



TAX IMPLICATIONS OF WORKING OVERSEAS

It is a common misconception that if a South African is living and working overseas they do not have to pay any South African income tax on their earnings.

Although some overseas income may be exempt in terms of the Income Tax Act it must be borne in mind that South African tax is levied on a residence basis. This means that South African residents are taxable on their worldwide income whilst non-residents are only liable for tax on income that is from a South African source. The resident status of a person is therefore an important factor in determining their taxable income and resultant South African tax liability.

This is according to Jeremy Burman of Private Client Financial Services, a division of Private Client Holdings, who explains that an individual will be treated as a resident for tax purposes if he or she is either ordinarily resident in South Africa, or meets the criteria of the physical presence test.

“The ordinarily resident test is a subjective test that takes into consideration various factors such as the location of the individual’s property, family, social and work connections etc. in order to establish the country which would be most accurately described as the individual’s real home. The physical presence test is an objective test that looks solely at the number of days spent in South Africa during the current and previous five years of assessment. A person will be treated as a resident of South Africa when he meets all of the following criteria regarding days spent in South Africa:

- 91 days in total during the current year of assessment; and
- 91 days in total during each of the previous five years of assessment; and
- 915 or more days during the previous five years of assessment

When is income exempt from South African tax?

“Foreign income earned by a tax resident will only be exempt from South African tax where it meets the criteria of S10(1)(o) of the Income Tax Act,” says Burman. “Part (i) of this section exempts income earned by a person who works as a crew member or officer of a ship which is engaged in the transport of passengers overseas or in the prospecting, exploration or mining for any minerals from the seabed outside of South Africa. This exemption will only apply where the person was outside of SA for a total of more than 183 full days during the tax year.”

“Part (ii) of this section exempts any salary income earned by a person for foreign services rendered outside of South Africa on behalf of an employer if that person was outside of South Africa for more than 183 full days (including a continuous period of more than 60 days) during any 12 month period that started or ended during the year of assessment. This exemption does not apply to contracting income which would be fully taxable. Where income is not exempt the taxpayer may still be allowed some relief in the form of *S6quat* of the Income Tax Act which provides for a tax rebate in respect of foreign taxes paid, if any, on this income (subject to certain limitations).”

Burman explains that National Treasury has had its eye on this section since 2017 with the initial aim being to repeal this fully. The main reason provided for this proposed amendment was to curb situations of double non-taxation of foreign remuneration such as when an individual’s employment income was not being taxed in either South Africa or the foreign country.

R1 million exemption

“The current proposals by National Treasury have softened slightly after representations by interested parties to rather include an upper limit to the exemption afforded by S10(1)(o)(ii) of R1 million of foreign earnings per year. The expected implementation date of this amendment is 1 March 2020. Therefore, from this date, the first million earned by a person who meets the criteria of this section will be exempt and any income earned above this will be taxed at the sliding tax tables applicable to individuals. The individual will also be entitled to reduce his resultant SA tax liability by offsetting some or all of his foreign tax paid.”

While many SA residents have considered leaving the country to escape the SA tax net, Burman says that it is important to remember that for a person who formally emigrates or ceases to be a tax resident there may be significant capital gains tax implications. The person will be deemed to have disposed of all his assets, with the exception of immovable property situated in South Africa, at market value on the date that he ceased to be a resident and will be liable for tax on the resultant capital gain.

“Regardless of whether you are considering a permanent or temporary move outside of SA to pursue overseas work opportunities it is worth discussing the resultant tax obligations and potential liabilities with your tax consultant. These factors can then be included in to your decision making process and help you avoid any nasty surprises from SARS in future years in the form of unpaid tax liabilities and the resultant interest and penalties,” concludes Burman.

For more information contact Jeremy Burman, a director of Private Client Financial the specialist tax and financial services division of Private Client Holdings, on (021) 671 1220.

Ends

Disclaimer

PRIVATE CLIENT HOLDINGS IS AN AUTHORISED FINANCIAL SERVICES PROVIDER (LICENSE #613)

Private Client Holdings has taken care to ensure that all the information provided herein is true and accurate. Private Client Holdings will therefore not be held responsible for any inaccuracies in the information herein. The above press release does not constitute advice and the reader should contact the author for any related concerns. Private Client Holdings shall not be responsible and disclaims all loss, liability or expense of any nature whatsoever which may be attributable (directly, indirectly or consequentially) to the use of the information provided.