



SARS additional disclosure requirements for tax clearance in respect of transferring funds abroad.

PKF

SARS has introduced an enhanced compliance system change in relation to the current tax clearance status (TCS) required for the transfer of funds by a taxpayer intending to make use of their foreign investment allowance (FIA) of up to R10 million per calendar year. It has been noted the effective date of this change is **24 April 2023**.

The enhanced changes to the TCS system require additional information on the approval of an International Transfer (AIT) Application, to aid SARS in ensuring that all required tax payable has been duly reported by the taxpayer. It is further noted that this would only apply for amounts in excess of R1 million. No TCS is required for transfers up to R1million per calendar year.

SUPPORTING DOCUMENTS REQUIRED FOR TAX RESIDENTS AND NON-TAX RESIDENT APPLICATIONS

When making an application for foreign investment allowance for individual taxpayers, the following supporting documents must be submitted:

- Evidentiary documentation for the **source of the capital** to be invested (as per each source criteria).
- Statement of assets and liabilities for the previous 3 tax years (including disclosure of all investments; loan accounts; distributions from **local and foreign** companies and trusts).
- Power of Attorney is required when the TCS application is submitted on behalf of the individual taxpayer.

NON-RESIDENT APPLICATIONS

In addition to the abovementioned supporting documentation the following is required:

- Proof that the individual taxpayer ceased to be tax resident in South Africa, including the date of tax residency cessation.
- Capital Gains Tax (CGT) Calculation schedule, as determined at the time of ceasing of residency noting that the ceasing of tax residency gives rise to a deemed disposal of an individual's **world-wide assets** which may result in CGT.

Where the non-resident application is for a family unit and one or more of the members thereof are registered for tax purposes in South Africa, then said members of the family unit must make a separate application to be issued a TCS Pin.

In respect of withdrawals from retirement funds, where a South African tax resident ceases residency, payment of said benefit shall only be allowed where the individual remained non-tax resident for at the least 3 un-interrupted consecutive years.

SUPPORTING DOCUMENTS PER SOURCE CRITERIA

As discussed above the below evidentiary documentation is required to demonstrate the source of the funds. SARS have issued a comprehensive list of the evidentiary documents that are required per category depending on the source of income.

1. DISTRIBUTIONS FROM A TRUST

- Copy of trust deed;
- Trustees' resolution for distribution;
- Details of source of funds distributed by the Trust;
- Previous month's Bank Statement, from the date of TCS application, of the taxpayer reflecting the distribution from the Trust;
- Previous month's Bank Statement, from the date of TCS application, of the trust;
- Previous month's portfolio statement of trust from the date of TCS application, inclusive of the number of shares and current market value; and
- Latest Trust Financials.

2. DONATIONS

- A declaration of the donation (IT144);
- Previous month's Bank Statement, from the date of TCS application, of the donor reflecting the donation paid;
- Previous month's Bank Statement, from the date of TCS application, of the donee reflecting the donation received; and
- Proof (copy of the receipt) of donations tax paid (not applicable to donation between spouses).

3. EARNINGS

- Where a taxpayer has recurring foreign investments not exceeding R30 000 per annum a copy of a salary slip is needed once a year; and
- The policy number noting that the institution (e.g. Sanlam / Old Mutual) will apply on behalf of the taxpayer.

4. INCOME FROM COMPANIES, LOCAL OR FOREIGN, WHERE TAXPAYER HOLDS DIRECT OR INDIRECT BENEFICIAL INTEREST

- The nature of relationship with the entity;
- Proof of amounts/distribution received from such entities;
- For an owner of any business, the company group structure, profile, and other group investments; and
- If a director of company or member of a Close Corporation is a shareholder, a share holder's agreement and share incentive scheme agreement.

5. INHERITANCE

- A copy of the Final Liquidation & Distribution account stamped and signed by the Master of the High Court; and
- Bank statement issued on the date of the TCS application, reflecting the inheritance received.

6. INVESTMENT INCOME- LOCAL & FOREIGN

- Schedules of the interest / dividends received indicating the source and amount of interest / dividends.

7. LOAN

BETWEEN INDIVIDUALS:

- The signed and complete loan agreement.
- Bank Statement of the lender, showing the loan amount, not older than a month.
- Details of the source of capital of the lender.
- Bank statement of the borrower issued on the date of the TCS application, showing the loan amount.

BETWEEN TRUST AND TRUSTEE OR BENEFICIARY:

- The signed and complete loan agreement.
- Bank statement of trustee or beneficiary issued on the date of the TCS application, showing the loan amount.
- Latest Trust Financials.
- Bank statement of the Trust showing, the loan amount, not older than a month; or
- Trust's latest share portfolio statement (not older than a month), this statement will include the number of shares and current market value.

BETWEEN COMPANY AND DIRECTOR OR EMPLOYEE:

- The signed and complete loan agreement.
- Bank statement of the borrower issued on the date of the TCS application, showing the loan amount.
- Company's latest annual financial statements.

8. OTHER

- Documentary proof and explanation.

9. ROYALTY INCOME

- Source of royalty income; and
- Proof of royalty payment.

10. SALE OF CRYPTO ASSETS

- Trading account statement reflecting the trade of the crypto asset;
- Bank statement, issued on date of the TCS application, reflecting the amount available for transfer; and
- Bank statement, not older than 3 (three) months.

11. SALE OF PROPERTY

- Original letter of the conveyancers to confirm the transfer of the property and that the money will be transferred from the trust account; or
- Proof of receipt of the proceeds in the applicant's bank statement not older than a month;
- Where the property was jointly owned, the proceeds of the sale to be clearly split as per source document; and
- Capital Gains Tax calculation on the sale of property.

12. SALE OF SHARES & OTHER SECURITIES

- Capital Gains Tax calculation on the disposal of the shares;
 - Portfolio statement reflecting the sale of shares, not older than a month. This statement will also include the number of shares and current market value.
- It is added not to insist that the taxpayer transfer shares, investments, unit trusts, fixed deposits over to a savings account.

13. SAVINGS/CASH

- Bank statement issued on the date of the TCS application, reflecting the cash/savings value;
 - Supporting documents that demonstrate and/or prove where the cash/savings originated from.
- It is advised that should the taxpayer claim that the source of the funds to be invested is annual income / salary, then the administrator must review the past three year's taxable income on the Income Tax System to ascertain the reasonableness of the statement.

14. TRANSFER OF LISTED SECURITIES

- Details of the locally listed securities that the Taxpayer will be transferring to an exchange that is outside South Africa.
- Capital Gains Tax calculation on the transfer of the shares.

CONCLUSION

These changes identified above have placed a significant and higher burden of proof on the taxpayer intending to invest funds abroad whilst obtaining the TCS. This is imperative for the transfer of funds out of the country for which approval is also required from the South African Reserve Bank (SARB). It is therefore critical that the TCS application is formulated correctly to ensure compliance with the required supporting documentation.

Please note that this article does not constitute professional advice and the reader should seek professional advice to understand the complexities and procedural requirements of reporting TCS. Should you require assistance, please contact your nearest PKF office.