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IN THIS ISSUE

South Africans now have more flexibility to invest offshore, but tax, compliance, and structuring risks remain.

Careful planning and expert advice are essential to avoid unintended tax consequences and ensure efficient wealth transfer.

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EXTERNALISING CAPITAL: THE EVOLVING FRAMEWORK FOR OFFSHORE INVESTMENT BY SA RESIDENTS

KIM DOOLAN | TAX PRACTITIONER, BRENTHURST VAL DE VIE, PAARL

South Africans now have greater flexibility to move money offshore.

The 2026 Budget doubled the Single Discretionary Allowance (SDA) from R1 million to R2 million per adult per calendar year and the increase is now legally in effect. Married couples can, therefore, transfer up to R4 million annually without needing a SARS AIT PIN letter. This marks the most significant SDA increase in years, offering families enhanced options for diversification, flexibility and swift execution.

ALLOWANCES AVAILABLE TO SOUTH AFRICAN RESIDENTS

An individual South African tax resident can externalise the following amounts per calendar year:

- **Single Discretionary Allowance (SDA)** of R2 million per calendar year, without a SARS AIT PIN.
- **Foreign Investment Allowance (FIA)** of R10 million per calendar year, subject to SARS AIT PIN.
- **Special approval applications for transfers above R12 million are possible.** This process involves rigorous scrutiny by both the South African Reserve Bank (SARB) and SARS.

THE HIDDEN RISKS IN SEEMINGLY STRAIGHTFORWARD OFFSHORE TRANSFERS

Greater flexibility does not mean fewer rules. Authorised dealers remain responsible for verifying source of funds, the legitimacy of the transfer and compliance, with applicable exchange control and tax requirements. How the money is held, when it is moved and what tax consequences may follow also remain important considerations.

Without a considered structure in place, offshore assets can introduce significant estate planning complexity. On death, directly held offshore investments may be subject to foreign probate rules, potential situs (inheritance) taxes and delays in the efficient transfer of assets to beneficiaries.

South African tax residents are taxed on their worldwide income. Foreign income from offshore investments must be correctly declared and taxed in South Africa where applicable. Failure to correctly account for foreign income can result in significant and often unexpected tax liabilities.

Funding an offshore transfer can also trigger South African tax consequences. Depending on the source and structure, the transaction may give rise to capital gains tax, donations tax, dividends tax, or have other tax implications. Care is, therefore, needed before externalising funds, especially where assets are first sold or transferred.

Timing and execution are critical. The exchange rate used on the day the instruction is processed can differ from the rate when the funds are finally transferred. This difference can be material on larger transfers.

It is important to note that transfers made across multiple institutions are aggregated for purposes of the annual allowance. In practice, everyday transactions such as card spend abroad, online foreign currency purchases and smaller remittances, all utilise the same annual capacity. As a result, individuals may inadvertently exceed their allowance across different institutions within a single year, leading to transfers being halted pending the necessary approval, and creating avoidable delays.

Transfers that require SARS AIT clearance involve a detailed supporting documentation process. This includes the submission of recent bank statements (not older than 14 days), evidence relevant to the specific source and movement of funds, as well as a comprehensive statement of local and foreign assets and liabilities covering the preceding three years.

SOUTH AFRICAN TRUST TO NON-RESIDENT TRUST DISTRIBUTIONS

A notable development within the evolving offshore investment framework is the ability for South African trusts to externalise directly through distributions to non-resident trusts, unrestricted by the R12 million per person limit applicable to individuals. This removes the need for individual beneficiaries to utilise their SDA or FIA to capitalise offshore structures, preserving these allowances for personal use.

Where appropriately structured, these distributions can also mitigate several adverse tax consequences typically associated with funding foreign trusts, including the attribution rules under section 7, the anti-avoidance provisions of sections 7C and 31 of the Income Tax Act, as well as potential donations tax and estate duty exposure.

It is, however, important to note that these transactions remain subject to regulatory oversight. The South African trust is required to obtain a manual letter of approval from SARS, followed by SARB, and must ensure that all tax obligations arising from the distribution are or can be settled by the South African trust. From a governance perspective, the non-resident trust must be included in the resident trust's trust deed, and the trust deed must allow for distributions to a non-resident beneficiary.

CHOOSING THE RIGHT STRUCTURE AND INVESTMENT OPPORTUNITIES

The increase in offshore allowances is a welcome development and creates real planning opportunities. However, it does not simplify the landscape. Offshore investing and compliance have been a cornerstone of the Brenthurst Wealth strategy for many years. Before moving funds offshore, it's important to consult with a qualified financial adviser.

KIM DOOLAN | TAX PRACTITIONER, BRENTHURST VAL DE VIE, PAARL



Kim Doolan has recently joined Brenthurst Wealth as internal tax practitioner in the Val de Vie Office.

With a proven track record of success in both public and private sector, which includes eight years at the South African Revenue Service, she has experience in ensuring compliance across all tax types as well as mitigating risks associated with tax obligations.

Kim obtained her Master of Commerce in Taxation from Rhodes University and is currently studying to achieve a Professional Certificate in Principles of International Taxation.

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