new annuitisation rules to be correctly considered when the member eventually retires from the fund (Gordon 2021:3-5).

Impact on Members

The annuitisation of the retirement funds will have an impact on members' investment, specifically when they retire. The position or age of a member as of T-Day will determine how the funds will be treated when a member retires. Members' shares of the fund will consist of the vested member shares and non-vested member shares portion. As of T-Day, retirement benefits from provident funds or provident preservation funds will have the same rules as pension funds, however, should the member withdraw from the fund before retirement, they can still take all savings in cash. Members who are 55 years or older on 1 March 2021, will not be affected by any of these new rules, granted that they stay in the same provident fund or provident preservation fund. There are three possible scenarios that must be considered to understand the changes applicable to members who are saving in a provident fund or provident preservation fund, and these are as follows (Sanlam Corporate 2021:1-3):

- If the member is younger than 55 years on 1 March 2021, the member will have vested member share rights and non-vested member share rights portion.
    - Vested Rights:
        - In this portion, it is all the accumulated savings and interest as at 28 February 2021 and the member may take all the funds in cash when they retire.

    - Non-Vested Rights:
        - In this portion, it is all the accumulated savings and interest as from 1 March 2021 and the member may only take one-third of this in cash and the other two-thirds must be used to buy a pension when on retirement if the portion is greater than R247 500.
        - However, should the portion be less than R247 500, the member may take all the funds in cash when they retire.

- If the member is 55 years or older on 1 March 2021, the member will have vested member share rights if they stay in the same fund until they retire.
    - Vested Rights:
        - In this portion, it is all the accumulated savings and interest as of 28 February 2021, as well as from 1 March 2021.
        - The member may take all the funds in cash when they retire.

- If the member is 55 years or older on 1 March 2021, the member will have a vested member share rights and non-vested member share rights portion if they transfer to a new fund after 1 March 2021.
    - Vested Rights:
        - In this portion, it is all the accumulated savings and interest as at date of transfer saved in the old fund and the member may take all the funds in cash when they retire.
    - Non-Vested Rights:
        - In this portion, it is all the accumulated savings and interest in the new fund and the member may only take one-third of this in cash and they must use the other two-thirds to buy a pension when they retire, if the portion is greater than R247 500.
        - However, should the portion be less than R247 500, the member may take all the funds in cash when they retire.

From the above effected new rules, the reform brings South Africa closer to closing the policy issue gaps and this will be seen in due course. It is an important step forward to achieving consistency in society, which is some of what the Katz Commission and other like commissions have been raising in their recommendations. Therefore, it is also imperative for

members to be educated and be aware of the new rules to afford them the advantages of making informed decisions regarding investing in pension fund products (Coutinho 2021:3-5).

Even though the changes will assist in improving the policy issue gaps and aligning the pension fund products, Old Mutual has raised the following concern: “Retirement reform is likely to have far-reaching implications for the structure of the financial sector, and the economy in general. As firms strive to compete for fewer funds, competitive pressure should drive down costs, to the benefit of members. A consequence of this may be higher levels of innovation within the financial sector, and to the extent that this is not successful, possible consolidation among employee benefit firms.” (Old Mutual 2021:5).

Chapter 5: A Look at Namibia & Nigeria's Retirement Tax Systems

Namibia's Tax System

Taxation is important to any country. Namibia is no different to other countries when it comes to the importance of taxation. The Bank of Namibia has reported that taxation is the main source of revenue for the government and a tool for fiscal policy and macro-economic management. In principle, according to Adam Smith, for a tax system to be productive, it should be able to yield sufficient revenue for the treasury and the government (Rakner 2002:45). Namibia's tax system was initially inherited from the South African colonial rules and there have been numerous amendments to date that have been affected to the Income Tax Act No.24 of 1981, since its inception when Namibia gained independence. Lisa Rakner cited that "the inherited tax system from the South African colonial rule mainly favoured the interests of the white people, which would be the reason for the numerous amendments to the Income Tax Act" (Rakner 2002:45).

When Namibia obtained its independence, the government had two choices, which was to either implement a policy of extreme redistribution of resources which then would discourage new foreign investments, or either to implement a new policy of encouraging foreign and domestic investments through private initiatives and private savings, but then at the expense of continued socio-economic differences between the white and black people (Rakner 2009:47-49). The Namibian government then went with the second choice with the hopes that market-oriented policies would increase economic growth (Rakner 2009:47-49).

Namibia has a source-based tax system, meaning that income from a source within Namibia, or deemed to be within Namibia, will be subject to tax in Namibia. Non-resident sources may be exempt from Namibian tax charges from the available foreign tax relief and tax treaties (PWC Namibia 2021). Under the tax treaties Namibia would have entered into a double taxation agreement (hereafter DTA) with the country where the non-resident resides, thus such individuals will be taxable in Namibia, unless all the requirements of the specific DTA are met (PWC Namibia 2021).

The Namibian Revenue Agency (hereafter NamRA) is the nation's tax collecting authority. NamRA was established in terms of the Namibia Revenue Agency Act 12 of 2017, as an agency which is responsible for the administration of the Namibian tax laws, customs, and excise services (Namibia Revenue Agency Act 2017). Namibia has a system of self-assessment, which includes a computation of the taxpayer's taxable income and tax payable, and the payment of tax due on the income so computed (PWC Namibia 2021).

Namibia's Retirement Tax System

The Pension Funds Act 24 of 1956 (hereafter Pension Fund Act) is the law that regulates pension funds in Namibia. The Pension Fund Act is governed by the Namibia Financial Institutions Supervisory Authority (hereafter NAMFISA). Thus, pension funds that are registered with the Authority are supervised under the Pension Fund Act and this then gives employees the protection they may need against the funds (Namibia Financial Institutions Supervisory Authority 2017).

According to NAMIFISA, "the normal retirement age in Namibia is 60 years. Once an individual retires, they will no longer be earning an income from a formal employment during the retirement period" (Namibia Financial Institutions Supervisory Authority 2017:5). Therefore, it is very important for employees to save enough money during his or her time of employment in order to be able to support themselves after retiring. As discussed above, a pension fund is similar to a savings account that an employer sets up to give the employee money when they retire (Namibia Financial Institutions Supervisory Authority 2017). Being part of a pension fund gives a member certain tax benefit. The benefits are part of the rules of the fund and are not the same from fund to fund. Just like in South Africa, Namibia has the following types of pension funds; a pension, provident, or a retirement annuity (Namibia Financial Institutions Supervisory Authority 2017).

The main distinction between a pension and provident fund is that if a member retires under a pension fund, then the member may only get one-third of the total benefit as a cash lump sum and the other two-thirds is paid out in the form of an annuity, which is usually a monthly income for the rest of the member's life (PWC Namibia 2021). When a member retires from a provident fund, the member can get the total benefit as a cash lump sum and therefore gets

control over how to use or invest those funds. In Namibia, the following tax benefits apply when a member retires from the different types of pension funds (PWC Namibia 2021):

- Pension Fund
    - The member may only get one-third of the total benefit as a cash lump sum and the other two-thirds is paid out in the form of an annuity. Thus, the lump-sum is tax free, but the monthly annuities income received is taxed at the marginal rate (figure 2).

- Provident Fund
    - The member is allowed to take the whole benefit in cash and only one-third of total benefit is exempt from tax and the remainder taxed at the marginal rate (figure 2).

- Retirement Annuity Fund
    - The member may only get one-third of the total benefit as a cash lump sum and the other two-thirds is paid out in the form of an annuity. Thus, the lump-sum is tax-free, but the monthly annuities income received is taxed at the marginal rate (figure 2).

Individual Income Tax

All individuals (incl. deceased estates and trusts) other than companies.

Taxable Income N$	Rates of tax from years of assessment ending 2021/22 (N$)
0 - 50 000	Not taxable
50 001 - 100 000	18% for each N$ above 50 000
100 001 - 300 000	9 000 + 25% for each N$ above 100 000
300 001 - 500 000	59 000 + 28% for each N$ above 300 000
500 001 - 800 000	115 000 + 30% for each N$ above 500 000
800 001 - 1 500 000	205 000 + 32% for each N$ above 800 000
Above 1 500 000	429 000 + 37% for each N$ above 1 500 000

Figure 2: Source from PWC Namibia 2021

Nigeria's Tax System

In Nigeria, taxation was never the main income source for the government, because the government relied on most of its revenue coming from oil consumption. However, relatively recently, the Nigerian government had to find other avenues of raising revenue, and that meant taking taxation into account as a source of income so that the government could fulfil its duties. This was due to the increasing volatility of the international oil market which was affecting its revenue stream and providing uncertainty in the economy (Richards 2019:1-10). Unfortunately, just like with any other taxation issues, Nigeria's taxation was no different and the renewed interest in the taxation revenue then led to the exploitation of taxes and the abuse of taxing powers. In 2002, the National Tax Policy was started, and members were appointed by the Minister of Finance to specify the objectives of taxation and to set basic guidelines for the administration of the Nigerian tax system. The National Tax Policy was introduced and addressed the taxation challenges that were rising since taxation was now a source of government revenue (Richards 2019:1-10).

Nigeria is governed by a federal system and its fiscal operations adhere to the same principle; this has implications on how the tax system is managed in the country. In Nigeria, the government's fiscal power is based on a three-tiered tax structure divided between the federal, state, and local governments and each has a different tax jurisdiction (figure 3). The Nigerian tax system is dominated by the oil revenues (Adyodele 2006:2-5). The federal government handles most of the significant taxation, while the lower tiers are responsible for the less buoyant ones. The federal government taxes corporate bodies whereas the state and local governments tax individuals. Although the federal government accounts for ninety percent, on average, of the overall revenue annually, it only accounts for about seventy percent of total government expenditure (Adyodele 2006:2-5).

Federal State	State	Local Government
Import Duties	Football Pools And Other Betting Taxes	Rates
Excise Duties	Entertainment Taxes And Estate Duties	Tenement Rate
Export Duties	Gift Tax	Market and Trading Licenses and Fees
Mining Rents And Royalties	Land Tax Other Than Agricultural Land	Motor Park Duties
Petroleum Profit Tax	Land Registration And Survey Fees	Advertisement Fees
Company Income Tax	Capital Gains Tax (Administration)	Entertainment Fees
Capital Gains Tax (Administration)	Personal Income Tax (Legislation)	Radio/Television License Fees
Personal Income Tax (Legislation)	Stamp Duties	Property Tax (Administration)
Value Added Tax (VAT)	Property Taxes (Legislation)	
Stamp Duties	Motor Vehicle And Driver's License Fees	
Dividend Taxes	Stamp Duties (Administration)	

Source: The Nigerian Constitution and the VAT Decree of 1993 (and as Amended in 1996) in Udoh and Egwaikhide, 2012.

Figure 3

Taxation in the Nigerian economy is an important system that helps in the generation and redistribution of revenue to provide public services and improve the economy. Because of how important this is, the government has legislated laws that govern and regulate taxation in the different sectors of the economy in Nigeria (Resolution Law Firm 2020:1-5). Taxation revenue generation is one of the most important sources of government revenue in Nigeria in order to meet its statutory obligations of ensuring the economic development in Nigeria. Therefore, it is imperative for every individual and company to comply with the set applicable tax laws and regulations (Resolution Law Firm 2020:1-5).

Therefore, "the National Tax Policy is imperative as it helps to provide the fundamental guidelines for the orderly development of the Nigerian tax system, and its general guiding principles ensure that the existing and future taxes are aligned with the fundamental features which are equity and fairness" (Oyedele 2016:3-5). Thus, Nigeria's tax system should be fair and equitable, devoid of discrimination for taxpayers. Taxpayers should therefore be required to pay according to his or her ability (Oyedele 2016:4).

Nigeria's Retirement Tax System

Pension funds in Nigeria are administered through the Contributory Pension Scheme which requires pension funds to be privately managed exclusively by licenced Pension Fund Administrators. "The main functions of the Pension Fund Administrators are to open Retirement Savings Accounts for employees; invest and manage pension fund assets, the payment of retirement benefits and accounting for all transactions relating to the pension funds under their management" (Pension Reform Act of 2004). The Nigerian Pension Scheme has passed through several legislative reforms since 1951. The Pension Reform Act of 2004 established the National Pension Commission (hereafter PenCom) as the body to regulate, supervise and ensure the effective administration of pension matters in Nigeria (Ezenwa & Obiagwu 2020:1-12). The PenCom regulated the Pension Reform Act of 2014, which repealed the Pension Reform Act of 2004. The Pension Reform Act of 2014 makes it mandatory for employers and employees in both the public and private sectors to contribute towards the retirement benefits of employees and makes provision for voluntary contribution by the employee to supplement the employee's savings for retirement (Ezenwa & Obiagwu 2020:1-12).

The Pension Reform Act of 2014 also addressed the challenges faced in the implementation processes under the previous pension regimes. In addition to the above, new provisions were made to strengthen the powers of the PenCom to resolve conflicts in addition to providing stiffer penalties for infractions (Muobuikwu 2020: 25-30). The Pension Reform Act of 2014 also addressed the issues regarding pensions of political officeholders and professors, as well as provided incentives for increasing coverage of the scheme through allowing contributors to use a portion of the balance in the retirement savings accounts to make equity contributions towards owning residential property (Muobuikwu 2020: 25-30).

The Pension Reform Act of 2014 states "that employers with at least fifteen employees are required to participate in a contributory pension scheme for their employees" (Pension Reform Act of 2014). Under section 4(1) of the Pension Reform Act of 2014, "the minimum contribution is eighteen percent of monthly remuneration, with a minimum contribution of ten percent by the employer and eight percent by the employee" (Pension Reform Act of 2014). So, should the employer decide to bear all the contributions, the minimum contribution is twenty percent of monthly remuneration. Mandatory and/or voluntary contributions by the employers and employees to schemes approved by the Pension Act are deductible for tax purposes (Oyedele 2021:3-6).

Section 7(1)(a)-(e) of the Pension Reform Act of 2014 notes "that an employee who holds any retirement savings account can, upon retirement age, or when they reach the age of 50 years, have access to their accumulated retirement benefits and it lists the applicable benefits available" (Pension Reform Act of 2004). Section 7(2)-(3) of the Pension Reform Act of 2014 states "that an employee may withdraw from their benefit before retirement age, only with the approval of PenCom and they will only have access to a maximum amount of twenty-five percent of the total benefit, provided that the withdrawal is made after four months of retiring or leaving their employment and the employee does not secure another employment. The rest of the benefit will only be accessed once retirement age is reached" (Pension Reform Act of 2014).

Section 20(f)-(g) of the Personal Income Tax Act of 2011 notes that "contributions to the schemes form part of the tax-deductible expenses in the computation of the tax payable by an employer or employee" (Personal Income Tax Act of 2011).

> "(f) a contribution or an abatement deducted from the salary or pension of a public officer under the Pensions Act or under any approved scheme within the meaning of that Act, and any contribution, other than a penalty, made under the provisions of any Act establishing the Nigeria Social Insurance Trust Fund or other retirement benefits scheme for employees throughout Nigeria;
> (g) a contribution to a pension, provident or other retirement benefits fund, society or scheme recognised under the Pension Reform Act."

According to section 10(3) of the Pension Reform Act of 2014, amounts that are payable from a retirement benefit in Nigeria are exempt from taxes when one retires or withdraws from the funds. Therefore, no tax is charged from one's retirement benefit. It is not stated why Nigeria does not deduct tax on retirement benefits, but it will therefore be beneficial to retirees as they will receive the accumulated retirement benefit tax-free and it will provide greater income (Pension Reform Act of 2014).

Chapter 6: Conclusion

From the above discussions it is imperative that countries have the best working tax systems set up for their countries especially retirement taxes which caters for every working employee who has any retirement fund savings.

Looking at the retirement funds taxation rules from South Africa, Namibia and Nigeria, each country has proven to have their own unique tax systems, and each is beneficial to the given country; even though the countries have the same pension fund options with the same or similar scheme rules, the way they are taxed when one retires or withdraws from the funds is different for each country. It is evident that Nigeria's taxation rules for retirement benefits when one retires are more beneficial as compared to South Africa and Namibia, as there is no tax deducted on the benefits. Nigeria does not impose any tax retirement benefits because they still get most of their revenue through oil consumption and its revenue is not dependent on taxes from its people, therefore Nigeria is then able to lessen the tax burden for its citizens by not imposing no taxation on members' retirement benefits. Another reason why the Nigerian government refrains from taxing retirement benefits is because they believe that once an employee retires, the employee would have lost income from his or her employment and therefore will need to sustain and support themselves from the accumulated retirement benefits (Abdulazeez 2015:1-6).

On the other hand, South Africa, and Namibia, do impose taxation on retirement benefits of employees when they retire. Each country has their own rates and rules as per the respective legislations. From the above discussion, Namibia's tax rules are not as broad as South Africa and because of that it may seem that Namibia's tax system is more beneficial than South Africa. For example, looking specifically at when a member retires from a provident fund in South Africa and Namibia; a member who is at retirement age and has accumulated R1 500 000 in the retirement benefit, and they want to retire from a provident fund. The following figures 4 and 5 are the fundings from using the above example and applying the provident fund taxation rules for when a member retires. From the following, it is evident that if a member is retiring from a Namibian provident fund, they will be at more of a disadvantage, as they are being taxed more compared to South Africans than what we had initially alleged by looking at Namibia's tax rules before taking actual numbers into

consideration. The tax rates from figure 1 and 2 above have been applied in reaching the below amounts. South Africans are at an advantage if they have not utilized the R500 000 non-taxable deduction which SARS only allows for it to be used in one's lifetime and therefore that decreases the value of the income that must be taxed (SARS 2021).

Figure 4: South Africa	**Provident Fund**	
	Vested Rights	Non Vested Rights
Cash Benefit Before Tax	1500000	500000
Transfer Amount	0	1000000
Non Taxabel Portion (R500K)	500000	500000
Tax	270000	0
Totat Benefit received after tax	**1230000**	**0**

Figure 5: Namibia	**Provident Fund**
Cash Benefit Before Tax	1000000
Transfer Amount	0
Non Taxabel Portion (1/3)	500000
Tax	525000
Totat Benefit received after tax	**975000**

Compared to Namibia, South Africa's retirement tax system is more efficient as it has its own rates for pension funds, unlike Namibia, that applies the same tax tables for pension funds and personal income. Therefore, South Africa's retirement tax is better in that regard, as it provides different applicable tax rates for normal income and retirement income, respectively (Income Tax Acts 58 & 24).

South Africa has done a good job in harmonising the retirement tax reforms and aligning them to be the same, as that in turn, continues to provide stability in the tax systems, as well as provide the needed encouragement to the people to continue saving for retirement. Through the different pension funds available, members continue to enjoy a tax deduction on the retirement contributions, thus continuing the objective of encouraging people to save more towards his or her retirement. It also brings peace of mind to members that the retirement tax system has been harmonised for one's benefit so that they no longer have the right to get all funds at once from his or her provident funds, and people are able to provide and support themselves by receiving the annuity income (Mboweni 2021).

Besides creating an efficient retirement tax reform system, the South African government is also able to decrease the burden of social grants on their side and can be able to channel that revenue to other expenses that need their attention and to focus increasing investment in South Africa's infrastructure. This is a mandate that Minister Mboweni mentioned during his 2021 budget speech as being one of the reasons behind harmonising the retirement tax reforms (Gordon 2021:1-5).

It cannot be proved if South Africans are saving enough for retirement or not, but what needs to be addressed is whether the current savings will be enough to sustain his or her livelihoods or not. Every person is different and has different needs, so therefore individuals need to save enough to maintain one's own lifestyle. A financial adviser can help individuals make sure that they will have enough money at retirement so that they can retire with an income to live on comfortably thereafter. Jeanette Marais from Momentum has advised that individuals can either contribute more towards his or her retirement savings every month, postpone the retirement date, and save longer, target a higher investment return on investments or reduce his or her living expenses after retirement. Thus, the new retirement tax reforms should also encourage more savings towards retirement (Marais 2021:1-3).

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