



1. “SARS MAY HAVE SCORED A SPECTACULAR OWN GOAL”

Foreigners working in South Africa are guided by well-established Principles of International as well as South African Tax Laws.

It is within the context of this backdrop that this Article is framed.

The Tax Court in the Western Cape Division recently delivered a perplexing Judgement against a Foreigner working in South Africa.

The dispute before the Court was centered on the source of the TAXPAYER’s employment income.

The TAXPAYER contended that his source of income was where he physically rendered his employment services, whereas SARS maintained that the source of income was where the TAXPAYER concluded his employment agreement.

Consequently SARS demanded taxes on the TAXPAYER’s employment income based on SARS’s interpretation and version.

The Court agreed with SARS and ruled against a well-established legal principle thereby creating a Lacuna in Law.

The consequence of this Judgement is that inbound expatriates with foreign employers will be totally exempted from tax in SOUTH AFRICA.

SARS in its argument appears to have competed with its very own guide on the Taxation of Foreigners working in SOUTH AFRICA.

The paradox of this hollow victory is twofold:

1. Will SARS appeal its own win considering that foreign expatriates may now claim complete exemption from taxes?
2. Will SARS claim that it applied the law correctly and embrace future losses to the fiscal? Only time will tell

2. SARS SETS THE TONE

SARS together with the NPA have advanced an initiative to prosecute non-compliant TAXPAYERS for failing to submit returns.

A number of summonses were issued and TAXPAYERS facing Criminal Charges were forced to make Court appearances, SARS also upped the ante by naming and shaming deviant TAXPAYERS that were convicted and sentenced.

SARS Acting Commissioner is quoted as saying “We must grab hold of the issues of compliance, for the good of our Country”

SIMILARLY

The NPA should adopt the same stance and vigor against corruption, which will be equally good for our Country.

Not everyone has the Proverbial and Political “GET OUT OF JAIL FREE CARD”.

MORALITY UPHELD

Laws and Doctrines must be applied equally in order to build a Just Society.

The veil of ignorance must also be lifted and Government must Promote the Participation of the most vulnerable populations, especially children and young people, not only as beneficiaries but also as agents of social change.

People must be treated with dignity by virtue of being people, man as rational beings must be governed by rules of reason and only by rulers bearing virtue.

These are the natural principles that we are obliged to Honour.

TAYFIN ERASMIA

TAYFIN JOHANNESBURG

TAYFIN RUSTENBURG

TAYFIN CAPE TOWN
(Opening Soon)

For any comments or suggestions regarding this article or further editions please contact our offices at 014 592 3234 / management.rtg@taygro.co.za.

(Tayfin does not accept any responsibility for the accuracy of items published in the article. Professional advice should be obtained by all taxpayers.)

FORENSIC AND INVESTIGATIVE AUDITORS
LIQUIDATORS AND TRUSTEES
30 HEYSTEK STREET, RUSTENBURG, (TEL) 014 592 3234 (FAX) 086 601 1472

Tayfin
Insolvency
Practitioners



TAYFIN FORENSIC
PTY LTD

TAYFIN
Business Rescue
Practitioners



30 HEYSTEK STREET, RUSTENBURG, TEL (014) 592 3234/ 3237 /3022 FAX (086) 601 1472
internal@taygro.co.za ; management.rtg@taygro.co.za