

Foreign employment income-tax exemption

By Lize de la Harpe, Legal Adviser

Introduction

In a previous article I explained the *intended* changes to the foreign employment income-tax exemption as proposed by the (then) Draft Taxation Laws Amendment Bill of 2017.

The said exemption has since been *formally* amended by the Taxation Laws Amendment Act No. 17 of 2017. Let's look at the impact of these changes.

Current position

Section 10(1)(o)(ii) of the Income Tax Act No. 58 of 1962 regulates the foreign employment income-tax exemption.

Currently, the exemption states that if a South African resident works in a foreign country for more than 183 full calendar days during any 12 month period, the foreign employment income earned will be exempt from tax if it meets certain conditions. This exemption is for employees of private sector companies.

The previous proposal

The Draft Taxations Laws Amendment Bill as published for comment in July 2017 surprised everyone by suggesting that the foreign employment income tax exemption be repealed in its entirety – which would've meant that South African tax residents would be subject to tax on all employment income earned from services rendered abroad.

The final change

The Taxations Laws Amendment Act No. 17 of 2017 has amended section 10(1)(o)(ii) so as to “cap” the exemption at R1 million – it now reads as follows:

“10. Exemptions.—(1) There shall be exempt from normal tax— ...

...

(o) any form of remuneration—

(i)

(ii) to the extent to which that remuneration does not exceed one million Rand in respect of a year of assessment and is received by or accrues to any employee during any year of assessment by way of any salary, leave pay, wage, overtime pay, bonus, gratuity, commission, fee, emolument or allowance, including any amount referred to in paragraph (i) of the definition of gross income in section 1 or an amount referred to in section 8, 8B or 8C, in respect of services rendered outside the Republic by that employee for or on behalf of any employer, if that employee was outside the Republic—

(aa) for a period or periods exceeding 183 full days in aggregate during any period of 12 months; and

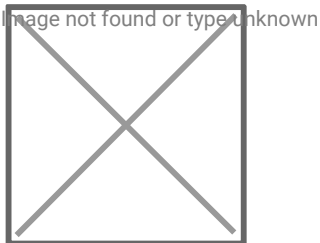
(bb) for a continuous period exceeding 60 full days during that period of 12 months, and those services were rendered during that period or periods: Provided that— “

In a nutshell, only the first R1 million of remuneration earned abroad will be exempt from normal tax.

Conclusion

It's worth bearing in mind that the above change will only impact South African tax residents working abroad. Clients who are already non-residents for tax purposes will remain unaffected.

The new “limited” exemption will come into effect on 1 March 2020 and apply in respect of years of assessment commencing on or after that date.



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Lize de la Harpe obtained an LLB degree in 2005 from the University of Stellenbosch, whereafter she completed her articles and was admitted as an attorney in the Cape High Court. During 2008 she completed a Postgraduate Diploma in Financial Planning (CFP) from the University of the Free State. Lize joined Glacier in June 2012 as the legal adviser and principal officer. Prior to joining Glacier, she worked as legal counsel in the investment cluster at Momentum for four years.

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