ELEMENTS

INTERNATIONAL PENSION PLAN

Creating international employee benefits

THIS CASE STUDY IS BASED ON THE SCENARIO OF A SOUTH AFRICAN RESIDENT EMPLOYEE SAVING FOR FINANCIAL INDEPENDENCE IN RETIREMENT USING THE FOREIGN DISCRETIONARY ALLOWANCE.

SCENARIO OVERVIEW

Barry Jackson is a 43-year-old South African citizen and tax resident employed as an executive of Donal (Pty) Ltd, a platinum mining company that is dual listed on the Johannesburg and London Stock Exchanges. He is married to Sally who is a home maker and they have a son Benjamin aged 18. Barry has accumulated R8 million via the Donal company defined contribution pension fund and a further R2 million in his personal retirement annuity.

His executive package includes a generous basic income from which Barry contributes the maximum tax relieved amount of R350k per annum split across his company pension and his retirement annuity fund. This cap was introduced as a part of pension reforms announced by the Treasury in South Africa which came into effect from March 2016.

Barry now has excess funds available for investment which previously were allocated for his domestic retirement arrangements and he needs to invest these if he wants to achieve his financial objectives. Additionally, Barry earns a significant performance based bonus which, has averaged R1 million a year.

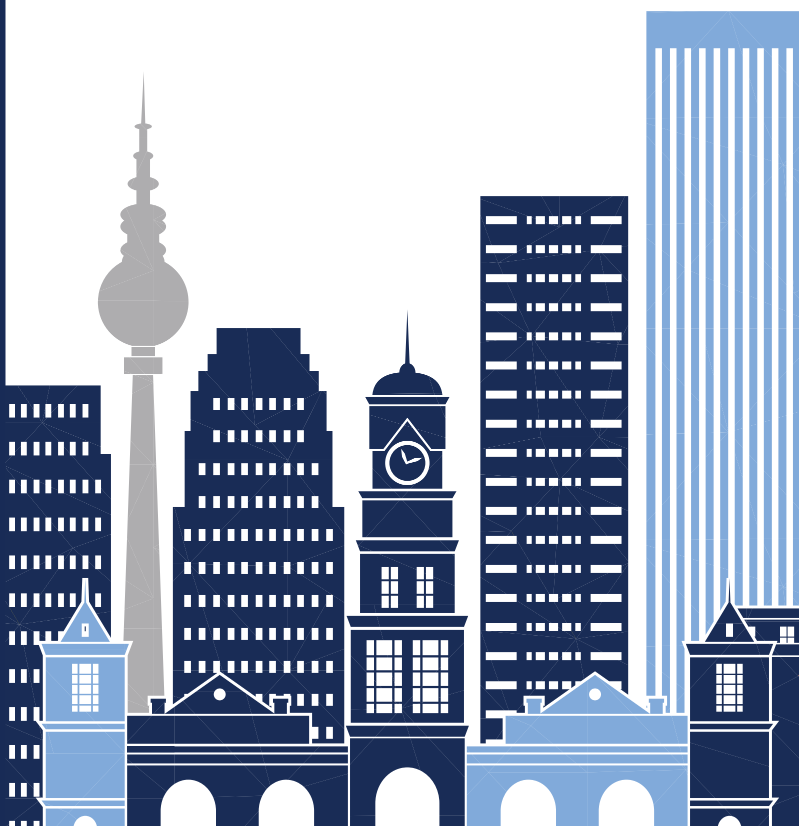
The investments in both his retirement annuity and occupational pension are governed by Regulation 28 of the Pension Funds Act. This restricts the amount that the respective plans can invest in international investments to 25%. Under current legislation both plans can only pay pension benefits in Rand.

Barry's son, Benjamin has indicated that he would like to pursue a degree in computer science with the aims of working for an international tech company, but is concerned about the declining rankings of South African universities. Barry has ascertained that the best opportunity for Benjamin is to attend a university in the UK for which Benjamin has a provisional offer.

CONCERNS AND DESIRED OUTCOMES

Barry and his wife enjoy life in South Africa, however they have concerns about the general decline in the viability of platinum mining, threats to nationalise mines, political policy, the risk of a sovereign credit downgrade, long term devaluation of the Rand, exchange control restrictions and the economy in South Africa. Barry and his wife want to have options available to them, which could include emigration to Australia if the South African economy deteriorates, equally helping their son to progress in an international career and settle down. They do not want to be restricted by a volatile currency and restrictions on the movement of capital out of South Africa.

Barry wants to put aside funds for foreign investment which benefits from legal protection in the same way as his domestic retirement provision. Furthermore, he would like to build and preserve wealth whilst having flexible access to his funds in hard currency.



BARRY'S CONCERNS

Barry specifically notes the following:

- To have the choice to emigrate or live for extended periods abroad, which may include time with their son, he will need to build up assets in a hard currency and to invest in global markets. He recognises that relying on Rand based domestic investments to meet future expenses based in hard currency is a high-risk option providing no certainty.
- He does not want to deal with the complexities of cross boarder taxation in respect of his future foreign assets and wants protection for the wealth he builds.
- Should Barry pass away, his preference is to have a seamless, efficient transfer of his non-South African wealth to his wife, free from foreign death duties and the need for foreign probate or executors.
- He does not want any restriction on how much foreign wealth he can accumulate. Furthermore, he wants to have a choice over where his funds are invested. He appreciates the value of a well-diversified international investment portfolio.
- He wants international portability and future flexibility to access his funds when needed, irrespective of where he and his wife may choose to live.

PROVIDING A COMPREHENSIVE RANGE OF SOLUTIONS

Saving in a SA approved retirement fund does not meet all his requirements

- ✘ Savings held in ZAR
- ✘ Investment limitations of regulation 28
- ✘ Contributions capped at R350k per year
- ✘ Retirement lump sum limited to 1/3rd in cash (RA and Pension Funds)
- ✘ ZAR based annuity upon retirement
- ✘ Exposure to South African sovereign rating weakness the need for foreign probate or executors

Saving in an IPP meets his overall financial objectives

- ✔ Investment in hard currency and the global economy
- ✔ Asset held in AA- rated jurisdiction
- ✔ Unlimited contributions (Subject to Exchange Control regulations in South Africa)
- ✔ Assets protected
- ✔ Foreign probate and cross border tax mitigation
- ✔ Tax free roll up
- ✔ Global portability
- ✔ Peace of mind

SERVICE
SECURITY
SUPPORT

RECOMMENDATIONS AND OUTCOMES

Make use of the International Pension offered by his Employer

Barry's company provides access to the ELEMENTS International Pension Plan, which is a Guernsey registered pension plan approved under S150 of the Guernsey Income Tax Act. This means Barry and his employer can contribute to an international plan alongside his domestic arrangements.

The company has contracted to contribute R 1 million to the fund on his behalf.

Tax implications for Barry

Barry's employer may be able to claim a tax deduction for their contribution in line with the South African Income Tax Act no.58 of 1962. (Section 11(a) read in conjunction with section 23(g). As the company is obliged to contribute towards his retirement, the contribution will not be a taxable fringe benefit.

Barry may become liable for fringe benefit taxation on the company contribution of R1 million.

Exchange Control Regulations

Barry has been advised that although his employer is contributing half of the amount, the full R1 million will be under his annual Discretionary Allowance, this is a reporting requirement in respect of exchange control regulations. Therefore, contributions made to the ELEMENTS Plan by the company and by Barry will be remitted under Barry's Discretionary Investment Allowance capped at R1 million per annum.

From an administrative perspective, exchange control matters are dealt with by the pension provider: Overseas Trust and Pension ("OTAP") and the appointed authorised agent of the South African Reserve Bank.

CONTRIBUTION REMITTANCE PROCESS

COMPANY

- Barry's company contribution; R 1 million
- Deducted from Barry's bonus together with other fund members
- Contributions paid to OTAP bulk forex clearing account

SARB

- Treasury applies for SARB approval on behalf of Barry
- The full R1 million is applied to Barry's Annual Discretionary Allowance
- Bank obtains bulk FX rate
- Remits bulk payment to OTAP Guernsey account in designated currency

OTAP

- OTAP receives bulk payment from clearing account
- Allocates contributions to Barry's member account
- Contributions invested in Barry's selected investment portfolios
- Barry's individual account updated and his company notified

The employer's contribution may qualify for a tax deduction under the "General Deduction Expenses" clause 11 (a) read in conjunction with 23 (g) of the income tax act. This may give rise to a fringe benefit tax for the member. The company should obtain a legal opinion to ensure that the contracts of employment are correctly drafted in this regard.

ADVANTAGES FOR THE JACKSON FAMILY

✔ **Creation of International Wealth**
The funds Barry accumulates in the Plan are held in a hard currency of his choice and invested across a well-diversified range of investments. Guernsey is a well-regulated, tax neutral and stable environment to build and grow wealth. This removes the currency, economic and geo-political risks associated with the South African economy.

✔ **Asset Protection**
Barry has the peace of mind that even if he encountered a major financial catastrophe the funds accumulated within the Plan should be protected and preserved for his retirement.

✔ **Portability and Access**
Barry can make unfettered decisions regarding where he wishes to retire, as the Plan gives him access to his pension from anywhere in the world. Furthermore, he can take a lump sum and regular retirement benefits from the Plan.

✔ **Probate and Cross Border Tax**
The legal ownership of his investment rests with the Plan. There is no need for foreign wills or dealing with foreign laws of succession or probate and any associated costs or death duties in respect of the wealth Barry will accumulate in the Plan.

✔ **Succession**
On Barry's passing, the full benefit of the Plan can be made available to his wife and/or son without the assets going through his estate, saving both time and costs.

By joining the international pension plan through his employer, Barry has made a decision that addresses his future financial needs providing his family with peace of mind and greater certainty about their futures.

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