



“Your Empowered Insight into the World of Tax, Business and Personal Finance Issues.”

“EMIGRATION AND EXPATS”

‘EMIGRATION’

The current landscape in South Africa has motivated many citizens to either seek foreign employment or emigrate to what can only be perceived as greener pastures.

Political uncertainty, violent crime, youth unemployment, affirmative employment policies, zero to low economic growth and a general lack of confidence are sufficient motivating factors for a rapid increase in emigration or foreign employment, hereinafter referred to as “Emigration“.

**SARS** has a Constitutional Mandate to collect revenue in order to keep the fiscal afloat and each potential emigration has a direct impact on its ability to maintain targets. Call to mind, it is **TAXPAYERS** and not social grant recipients that are emigrating.

In order to counter the scourge of Tax Rand migration, **SARS** in conjunction with the treasury enacted laws to extend its reach to these emigrants.

Our Tax Regime has always been residence based, meaning that the source of the income must accrue from a South African entity, barring worldwide passive income.

Emigrants must elect a “tax residence status” in a foreign jurisdiction in order to qualify as a non-resident for tax purposes.

An alternative strategy of an official migration is through the auspices of the South African Reserve Bank (**SARB**) which requires requisite documents to be completed and processed.

The date at which a taxpayer is recognized as a non-resident is also significant as it entitles **SARS** to levy Capital Gains Tax as the deeming provision would apply.

In the event that fixed property remains part of a permanent establishment then **SARS** will levy Capital Gains Tax on the date of the actual sale (timing difference) considering that the asset will rest in the South African tax net.

The difference is that **SARS** will levy a **7.5% Tax** on the full consideration in terms of the Withholding Tax provision, however **SARS** does allow for a directive provided valid reasons are perpetuated for this dispensation.

Any rental income earned on the resident asset, regardless of tax residency will still be taxed in South Africa, this is also subject to certain exclusions. If the host country is part of the **OECD** fraternity then double taxation rules may apply.

Emigrating Taxpayers must ensure that their tax numbers are deactivated to avoid future administrative penalties being levied.

‘EXPATS’

Contemporary legislation exempts S.A. Taxpayers working abroad from taxes if:

- 1) The source of income is from a foreign jurisdiction and the Taxpayer was out of S.A. for intermittent periods exceeding 183 days, or
- 2) The source of income was from a foreign source and the Taxpayer was out of S.A. for an uninterrupted and continuous period exceeding 60 days,

**SARS** as stated above enacted legislation to extend its reach on these categories of Taxpayers. Commencing the **1<sup>st</sup> March 2020**, taxes will be levied on S.A. citizens working abroad in low or zero personal tax regimes.

The first **R1 million** will be exempted and the residue will be taxed at marginal rates. This article does not address countries where **double taxation agreement** exists.

The ensuing result is that foreign employment no longer appears as a greener pasture or oasis but rather a mirage, especially when **SARS** is intent on creating a desert storm.

MORALITY UPHELD

Tax Collection is not in dispute, what remains contentious is accountability and the manner in which Tax Rands are spent. **SARS** cannot be held responsible for the latter as its mandate entails “collection “.

Office Bearers must realize that the oath of office is not an insignificant formality but a covenant with the Almighty and a social contract with the Citizens of our great nation. When politicians violate this sacred doctrine through (political graft) then ethics and human belief have no intrinsic worth beyond being tools of social and political propaganda.

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