

Monday, 06 January 2020

**WHAT TO DO?**

**UAE TAX EMIGRATION SUMMARY JANUARY 2020**

**your ref:** #Tax2020Truth

**our ref:** UAE Tax Exit Summary.docx



General guidelines for South African Expats (#Saffas) or #Wegkaner – not employed by SA employer

There is great confusion as the solutions, products and tax process to be followed by Saffas residing **AND** working in the UAE (in possession of an Emirates ID card)

Foreign Earned Income refers to income from employment only, as defined in ITA section 10(1)(o)(ii)

**Action points**

1. If you claimed past exemption based on 183/+60-day rule you are tax resident for SARS purpose
  - 1.1. May be incorrect, but you opted to file in terms of tax resident rules
  - 1.2. You need to change your tax residency status based on treaty rules
2. STOP listening to ordinarily resident test, SARS days count rule of 330 days or 183 days in
  - 2.1. They just not relevant in terms of the UAE/RSA treaty
    - 2.1.1. Acquaint yourself with UAE/SA tax treaty DTA;
      - 2.1.1.1. UAE Minister of Finance Tax Domicile rules
    - 2.2. SARS publicly stated DTA is stronger than local laws
3. Read SARS draft guidelines
  - 3.1. Financial Emigration is not the silver bullet it was made out to be
  - 3.2. Read the FAQ document and consider Q&A 21 added 22 October 2019
    - 3.2.1. You may legally backdate tax exit through VDP process
    - 3.2.2. <https://www.sars.gov.za/ClientSegments/Individuals/Tax-Stages/Pages/Foreign-Employment-Income-Exemption.aspx>
  - 3.3. SARS publicly stated on this link

## **UAE Guidelines 2020**

- 3.3.1. An individual who is deemed to be exclusively a resident of another country for purposes of a tax treaty is excluded from the definition of “resident”. It follows that while an individual may qualify as a resident under the ordinarily resident or physical presence tests, that individual will not be regarded as a resident for South African tax purposes if that person is a resident of another country when applying a tax treaty.
- 3.3.2. Acquiring approval from the South African Reserve Bank to emigrate from a financial perspective is not connected to an individual’s tax residence. Financial emigration is merely one factor that may be taken into account to determine whether or not an individual broke his or her tax residence. An individual’s tax residence is not automatically broken when he or she financially emigrates
4. Verify your tax status with SARS and ensure you registered as a provisional taxpayer
  - 4.1. Employed by non-SA company or employer without SARS PAYE number = ProvTax
  - 4.2. Call SARS on +27 12 317 2000 with your SA ID number in hand
5. Decide on your tax emigration or tax exit date
  - 5.1. Exit tax due the day before you became solely tax resident in the UAE
  - 5.2. Obtain best possible and reliable tax advise
    - 5.2.1. Ask someone who has been doing this since 1994, who was around in 2001 when tax laws in SA changed
6. Obtain UAE Minister of Finance confirmation of tax domicile state (TDC) in the UAE
  - 6.1. Align with treaty, your own arrival date and income confirmation from UAE employer
  - 6.2. DTA does not insist on it but spend the AED 2 200. Money well spent
7. File your current and arrear provisional tax returns with SARS – IRP6 – your deemed liable, no question about this
  - 7.1. 31 August 2019 return is overdue
  - 7.2. Last business day of February 2020
    - 7.2.1. Exit tax if applicable and normal tax on other taxable income
  - 7.3. Last business day of August 2020 – see more below in timeline section
    - 7.3.1. First #ExpatTax2020 payment date – you must pay in advance
      - 7.3.1.1. No ProvTax if annual foreign earned income including fringe benefits < R2m
      - 7.3.1.2. No ProvTax if YTD foreign earned income below R1m
8. Tax resident: Determine your taxable income applying SA tax rules i.e. value the UAE benefits using SA tax rules in ITA, Schedules 4 and 7 to said ITA. Ignore R1m deduction for now
  - 8.1. Add other deemed income such as capital gains, trust distributions and excluded local SA dividend income.
  - 8.2. One done, apportion R1m amongst foreign earned income (cash vs fringe benefits)
    - 8.2.1. See SARS draft guidelines, very technical at this stage
9. Tax non-resident – no need to follow 8 above

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*All services provided in terms of South African law & arbitration rules, providing a SA perspective, despite the client, the service providers and or the intermediary residing in another tax jurisdiction.*

## **UAE Guidelines 2020**

### **Timelines**

#### **10. 31 January 2020**

- 10.1. Provisional taxpayers tax filing deadline via eFile
  - 10.1.1. Tax resident working for employer without SARS PAYE number- deemed ProvTax payer
  - 10.1.2. All non-residents with SA source i.e. SA rental income

#### **11. 1 February 2020**

- 11.1. If not yet tax emigrated or failed to notify SARS for 2019 or earlier year:
  - 11.1.1. Obtain UAE tax domicile certificate (TDC) and entry and exit report

#### **12. 28 February 2020** (last business day in South Africa)

- 12.1. Pay provisional tax
  - 12.1.1. Tax residents: on worldwide income; or
  - 12.1.2. Tax non-residents: only on SA sourced income **28 February 2020** (last business day in SA)
    - 12.1.2.1. Tax emigrated in the last 12 months: Include CGT in unrealized gains

#### **13. 29 February 2020** Last day of SARS tax year 2019/20

- 13.1. Full exemption foreign earned income comes to an end
  - 13.1.1. Based on either treaty rules or unilateral 183/+60-day rule

#### **14. 1 March 2020** – first day SARS tax year 2020/21

- 14.1.1. The new capped foreign earned income exemption applies as of 1 March 2020, hence #Tax2020
  - 14.1.1.1. SARS tax year ending last day of February 2021

#### **15. 1 July 2020**

- 15.1. Feb 2020 tax filing season should commence
  - 15.1.1. Make sure you obtained TDC

#### **16. 31 August 2020**

- 16.1. First provisional tax payment date for residents and non-residents
  - 16.1.1. Non-residents on SA sourced income only, based on last assessment or actual half annual income based on YTD income
  - 16.1.2. Residents: Earned income YTD <R1m = nil return unless there is SA sourced income
    - 16.1.2.1. Earned income YTD > R1m, pay on excess above R1m
      - 16.1.2.1.1. Aug & Feb ProvTax **NO** longer equal in value
      - 16.1.2.1.2. R1m exemption claimed immediately not apportioned over 12 months
    - 16.1.2.2. Earned income 2021 tax year > R2m, divide by half, deduct R1m and pay on one half to the extent it exceeds R1m

#### **17. 30 September 2020**

- 17.1. Voluntary top-up third ProvTax
  - 17.1.1. If you tax emigrated during Feb 2019/20 tax year (before 29 Feb 2020), ensure you paid adequate exit tax

**Issued on January 6<sup>th</sup> 2020 by**

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### **Disclaimer:**

Do not read this document in isolation. Ensure you have familiarised yourself with the official SARS pages, publications and comprehensive guides

Speak to a tax adviser with adequate tax experience not interest in selling “financial emigration” as a product. [Find a tax act solution that](#) works and stood the test of time

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Online diary:

<https://calendly.com/taxforum/dubaijan2020?back=1&month=2020-01>

*Cape Town / South Africa  
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[Online dairy 15- 23 January 2020 \(21 January Abu Dhabi\)](#)

[www.calendly.com/taxforum](http://www.calendly.com/taxforum)

