2022 VOL 1

NFB PRIVATE WEALTH MANAGEMENT

PROFICIO

NFB FINANCIAL UPDATE

View from the **Chair**

By taking the time to recalibrate and re-examine the purpose behind the things we do, we can better focus on those things that truly add value.

Recalibrate! The one clear positive to come from the pandemic, in my opinion, is the opportunity to rethink what you do, with whom you do it, where it takes place, and most importantly, why you do it.

I have commented in the past about a wonderful Japanese term, Ikigai. It translates to "purpose" in English.

I think the younger folk are way more tuned in to who, what and critically, why, older people (like me) are, as a generation, still inclined to toe the line and follow old, established rules and "ways" of doing things.

It doesn't matter where you are age-wise, career-wise, or how you've done with that bucket list. What does matter is getting the time to think, prioritise, pull triggers and, in doing so, make stuff happen.

One reads of folk with high-profile jobs having resigned and moved closer to the family, having experienced what they were missing, chasing their tails, careers and promotion. Take that special holiday with an eighty-year-old parent or grandparent. The last three years have shown us not to take too much for granted!

We are nowhere close to fully understanding what Covid really is, other than a bug that has turned NORMAL upside down. Whether for the good of all or ulterior motives, our leaders around the globe have shut down societies, economies and life as we knew it, which we took largely for granted.

The latest trend is people going walk-about. A massive increase in trekking during sabbaticals is in vogue. Certain professions such as accounting and banking have, over time, adopted this approach. Taking a much longer break from work, really letting go, recharging, and recognising that you aren't indispensable is good for the soul. This has become popular with a much broader community, where individuals are breaking away midstream and "walking the Camino".

Back to Ikigai for a second. The difference between doing what you love to do, or simply using work as a means to an end, is massive. Think about a great teacher, traffic warden, or gardener. They will never earn a fortune, but they get up every day looking forward to making a difference. Think about retiring at 60 or 65 and doing, with the one or ones you love, those bucket list things or staying on for another decade given the risk of not having enough. They say that only a small percentage of the population can retire without a worry.

The other truth is that we generally live longer, and this trend has accelerated during our lifetimes. It is real, needs thought, and is also happening when global inflation is trending lower.

I'd like to believe that I've worked quite hard. At 63, I have no intention of hanging up my gloves. However, I intend to take a little more time off to travel, climb, ski or do stuff we have on our bucket lists. I'm sure this will also include an Italian cooking course and hike in the Camino de Santiago if Lisa has her way! The point is that we can do the cooking bit for the next 20 years; the others have a sell-by date.

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> ***“The one clear positive to come from the pandemic, in my opinion, is the opportunity to rethink what you do, with whom you do it, where it takes place, and most importantly, why you do it.”***

Mike Estment CFP®
Executive Chairman: Johannesburg
NFB Private Wealth Management

Emigration and access to retirement annuities and preservation funds

A significant change in legislation will now require you to be a non-resident for South African tax purposes for at least three years before being granted early access to your retirement annuities or preservation funds.

While governments across the globe are easing Covid regulations and travel restrictions, issues of emigration and tax treatment are once again becoming increasingly topical. It is important to stay abreast of legislative changes and proposals and how these could impact your financial plan. From 1 March 2022, if you wish to access your retirement annuity (RA) because you have emigrated, you must have been a non-resident for South African tax purposes for at least three years. Similarly, suppose you have a preservation fund and have utilised the one withdrawal before age 55 - you must have been a non-resident for South African tax purposes for at least three years if you want to access the balance upon emigration. You may no longer follow the financial emigration process with the SARB if the withdrawal has not been concluded by 28 February 2022.

Ceasing to be a resident for South African tax purposes is based on the ordinarily resident test, physical presence test, and whether South Africa has a double tax agreement (DTA) with your present country of residence.

The ordinarily resident test

Naturally, you will be considered an ordinarily resident if your permanent home, which you usually reside in, is in South Africa. Below are some of the criteria used in determining one's ordinarily resident status:

- Individuals who permanently reside in South Africa
- Individuals who have their assets and belongings stored in South Africa
- Individuals who return to South Africa after their wanderings

You are deemed a tax resident if you pass this test. Should you fail the test, the physical presence test can also be done.

The physical presence test

To be a tax resident, you would have been physically present in South Africa for a period, exceeding:

- 91 days in aggregate during current the tax year under consideration;
- 91 days in aggregate during each year of the five tax years preceding the tax year under consideration; and
- 915 days in aggregate during the above five preceding tax years.

You are deemed a tax resident if you meet all three requirements above.

Double taxation agreements

Should you qualify as a resident under the ordinarily resident or physical presence tests, but deemed to be exclusively a resident of another country for purposes of a double tax agreement (DTA), you are not regarded as a resident for South African tax purposes.

DTAs are internationally agreed-upon legislation between South Africa and various countries to determine which country has the right to tax certain income. The purpose of these agreements is to ensure that every taxpayer is being taxed according to the tax laws of their present country of residence, and to enforce the correct rights upon these taxpayers. If both countries tax the same income, a DTA will determine that the resident country must allow a tax credit limited to the tax paid in the foreign country.

Retirement annuities and preservation funds

Early access to retirement funds is allowed under certain circumstances:

- Retirement at age 55 (RAs)
- One partial or full withdrawal, depending on the fund rules, before age 55 (preservation funds)
- Divorce order
- You become permanently disabled
- The fund balance is less than R15,000 (RAs)
- After being a non-tax resident for three consecutive tax years

When does the three-year period start?

The three-year period starts when you inform SARS of your ceasing to be a tax resident, which is to be done in the year you become a non-tax resident. You can inform SARS by submitting your normal income tax return or a Declaration of Cease to be a Tax Resident. If you have already left South Africa but have not informed SARS, you need to inform SARS of the change in tax residency and only then will the three-year waiting period start.

Suppose you completed the Financial Emigration process with the SARB from an exchange control perspective before 28 February 2021, and the withdrawal has not been concluded by 28 February 2022. In that case, you need to follow the process prescribed under the cessation of South African tax residency for an uninterrupted period of three years - a result of financial emigration not equating to a cessation of SA tax residency. All new emigration-related applications from 1 March 2021 onwards are processed by SARS subject to confirmation that you have ceased to be a resident for South African tax purposes.

Implications of ceasing tax residency

A deemed disposal for capital gains tax (CGT) purposes takes place at the date immediately before the day on which you ceased to be a tax resident. You are deemed to have disposed of your worldwide assets at market value, excluding immovable property owned in South Africa and personal-use assets. Assets subject to CGT include share portfolios, unit trust portfolios, cryptocurrency, and immovable property owned outside South Africa. Depending on your circumstances, this tax liability could be punitive compared to the benefits, if any, of accessing your retirement funds early.

The Draft Tax Bills, published in July 2021, proposed a deemed withdrawal from retirement funds on the day before one ceases to become a tax resident. The proposal was withdrawn later as it was determined that it would override South Africa's DTAs with other countries. The government will consider further amendments, so expect this issue to be readdressed again in 2022.

Other retirement funds

If you are a member of a pension or provident fund with your employer, you do not need to be a non-resident for three consecutive tax years before you can access your funds. You will have full access to your funds when your employment terminates. Members of preservation funds can utilise their option to make one partial or full withdrawal (depending on fund rules) before age 55.

Conclusion

It's important to remember that if you are planning to emigrate, or have already emigrated and now reside in another country, early access to your retirement annuities or preservation funds will be subject to a three-year waiting period after SARS is informed of your cessation in tax residency. The cessation of tax residency comes with a deemed capital gains tax liability, while the government is also considering a deemed withdrawal or exit tax on the retirement funds. As the complexity of these issues requires careful consideration given their impact on your financial plan, I recommend that you seek guidance from a financial adviser or a tax consultant to undertake a proper review. ■

> ***"... the complexity of these issues requires careful consideration given their impact on your financial plan..."***

Ivor Mudzengi CFP®
Private Wealth Manager
NFB Private Wealth Management: Gqeberha

View from the **Chair**

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If your experience is like mine, time accelerates, and before you know it, time has caught up with us, making that ski slope or mountain pass a stretch!

One of the biggest lessons to learn when calibrating investments, risk versus return, Rands and Dollars, I believe, is about time and cash flow. My greatest concern as a seasoned advisor is the risk of folk being too conservative given an inherent fear of "loss". Markets and funds don't go to zero as a rule. By no means are they steady and predictable, but when making smart, well-diversified investments, time is your greatest friend, with the compounding of returns an almost inevitable consequence. Taking advantage of local and foreign investments, sheltering these from tax whenever possible, and understanding and making provisions in cautious investments for your income requirements allows you to invest the balance of your portfolio in more volatile but unquestionably better-performing assets. This concept works like a dream. The vital ingredients are time, patience, good planning and communication. One can be lucky with timing, but this is more akin to gambling.

Staying invested in good quality assets will give your portfolio the best probability of delivering sustainable returns, which futureproof us from likely longevity.

As always, I look forward to chatting with interested readers and meeting some of you on the Camino. I will be the guy in the NFB T-shirt trying to keep up with Lisa!

Finally, I would like to congratulate NFB Asset Management for the remarkable results achieved over the last five, and particularly ten, years. We have built a fabulous, top-performing team and set of solutions for our clients. When a business like NFB offers its clients an NFB-branded fund, it needs to deliver the goodies. The funds have delivered, and continue to do so, under Paul Marais' stewardship. Well done indeed! ■

The importance of having **a valid and updated will**

Ensuring that your will is valid and updated will significantly reduce the emotional toll and stress that your beneficiaries experience in the event of your untimely passing.

Your last will and testament is one of the most important contracts that you will be a party to. It sets out your final wishes regarding the distribution of your possessions, and the consequence of passing away without a valid will is that your estate falls into intestate succession. As a result, your estate may not be divided up among those you had hoped or intended for it to be. Having a valid will ensures that the distribution process is carried out timeously and efficiently, and in accordance with your wishes. Furthermore, having a valid will assists in avoiding unnecessary disputes between beneficiaries and reduces the time taken for said beneficiaries to receive their inheritance.

Not having a valid will in place increases the complexity of dealing with any offshore asset distribution as international laws and foreign jurisdictions must also be considered in these instances. Without a valid will, guardians of minor children can't be appointed in the event of the simultaneous death of both parents. In this instance, as a testamentary trust can't be set up for the related minors, all assets that devolve upon the minor children will be administered by the Guardian's Fund, managed by the Master of the High Court. Over and above the practical benefits, having a valid will in place assists in minimising the emotional burden carried by heirs when dealing with the loss of a loved one.

The Wills Act 7 of 1953 outlines the legal formalities that must be met for a will to be valid. These include, but are not limited to:

1. Legal age requirement whereby the person to whom the will relates must be at least sixteen years of age.
2. Legal competency and mental capacity of the person to whom the will relates must exist.
3. The will must have been entered into voluntarily and not contracted under duress.
4. The will must be signed, dated, and witnessed by two disinterested/non-benefiting parties.
5. The will must be reduced to writing in a manner that is clear and readable.

While the above-mentioned criteria appear straightforward and easily achievable, due attention must be paid to the clarity and reliability of the contents of the will as inconsistencies may give rise to issues irrespective of the will's validity. The will should be updated regularly and in line with significant life events that may trigger a change in your estate planning, such as the birth of a child, death of a spouse or beneficiary, marriage, or divorce.

Statistics show that the number of qualifying South Africans with a valid will in place remains low at only 30-35%. Along with an increased administrative cost, the unnecessary complexity and time delay that accompanies intestate succession can easily be avoided by having a valid will in place. To ensure that all your estate planning requirements are sufficiently provided for, speak to your financial advisor now. It is always best to consult practice professionals that deal exclusively with wills administration, such as NFB Private Wealth Management and Independent Executor and Trust. ■

> ***“Statistics show that the number of qualifying South Africans with a valid will in place remains low at only 30-35%.”***

As part of our ongoing partnership with **ASISA** and our investment in their **independent financial advisor (IFA) internship programme**, **Nasreen Dolley**, an intern at NFB, wrote this article under the guidance and supervision of **Marco van Zyl** CFP®, director and private wealth manager at NFB Private Wealth Management: Gqeberha.