FEBRUARY 2023| ISSUE 22

under the baobab tree

FAISOmbud

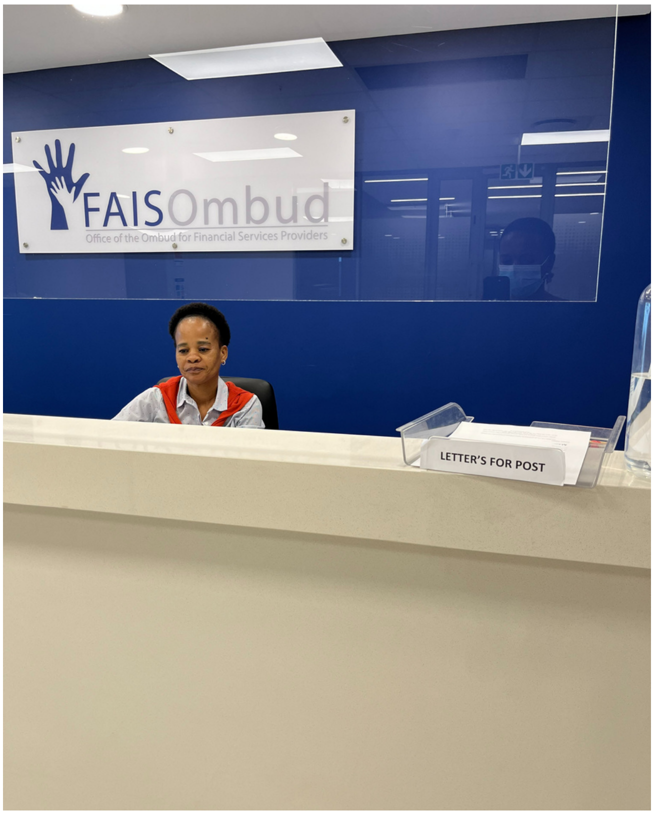
Office of the Ombud for Financial Services Provide

From the Editor's desk:

Since the start of the year, our economy has experienced many significant changes, but we have also seen an increase in interest rates, which has had an effect on many households. We recognize that everyone may be facing difficulties at this moment.

We strongly encourage you to review your finances to ensure everything is in order. Make sure that your policies align with your life and goals, and that you fully understand the terms and conditions of your contract to avoid putting yourself in a vulnerable situation. We believe that the key to overcoming these challenges is by being proactive and taking control of your financial future.

If you would like to contribute to our newsletter, please email us at **info@faisombud.co.za.**



Welcoming walk-in complainants

We would like to remind consumers that our offices do welcome walk-in for anyone who wants to talk to us in person about their complaints. Our walk-in service provides a simple and easy way for you to get the assistance and direction you require to address your issues. Our committed consultants are accessible to record your grievances.

Please feel free to drop by our offices at 125 Dallas Avenue Waterkloof Glen in Pretoria.

We are eager to assist you!

Preparing for Load shedding: Ensuring that you are Appropriately Covered

South Africa's ongoing power crisis continues with seemingly no end in sight and the promise of sustained loading over at least the next two years.

South Africans across the country are feeling the effects of regular load shedding, as scheduled blackouts, which are implemented by state-owned utility Eskom, to manage a strained power grid, have become a daily reality for many South Africans.

The frequent power outages however not only disrupt daily routines and harm businesses and households but also pose significant short-term insurance risks for many consumers.

While it is intended to prevent a total blackout due to the collapse of the power grid, load shedding can have unintended impacts on household appliances that can even lead to fire and theft in worst-case scenarios.

One of the most common effects of load shedding on household appliances are power surges. These sudden spikes in voltage can damage or destroy appliances, including sensitive electronics like televisions, computers, air conditioners etc. From an insurance perspective, it is important to appreciate that load shedding and /or blackouts are not in themselves an insurable risk under an insurance contract, however, the damage to household contents caused by power surges is an insurable risk.

Having said that, it is very much dependant on the insurer and the specific product, as some insurers include this cover automatically under household contents cover, and others do not provide this cover automatically instead providing it as an optional add-on. Then there are those insurers that may require that one install surge protectors to qualify for cover in respect of power surges.

This places a responsibility on Financial Services Providers (‘FSPs’) to ensure that both prospective and existing clients are appropriately advised in respect of power surges. As previously mentioned, loadshedding and the effects thereof are now and will be for the foreseeable future a feature of our daily lives, and a short-term insurance policy that does not provide cover in respect of power surges may not be appropriate to ones needs and or circumstances. Section 8(1)(c) of the General Code of Conduct for Authorised Financial Services Providers and Representatives (‘the Code’) provides that an FSP when providing a financial service must make a recommendation that appropriate to the clients’ needs.

As a result, the FSP has a duty to ensure that any recommendation in respect of household contents cover provides for the effects of power surges whether that be by recommending an insurer and or product that automatically provides this cover or by ensuring that the optional add-on is indeed added to the policy to provide for what is a very real need.

In addition, Section 7(1)(c)(vii) of the Code requires that an FSP make concise details of any special terms, exclusions of cover, or instances in which cover will not be provided. FSPs are therefore required to inform you if the product recommended for example does not automatically provide for power surge cover so that you can make an informed decision as to whether the product recommended is appropriate to your needs, and whether you may want to add the optional benefit to the policy and or seek an alternative policy that will provide you with the cover you require. This will also include the need for preventative measures such as surge protectors etc, that may be minimum requirements to enjoy the benefits of the cover provided.

Another important aspect to consider, especially in respect of optional add-ons is the appropriate cover limit. As with any item covered in respect of household contends cover items covered in respect of a power surge benefit will be covered for their replacement value. This is another important aspect for your FSP to inform you about especially when the cover incepts, however it is important to note that there is no duty on the FSP to determine the value of your items to be insured, but the FSP does need to inform you of the importance of those items being insured for replacement value so that you are empowered to determine what that value is. In addition, the replacement value of your items should also be reassessed regularly to ensure that all new electronic equipment is covered for the correct replacement value, which is another aspect that your FSP should be informing you of especially on an annual basis when annual reviews are conducted.

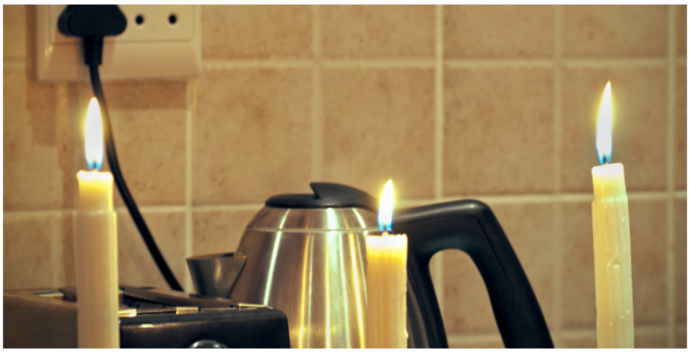
Therefore, whether you are a new client, either purchasing a short-term insurance policy for the first time or seeking alternative cover, or whether you are an existing client you need to ensure that the product recommended or that you currently contribute towards caters for the effects of power surges.

Power surges however are not the only concern when it comes to loadshedding, there are other risk factors as well, such as a fire caused by appliances that may continue to operate when power is restored, creating a fire hazard.

It can also lead to an increase in thefts because of the alarm systems not working when the power is off. All these effects of load shedding can have significant impacts on household insurance policies.

This raises another aspect which is that whilst one should always take steps to protect one's home and possessions from the effects of load shedding, policy conditions may require that mitigating equipment such as fire alarms, fire extinguishers and indeed surge protectors etc. are installed.

It is then vital that one ensures that any required measure is always in working condition as this will have an impact on any future claim.



The importance therefore of reviewing your insurance policy together with the preventative measures you have in place, cannot be overstated to ensure that you are adequately provided for when the need arises.

Consumers should also consider regularly updating the value of their household contents cover to ensure that it always provides for the correct replacement value and to ensure that one is not found to be underinsured in the event of a claim, and you are encouraged to seek advice from a registered FSP on the policy and options that best suit your needs and that you continue to comply with the requirements of that policy on an ongoing basis.

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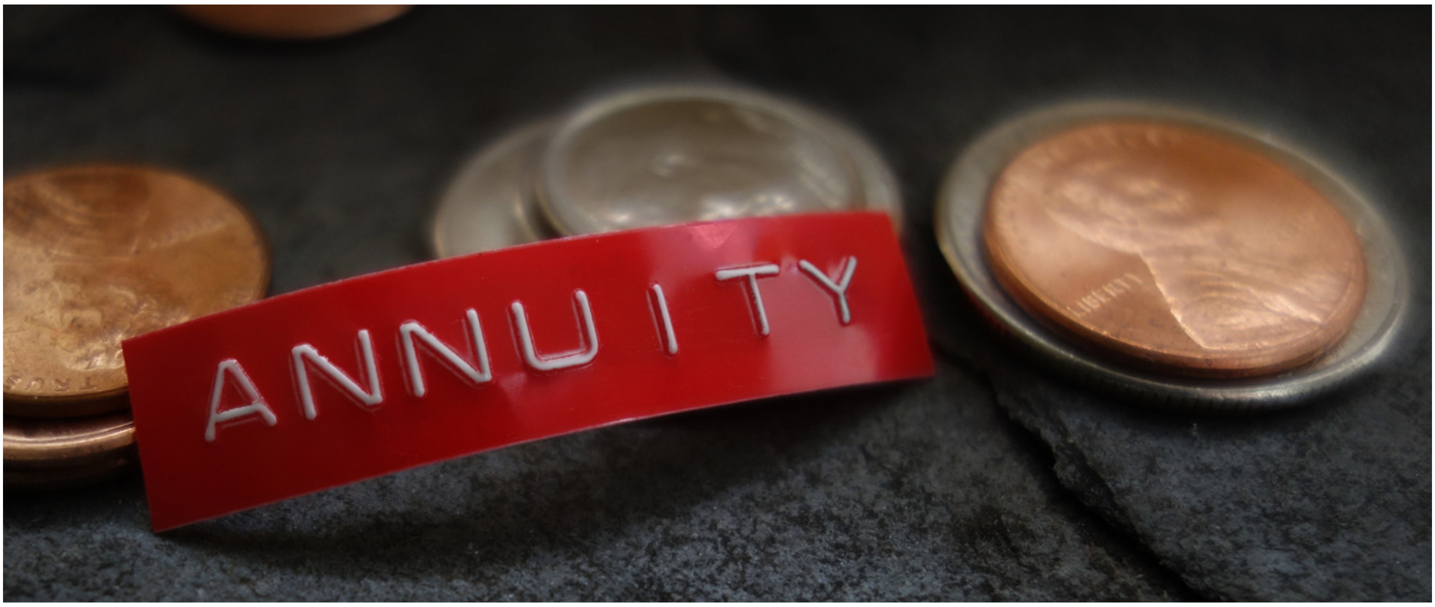


Retirement Annuities

A retirement annuity ('RA') is a retirement fund which is governed in terms of the Pension Funds Act. It is a tax-effective investment vehicle designed for individual investors. Ras are also tax efficient vehicles, as contributions are tax-deductible, in that you can qualify for a tax refund on contributions up to 27.5%, but not more than R350 000. In addition, returns on RA investments are not subject to tax on interest, dividends, or capital gains.

Despite the tax advantages, it must be appreciated that the objective of an RA is retirement provision and ensuring that you either save towards your retirement, or supplement any existing retirement planning initiatives you may already have.

It is therefore a long term commitment, where you can then only access the funds at the earliest aged 55. Once you turn 55, there is a further restriction in that you can only access one-third of your RA savings as a lump sum.

Retirement fund lump sum benefits will be subject to tax, should the lumpsum exceed R550 000 from 1 March 2023 onwards, visit www.sars.gov.za to see the retirement fund lump sum tax table for the taxation of retirement lumpsum benefits.

The remainder of the funds are required in accordance with prevailing legislation to purchase an annuity, either a living annuity or guaranteed life annuity to provide you with an annuity income for life.

Prior to age 55, withdrawals from RAs are not allowed unless the total invested amount, i.e., your contribution to a specific retirement fund, is less than R15 000. Withdrawals will be subject to withdrawal lump sum tax, visit www.sars.gov.za to see the withdrawal tax table for the taxation of withdrawal lumpsum benefits.

The only other exceptions are If you should become permanently disabled or are a non-resident for South African tax purposes for a period of three years in a row, which will then allow you to access the funds in your RA.

Case Study: H v M

During March 2017 the complainant, who was 50 years old at the time, provided the respondent's representative with permission to review her investment, retirement, and insurance portfolio. The complainant was then informed that there was a retirement annuity with Sanlam that was around R103 000 that would appear to have been paid up and that was just lying there.

The respondent's representative convinced the complainant to reinvest the funds with the respondent, and it was agreed that the funds would be reinvested for a period of 5 years. A Section 14 transfer was applied for and the funds were placed into a retirement annuity with the respondent.

Five years later during 2022, the complainant approached the respondent to withdraw the funds and she was informed that the policy had been implemented for a period of 15 years and that should she withdraw the funds prior to the maturity date she would incur penalties in the region of R47 000.

The complainant was upset with this news, as she had specifically requested that the funds be invested for a period of 5 years, and she approached this Office for assistance.

This Office noted that the complainant had been 50 years old when the transaction concluded, and that the earliest the complainant could access her funds within the retirement annuity as age 55.

The term of 15 years therefore raised a concern as not only had the complainant alleged that she had requested a 5 year term, but because a 15 year term would not appear to have been in the complainant's best interests, as it restricted the options available to her at age 55 and would as detailed by the complainant have led to penalties should the policy have been terminated.

In addition, this Office wanted the respondent to provide documentation showing compliance with Section 8(1)(a-c) of the General Code of Conduct for Authorised Financial Services Providers and Representatives ('the Code') where the respondent needed to support why a term of 15 years was appropriate to the complainants needs and circumstances.

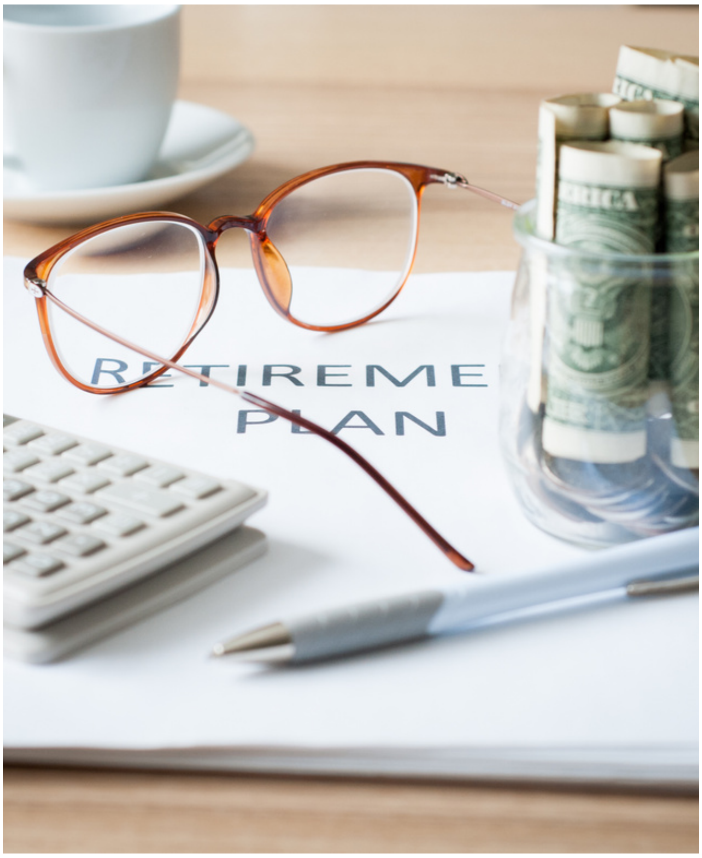
The respondent was also requested to provide details of the complainant having been advised of the consequences and implications of the 15 year term and the effects on the policy for early termination in compliance with Section 7(1)(c)(vii) of the Code to have allowed the complainant the opportunity to make an informed decision.

Upon receipt of this Offices correspondence the respondent undertook to resolve the matter, with the complainant. Whilst the exact details of the resolution were not made available the respondent confirmed that when the Section 14 transfer between the insurers was completed, an amount of R 107 718.29 was invested into the RA. The amount invested had subsequently increased to R 138 279.06 and that this is the amount that was paid to the complainant, without penalties. It was confirmed with the complainant that she had accepted the offer in full and final resolution.

Lessons Learnt:

1. **When presented with a recommendation in respect of a retirement annuity policy, always check whether the maturity date exceeds the age of 55 years. Age 55 is the earliest one can access the benefits of a retirement annuity and any maturity date that exceeds this may be to your detriment.**
2. **Upon reaching the age of 55 you will, based on your circumstances at that time, be able to decide whether you wish to access the funds, i.e., the 1/3rd available to you and place the remaining 2/3rd into an annuity, or you can choose to extend the term for a further year and continue to do so until the funds are required to fund your retirement.**

3.By not having a maturity date more than age 55, you will maintain control over your retirement benefit, and reduce the effects of commissions, fees, and charges on your retirement benefit.



Utilizing Endowment Policies for Retirement Planning

The Office of the FAIS Ombud has previously highlighted the concerns it has with the manner in which endowment policies are marketed to individuals i.e., that they are recommended, marketed and sold as investments. Essentially, an endowment is a life insurance policy (with a minimum five-year term), as defined in the Insurance Act, and it does provide tax advantages for affluent individuals, i.e. those individuals whose marginal tax rate is greater than 30%. Endowment policies are also taxed within the fund and as a result the proceeds you receive with be net of tax.

This may be attractive to those individuals who are opposed to the limitations placed on retirement annuities that 2/3rd must be utilised to purchase an annuity with you only having access to 1/3rd of the retirement benefit in the form of a lumpsum. Whilst this may be an attractive proposition for some, it may well be prudent to consider this option only after you have fully utilised you annual interest and capital gains tax exemptions which is respect of interest is R23 800 for the 2022/2023 tax year for individuals under the age of 65 and in respect of capital gains tax the annual exclusion is R40 000.

In addition, there is another aspect that may increase the attractiveness of endowment policies to prospective clients looking to enhance their retirement provision and that there is no limit to the amount of offshore exposure you can have in your endowment policy.

Retirement annuities are governed by Regulation 28 of the Pension Funds Act, which, amongst other things, limits the offshore exposure of the portfolios that may be selected. Even though the maximum limit has recently been increased from 30% to 45%, no such limits exist in the funds that one may select in resect of an endowment policy.

Once again as previously espoused by this Office, being a life insurance policy, there are a number of restrictions applicable to endowment policies, so one must ensure that you receive advice from a registered financial services provider as to the appropriateness of the policy to your specific needs, and to ensure that you are advised of all the pros and cons to ensure that you can make an informed decision.

C v O

During 2012, the complainant applied for an endowment policy with the respondent which incepted on 1 January 2013 for a period of 10 years. During 2018, the complainant successfully applied for a partial disinvestment in the amount of R10 000 and had successfully applied for a zero-interest loan of R10 000 during 2021. During 2019, the complainant had also voluntarily requested to increase her premiums on. When the complainant sought to access 100% of the remaining funds at maturity, she was informed that as a result of the premium increase, that was in excess of 20%, the policy had entered into a new 5 year restriction period and that the funds would now only be available 1 December 2024.

The complainant claimed that she was not advised that should she increase her monthly premium that the policy would enter inro a new restriction period, and she requested that the remaining funds be released to her.

After numerous much correspondence was exchanged with the respondent, this Office requested that the respondent not only show compliance with the provisions of the Code at the inception of the policy, but that the complainant was provided with concise details of the limitation applicable to the premium increase, when the complainant had applied for the premium increase.

Section 7(1)(c)(vii) of the Code provides that concise in rendering the financial service the FS must disclose concise details of any special terms etc. in respect of the specific product. Had the respondent complied with this Section of the Code, the complainant would have been placed in a position to make an informed decision as required in terms of Section 7(1)(a) of the Code. The respondent responded that as it had failed to caution the complainant when she had applied for the premium increase, it would make a business decision to amend the restriction end date, and allow the withdrawal. The complainant completed the disinvestment forms together with all supporting documents, and she received a total payment of R69 544.2 in full and final settlement.

Lessons learnt:

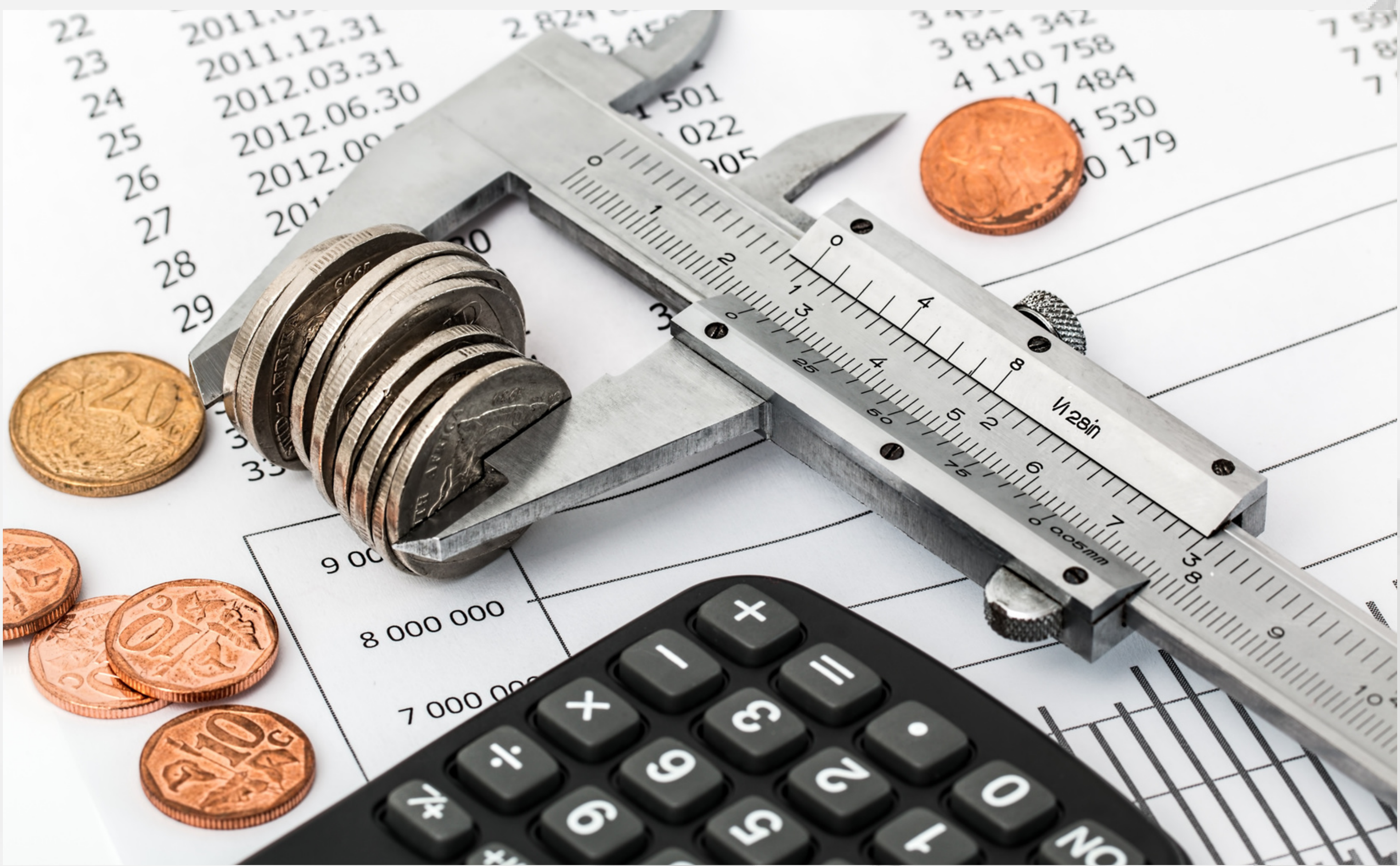
1. **Whilst endowment policies can be utilized as alternatives to retirement planning, endowment policies are provided for a specific term, the minimum of which is five years. During this term the investor is restricted with regards to accessing the proceeds thereof.**
2. **Prospective clients should therefore thoroughly consider the appropriateness of this product if they anticipate the possibility of needing to access the funds within the restriction period.**
3. **Increasing your contributions towards an endowment policy by more than 20% or more above the higher of your total contributions in the previous two years, will see your policy enter into a new restriction period. Always be aware of this and ensure that any such decision is taken after you have sought advice from a registered FSP.**

Office of the FAIS Ombud raises awareness at Proudly Vaal SMME Forum

On February 15th, our Office was invited to present at the Proudly Vaal SMME Forum. This invitation provided an opportunity for the Office to raise awareness about the Office.

The Office was able to provide valuable insight and scenarios of cases we investigate, as well as inform attendees about things they should be aware of to prevent being in an unfortunate position. Overall, the presentation was well received, and attendees gained a deeper understanding of the Office's role in regulating and investigating complaints.

If you are interested in having the Office of the FB participate in your initiative, you can email them at the following address: info@faisombud.co.za.



Budget Speech 2023 Highlights

On 22 February 2023 the Minister of Finance, Enoch Godongwana, delivered his National Budget address.

Overall highlights of the address:

- The consolidated budget deficit will decline from a projected 4.2% of GDP in 2022/23, reaching 3.2% of GDP in 2025/26.
- The Government expects to collect tax revenue of R1 788 billion, of which 35.8% comes from personal income tax in 2023/24.
- Total consolidated government spending will amount to R7.08 trillion over the next three years, of which 51% or R3.6 trillion is allocated for the social wage.
- Debt service costs for the present financial year were budgeted for R301.8 billion last year. This year around, the budgeted amount is R340.5 billion, mostly due to increased repayment of borrowings.
- Real GDP is expected to average 1.4% from 2023 to 2025, compared to 1.6% estimated in October.
- Adjustments to both transfer duty and personal income tax tables will cater for “bracket creep”.
- R4 billion in relief is provided for individuals that install solar panels, and R5 billion to companies through an expansion of the renewable energy tax incentive.
- Eskom debt relief proposal of R254 billion.

Highlights for Consumers:

- "Bracket creep" is addressed through inflation-related adjustments to the personal income tax tables, and the retirement tax tables (Please see below).
- No change to the general fuel levy or the Road Accident Fund levy.
- The exemption of foreign remuneration earned by South African tax residents remains unchanged.
- Increases of 4.9% in excise duties on alcohol and tobacco.
- From 1 March, for a year, a tax rebate is made available against natural persons' tax bill for renewable energy. The rebate is equal to a quarter of the cost of solar panels installed, subject to a maximum rebate amount of R15 000.

Individual Tax Rates

2024 tax year (1 March 2023 – 29 February 2024)

Taxable income (R)	Rates of tax (R)
1 – 237 100	18% of taxable income
237 101 – 370 500	42 678 + 26% of taxable income above 237 100
370 501 – 512 800	77 362 + 31% of taxable income above 370 500
512 801 – 673 000	121 475 + 36% of taxable income above 512 800
673 001 – 857 900	179 147 + 39% of taxable income above 673 000
857 901 – 1 817 000	251 258 + 41% of taxable income above 857 900
1 817 001 and above	644 489 + 45% of taxable income above 1 817 000

*Source www.sars.gov.za

Retirement Lump Sum Benefits

2024 tax year (1 March 2023 – 29 February 2024)

Taxable income (R)	Rate of tax
1 – 550 000	0% of taxable income
550 001 – 770 000	18% of taxable income above 550 000
770 001 – 1 155 000	39 600 + 27% of taxable income above 770 000
1 155 001 and above	143 550 + 36% of taxable income above 1 155 000

*Source www.sars.gov.za

Withdrawal Lumpsum Benefits

2024 tax year (1 March 2023 – 29 February 2024)

Taxable income (R)	Rate of tax
1 – 27 500	0% of taxable income
27 501 – 726 000	18% of taxable income above 27 500
726 001 – 1 089 000	125 730 + 27% of taxable income above 726 000
1 089 001 and above	223 740 + 36% of taxable income above 1 089 000

*Source www.sars.gov.za

CONTACT US:

Should you require assistance in submitting a new complaint, wish to follow-up on an existing complaint or for any other general enquiry please contact us at the numbers provided below and your query shall be directed accordingly.

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