

EMIGRATION GUIDELINES

SARS EMIGRATION PROCESS (TAX EMIGRATION)

OVERVIEW

The concept of financial emigration as recognized by the South African Reserve Bank, Financial Surveillance Department was phased out as of the 1st of March 2021.

All new emigration related applications from March 2021 onwards are now processed by SARS based on a new dispensation of confirming that the taxpayer has ceased to be a resident for tax purposes.

A Tax Compliance Request (TCR01) application for emigration purposes will need to be submitted to SARS should you wish to tax emigrate from South Africa and cease your tax residency status.

Once the SARS process has been completed you will be regarded as a South African Non-Tax Resident (SA NTR) by SARB and SARS, and you may remit funds offshore, via your local Banker of choice. Please seek guidance from a Tax consultant or visit the SARS website for assistance with the TCR01 process.

From a Financial Surveillance (Exchange Control) point of view a local bank may transfer assets offshore provided the individual:

- a) Has ceased to be a resident for tax purposes in South Africa
- b) Has obtained a TCS in respect of 'emigration' from SARS
- c) Is tax compliant upon verification of the TCS by your Bank

Any requests to transfer remaining SA assets will be subject to receipt by the Bank of a TCS in respect of 'Foreign Investment Allowance' issued by SARS, irrespective of date of emigration, i.e. prior or after 1 March 2021. It follows therefore, that this requirement would apply to a past emigrant who historically formalised the process via SA Reserve Bank from an Exchange Control perspective, as opposed to a SARS perspective and now wishes to transfer further capital from South Africa.

FACILITIES/ALLOWANCES FOR WHICH SOUTH AFRICAN NON-TAX RESIDENTS (SA NTR) QUALIFY

<p>R 1 Million Allowance</p>	<p>A SA NTR may remit up to R 1 000 000 in the year that they cease tax residency. This allowance cannot be utilized in subsequent years and must be used solely as a travel allowance or settling allowance and not for Investment purposes. A TCS PIN Letter is not required to support payment of this particular allowance.</p>
<p>R 10 Million Foreign Capital Allowance</p>	<p>A private individual who has ceased tax residency (SA NTR) in South Africa and is 18 years and older may remit up to R10 000 000 per calendar year, subject to a valid Emigration TCS Pin or Foreign investment allowance Pin Letter issued by SARS. i.e. must be tax compliant.</p> <p>An SA NTR may also make application to the SARB to remit an amount, in excess of the R10 million Foreign Capital Allowance, subject to receipt by your Bank of a valid and relevant TCS Pin Letter issued by SARS. Arrangements surrounding these transfers are subject to a stringent verification process by SARS and a 'Risk Management' test, to inter alia verify tax status and source of funds.</p>

Step 1 | SARS TCR01 Application on E-Filing

The TCR01 emigration application needs to be initiated by yourself or a tax advisor on the SARS E-Filing website.

1. Login to your SARS e-Filing profile
2. Go to "My Compliance Profile"
3. Select the Tax Compliance Status Request option
4. Select the type of TCS for which you would like to apply. Typically, TCS 'Emigration'
5. Complete the Tax Compliance Status Request for Emigration and submit it to SARS.

Please note that you will be required to submit documentary evidence in support of the contents of the TCR01 application, as well as a three-year assets and liabilities statement.

It is advisable to contact a tax consultant or SARS should you have any queries or experience any issue relating to the TCR01 application.

Notes

- Please include your spouse in the SARS application if you are emigrating as a family unit.
- Please note that the TCR01 process does not cater for minors who left with their parents. The TCS Pin in respect of emigration for the parents will be sufficient to convert the residency status of the minors to Non-Resident provided that: the individual was a minor at the time of departure and was never registered on SARS database
- The TCS Pin will only be issued by SARS if all tax obligations have been met and there are no outstanding debts.
- Please ensure that your tax affairs are always up to date.

Step 2 – Submit the Emigration TCS Pin to an Authorised Dealer (Bank)

An Emigration TCS Pin letter will be issued by SARS once the TCR01 application has been approved.

Please send a copy of the TCS Pin letter to your Bank and all other Banks that you may have a relationship with.

Please also provide the exact copy of the assets and liabilities statement that was submitted with the SARS application. The TCS Pin and the assets and liabilities statement should be identical.

In due course, the local Bank will need to separate capital and income into different Bank Accounts, and therefore a capital account and an income account will normally be opened to separate these funds.

- A Capital Account is an account opened for any sale proceeds derived from any remaining assets in South Africa for example, surrendering a Retirement annuity or selling a property.
- An Income Account is an account opened for the deposit of income related funds, for example, interest or dividend payments.

It is important to recognise that there are some Regulatory restrictions on the transfer of 'lump sum' benefits from the likes of pension, preservation, provident preservation and retirement annuity funds, whenever a South African resident ceases to be resident for tax purposes. Please note that these 'lump sum' benefits will only become available for payment, should the individual member have remained non-tax resident for at least three consecutive years.

It is also useful to note that private individuals who cease to be residents for tax purposes and who are no longer active on the SARS database and receive an inheritance or benefit from a Life Insurance Policy pay-out, need not apply to SARS for a TCS letter, assuming the amounts in question are less than R10Million.

Financial Surveillance (Exchange Control) principles allow for the ongoing transfer of current income, legitimately accruing to both Non-Residents and individuals who cease to be resident for tax purposes, provided the transfer request is supported by straightforward documents confirming the nature and origin of the payment and proving that the individual is actually entitled to the funds. For example, these types of transfers can take the form of dividends from quoted/non quoted companies, interest, directors fees, rentals, regular pension or annuity payments, income from trusts, etc

Transfers of income from a trust created in terms of a Last Will and Testament (Will Trust) are permitted provided the remitting bank is provided with adequate proof that the beneficiary is entitled to the distribution, e.g. a Liquidation and Distribution Account and Last Will and Testament.

Transfers of income from Inter Vivos Trusts are similarly permitted, to beneficiaries permanently resident offshore, provided the request for transfer is supported by the likes of a Trustees resolution, latest Financial Statements of the trust and confirmation that the distribution does not contain any capital element.

In the case of income transfers from any form of Trust the remitting Bank needs to receive a SARS TCS 'in respect of good standing' once a year in respect of transfers not exceeding R10million per annum, or a SARS TCS 'Foreign Investment Allowance' in respect of income transfers in excess of R10Million per annum. It is also our understanding that your Banker will require to view a SARS TCS 'in good standing' on an annual basis, to support all transfers generally defined as income. The purpose of this TCS Letter is to confirm that your tax affairs are in order.

South African residents, who have been living abroad, but have not officially ceased their tax residency status with SARS, are considered as 'SA Residents Temporarily Abroad' for Financial Surveillance (SARB) and SARS purposes. It follows that their banking affairs in South Africa will continue

to be conducted as if resident. In the circumstance those parties who are designated as such may continue to benefit from the annual transfer of the R1Million Single Discretionary Allowance (SDA) and the R10Million Foreign Investment Allowance (FIA), the latter being subject to the issue of a SARS TCS PIN Letter to the relevant taxpayer.

“South African Residents Temporarily Abroad can use their local debit or credit cards offshore, but only within the R1Million SDA limit.”

South African Residents Temporarily Abroad can use their local debit or credit cards offshore, but only within the R1Million SDA limit. They may also receive regular pension and retirement annuity payments, as well as gifts and loans, but they are not entitled to any other foreign currency transfers from South Africa, without obtaining formal approval from SA Reserve Bank Financial Surveillance Department.

Changing residential status to that of someone who ceases to be a tax resident of South Africa, does not disenfranchise a person from their South African 'roots', but merely revises residency status, so that going forward, the individual can be treated as a non-resident, for cross border currency transacting purposes.



Unless they are made aware of the circumstances, the Regulatory Authorities (SARS and SA Reserve Bank) will naturally continue to assume that an individual or family unit are still South African Resident, albeit currently temporarily abroad, bringing with it limitations on accessing funds from South Africa.

However, there may be assets in South Africa, which earn useful amounts of income, payable on a regular basis, e.g. rental on a property, or dividends from quoted or unquoted shares. Whilst it might be

preferred not to liquidate the assets, regular income payments overseas, might be required.

Unfortunately, until arrangements are made to revise residential status, regular income receipts, from a variety of local sources, would not be automatically transferable offshore, whilst still being defined as a South African Resident Temporarily Abroad.

Should such parties decide to alter their residential status and 'cease being tax residents of South Africa' they will need to make contact with SARS and follow the guidance provided and summarised in this 'Hand-Out'.

Contact BeztForex

Please contact the Team at [BeztForex](#) for Financial Surveillance (Exchange Control) related advice and assistance with your foreign currency needs.