What Next For Overseas Pensions In South Africa?

OPTIMUS

Current situation

There are a number of present and growing factors in the South Africa economy which directly have an impact on financial services provided by practitioners who are based outside of the country. Pensions are understandably no exception...

The volatility of the rand and the ongoing political situation continues to create low confidence in the local markets. These internal issues are putting pressure on the working population with people across a wide range of demographics leaving or considering leaving South Africa to peruse careers outside of the country.

This uncertainty and volatility has created an opportunity for the utilisation of International Pension Plans as a tax efficient vehicle for South African residents to save for the future. International Pensions Plans do offer tax efficiency but the level of such has recently come under scrutiny of the government's advisory body on Tax.

Davis Tax Committee ("DTC") update

The DTC have noted the emergence of these retirement funds which purport to be exempt from estate duty. Such products are promoted under the umbrella of an "offshore retirement fund" and carrying the following characteristics:

- Utilising offshore allowance via a discretionary trust arrangement
- Contributions not tax deductible
- SA taxpayer is considered to have acquired a spes or hope of the receipt of a pension
- Exemption from donations tax based as it is not based on "gratuitous disposal"
- Offshore retirement fund is not taxable in RSA since it is not a resident in SA
- Exempt from wealth tax as the member merely has a discretionary right

A main observation of the report is how the offshore retirement funds will be treated by South African Revenue Services (SARS) and that further investigation should be undertaken by SARS.

"Low confidence in local market"

Has this changed the playing field?

Following the DTC report there are concerns surrounding the longevity of the current retirement funds that South African's are taking advantage of. It appears that the recommendations of the Davis report may prompt changes by SARS to address pension products that avoid both donations and wealth tax.

Technical analysis shows that a pension product that provides the member with a vested interest in the assets of the scheme is consequently subject to wealth tax. Having this vested right ensures the product is a pension and not a vehicle to avoid tax.

What is next?

Having reviewed the Davis report, there is an understanding that they do not have an issue with international pensions as long as they are used and treated like a pension. The issues that have arisen recently are concerns of abuse of the South African tax system through trusts seemingly trying to appear like a pension.

There is now a requirement for a pension offering that offers South African residents a genuine tax-favoured, cost-efficient retirement savings platform that incorporates highly flexible investments that sits alongside what the Davis report and more importantly SARS would find difficult to object to.

Conclusion

The current schemes maybe around for a little while longer but with changes afoot, it is time to start looking at other more robust pensions whose main function is to provide retirement benefits to its members.
When looking for international wealth planning opportunities it is key to know how the scheme will not only be viewed today, but also longer term by SARS.

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