

Exchange control changes positive for investors

In the 2022 Budget Speech, the Minister of Finance announced some significant changes to exchange control, which are positive for investors.

These changes are effective 23 February 2022.

Capital transfers above ZAR 10 million can now be placed into an offshore trust

A South African resident wanting to invest more than ZAR 10 million offshore per calendar year via a special tax clearance, can now, on application to the Financial Surveillance Department, invest via a foreign domiciled and registered trust. Previously, these funds over ZAR 10 million could not be placed into an offshore trust.

However, all SARS requirements are still in place, i.e. the investor's tax affairs need to be in order. The necessary approvals must be obtained for the investment and annual reporting to the South African Reserve Bank (SARB) is required.

Retention of foreign gifts and other authorised foreign assets abroad (Keeping money already offshore)

The three key changes outlined below pertain to foreign assets that investors became entitled to, on or after 23 February 2022.

1. Funds received from a non-resident source can be kept offshore without declaration to an authorised dealer. For example, if an investor were to inherit money from a non-resident source, they are now able to retain that money offshore and don't need to declare it to the Reserve Bank. Previously, South African resident individuals were able to receive gifts from non-residents, however, SARB approval was required to retain those gifts offshore.
2. Authorised foreign assets inherited from a South African estate can be kept offshore without declaration to an authorised dealer, subject to local tax disclosure and compliance. The foreign assets can remain offshore without having to be declared via the Authorised Dealer to the Financial Surveillance Department of the SARB. Previously, declaration was a

requirement. Any contravention before this date must still be regularised with the Financial Surveillance Department.

3. Residents with authorised foreign assets can lend and/or dispose of such authorised foreign assets to other South African residents subject to local tax disclosure and compliance by both parties. For example, if a wife has authorised money offshore, she can also donate these funds to her husband, in an offshore vehicle. Please note, tax considerations regarding donations still apply.

All unauthorised assets or assets that accrued before 23 February 2022 must still be regularised by application via the Authorised Dealer submitted to the Financial Surveillance Department.

We will communicate more around internal processes in due course. For any queries, please speak to your Glacier International representative.

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