Retirement reform and NHI: Govt makes progress, but hurdles remain

By Yolandi Esterhuizen

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Over the past few days, the South African government has made headway with two hot topics around the long-awaited legislation for the "two-pot" retirement system and the National Health Insurance (NHI) bill.

Source: Supplied. Yolandi Esterhuizen, director: product compliance, Sage Africa and Middle East and registered tax practitioner.

As important as these milestones may be, it might be a while before they begin impacting employers and employees. Let's take a closer look at what these developments will mean.

The latest news includes the publication of the 2023 Draft Revenue Laws Amendment bill, and the passing of the 2023 Draft Revenue Administration and Pension Laws Amendment bill for comment by the National Treasury (NT) and the South African Revenue Service (Sars).

These drafts relate to the introduction of a "two-pot" retirement system. Separately, the National Assembly has passed the NHI bill. The two-pot retirement system refers to a significant reform in retirement laws that aims to get the right balance between encouraging people to preserve retirement savings and allowing them to access retirement funds in a financial crisis.

The reform was partly inspired by the financial and economic hardships many South Africans endured during the Covid-19 crisis. Under the proposed bill, the new retirement regime proposes the creation of the following components within retirement funds:

- **A savings component:** Retirement funds will be required to create a savings component. You will contribute one-third of your total retirement contributions to this component. You can withdraw this money before you retire without needing to resign from your job. You can only make one withdrawal per year from the savings component. These funds will be taxed at your marginal tax rate.

- **A retirement component:** Retirement funds will be required to create a retirement component. You will be required to contribute two-thirds of your total retirement contributions to this component. These funds can only be accessed when you reach retirement age. Withdrawals are also allowed when an individual emigrates and ceases to be a tax resident, subject to a three-year waiting period.

- **A vested component:** This component houses the retirement funds you built up before the two-pot system became effective. Amounts contained in the “vested component” will be subject to the current retirement regime—in other words, the regulations that are currently in place.

- **Seed capital:** This is the portion of your existing retirement funds you can transfer to fund the accessible savings component when the two-pot system is introduced. You may contribute up to 10% of your current savings, capped at R25,000, to seed the accessible pot.

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What are the implications of this system?

Overall, the government has tried to balance the need to give people access to emergency funds with the imperative of preserving retirement funds in a country with a poor savings culture.

Too many people end up impoverished in old age because they resigned earlier in their working lives to access retirement funding. But there could be unintended negative consequences, too.

We may see people who wouldn’t or couldn’t withdraw retirement funding under the current regime take advantage of the reform, especially during economically difficult times. Effectively, there is a danger that overall retirement savings are reduced rather than increased. There is also a risk that some people will rush to resign before the law takes effect to access their retirement funds.

Two-pot system implementation timeline

NT proposes that the legislative amendments to the “two-pot” retirement system should take effect on 1 March, 2024. However, we are seeing pushback from asset management firms and retirement funds. They are concerned about restructuring their complex retirement products in such a short timeframe. It would not be surprising to see a delay when the legislation is finalised.

The NHI bill—what does the law say?

South Africa’s legislature has passed the NHI bill, which provides universal healthcare for all South Africans. The bill envisages healthcare will be free at the point of service and provides for the establishment of a government-administered fund that will be used to pay for medical treatment.

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Once the NHI is "fully implemented", medical schemes will not be able to cover services paid for by the NHI. The next step for the NHI involves sending the bill to the National Council of Provinces for assent and subsequently to the President for signing into law. This could all happen within the year.

However, several organisations have indicated they may challenge the law on constitutional grounds. If their cases are successful, the bill may be sent back to Parliament for revision. Even if the NHI clears these hurdles, the government envisages phasing it in over 10 to 15 years. Funding constraints mean it's unlikely to be fast-tracked.

How will the NHI be funded?

After years of debate, there is little clarity about how the government plans to fund the NHI. The government has previously indicated that the NHI will be funded by pooling money already spent in the private and public healthcare sectors. One mechanism to achieve this is to gradually taper down medical-aid tax rebates and channel this money to the NHI.

The government will also likely introduce a payroll tax, with employers and employees contributing to the NHI fund. However, current economic conditions make it difficult for the government to introduce additional taxes. Since only 7.4 million people pay personal income tax, the government may struggle to raise the funds it needs from such a small tax base.

Retirement reform and the NHI have been in the works for years. Given the complexity and ambition of restructuring our healthcare and retirement systems, progress will likely remain slow. Stay tuned for the medium-term budget statement, which will provide crucial information on the progress of retirement reform and the National Health Insurance (NHI) initiatives. The finance minister will give his speech in October.

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