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Tax Alert

Life Insurance Transfer Tax amendment

In brief

The 2025 Taxation Laws Amendment Bill, Bill No 30 of 2025 (“the Bill”) was introduced on 12 November 2025 and clarifies the order in which life insurers can claim the so-called T-transfer deduction in terms of section 29A of the Income Tax Act (“the Act”) in its taxable funds where the assessed loss set-off limitation also applies.

In detail

Companies have since 2023 been limited in the utilisation of the balance of assessed loss carried forward from the prior tax year under section 20 of the Act.

A company can now only set off its assessed loss balance against 80% of its taxable income in a year and is therefore liable to income tax on the remaining 20% (subject to certain exclusions). This limitation also applies to the taxable funds of a life insurer.

In the calculation of the taxable income of a taxable fund of a life insurer, the tax fund (such as the individual policyholder fund – “IPF”) is allowed to claim a deduction for the taxable transfer to the corporate fund (“CF”). This is generally referred to as the ‘T-transfer deduction’ and is calculated by way of the following formula:

Taxable transfer to the CF x 30% x Expense ratio for that fund

The Bill proposes an important amendment to section 29A whereby section 29A(11)(a)(iii) is amended to limit the amount of the T-transfer deduction to the taxable income of the tax fund, before:

- the T-transfer deduction;
- deducting a donation in terms of section 18A; or
- setting off a balance of assessed loss under section 20(1)(a)(i).

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The amendment will come into effect on date of promulgation of the Taxation Laws Amendment Act of 2025.

Prior to the assessed loss limitation change to section 20(1)(a), a life insurer could not claim a T-transfer deduction if a tax fund had an assessed loss. The sequence applied was first to calculate the taxable income for the year (after set-off of the assessed loss brought forward) and then to allow for the T-transfer deduction, if there was taxable income.

The legislation has, however, now been clarified that the T-transfer deduction should first be claimed to calculate the taxable income for the year, and then to allow for the set-off of the assessed loss balance brought forward.

Although the taxable income of the tax fund could therefore decrease as a result of the T-transfer deduction claimed, the effect of the amendment is that the tax fund is not allowed to claim the T-transfer deduction against the 20% of taxable income remaining after the assessed loss balance set-off.

Takeaway

The tax legislation is now clear that the T-transfer deduction should first be applied to calculate the taxable income of a tax fund for the year and then to allow for the set-off of the assessed loss balance. It is therefore important for taxpayers to consider the impact of the amendment on their tax filing positions.

From an accounting perspective, it is also recommended that insurers consider the impact of the amendment on the recognition principles of deferred tax assets on assessed loss balances as they may take longer to utilise in future.

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