Tax considerations when investing offshore

30 May 2022 | Diane Seccombe, Head of Taxation at Mazars Academy

There are a number of issues to take into account when investing directly offshore. Below, we consider come of these.

Foreign interest - If an investor uses their annual R11m offshore allowance to invest directly offshore and receives returns on an annual basis, either due to the returns accruing to them or due to repatriation of the income, there will be certain tax issues. For tax purposes, the types of returns are simple. If an investor is earning foreign interest, remember that there is no part of foreign interest that is exempt for tax purposes. Exemptions apply to local interest only.

Fixed property - If an individual has acquired fixed property outside of SA which they rent out, the rental income will be regarded as a trade. In this instance it will be a foreign trade as the property is outside of SA. If it is owned in the individual's own name, the rental income will need to be dealt with as part of the individual's tax return. The rental trade may well be in a loss situation for a certain length of time. If this is the case, it's important to note that a loss from a foreign trade cannot be set off against any SA taxable income. The loss will be ringfenced and kept aside to be set off against any income made from that foreign trade.

Crypto assets – If an individual owns crypto assets, it's likely that SARS will regard that crypto as stock and not as an investment asset. If the individual buys and sells and regards themselves as a trader (which SARS likely will) and over the year a tax loss is made from that trading, it will be regarded as a foreign trade loss that can't be set off against their SA taxable income. Again, it will be ringfenced and set off against that foreign trade in following years.

Foreign dividends - One of most common ways that we receive foreign dividends is by investing in a foreign collective investment scheme (CIS). The foreign CI scheme is regarded as a foreign company and any returns that are not rolled up into that platform, but are distributed, will be regarded as a foreign dividend. Investors seldom manage to earn these foreign amounts without incurring some expenses (e.g. fees paid). Investors may not, for tax purposes, deduct any expenses that are incurred to produce foreign dividends. They can, however, benefit from the exempt portion when bringing the funds back to SA, if they've already been taxed in the foreign country.

Non-direct offshore investing

Sometimes, instead of investing directly offshore, investors make use of endowments, or offshore wrappers. Many endowments – although considered offshore endowments - are offered by a South African insurer and these fall within the realm of Section 29A of the Income Tax Act. All administration is handled within the foreign endowment wrapper, meaning the individual does not have to include this in their individual tax return. The individual will be taxed at a flat rate of 30% on any income coming into the endowment and for capital gains tax on disposals within the endowment at 12%. The individual does not have to monitor when amounts accrue, or when they're received. All tax is dealt with in the endowment vehicle itself.

When an amount is paid out of the endowment, the actual receipt of that amount is tax-free in the taxpayer's hands. It's important to note that it's not *really* tax-free – it's just that all tax consequences have been dealt with in the endowment structure.

A distinct advantage of an endowment is that if an individual is the beneficial owner of a policy, and there's a disposal of the policy - issued by an SA insurer – any capital gain or loss will be disregarded. In the case of a direct offshore investment – which is seen as being owned by individual rather than a company – there will be capital gains tax consequences if the individual ceases being tax resident or passes away.

View the Tax Planning for Investing Offshore booklet for more in-depth information on the above, and for information on offshore trusts.

View the Glacier International 2022 webinar content page

Glacier Financial Solutions (Pty) Ltd.

A member of the Sanlam Group
Private Bag X5 | Tyger Valley 7536 | Email client.services@glacier.co.za | Tel +27 21 917 9002 / 0860 452 364 | Fax +27 21 947 9210 | Web www.glacier.co.za | Reg No 1999/025360/07
Licensed Financial Services Provider | Glacier Financial Solutions (Pty) Ltd. is also a Licensed Discretionary Financial Services Provider FSP 770, trading as Glacier Invest | Sanlam Multi-Manager International (Pty) Ltd. | A member of the Sanlam Group

Private Bag X8 | Tyger Valley 7536 | Tel +27 21 950 2600 | Fax +27 21 950 2126 | Web www.smmi.com *|*Reg No 2002/030939/07
Licensed Discretionary Financial Services Provider, acting as Juristic Representative under the Glacier Financial Solutions FSP 770
Glacier International is a division of Sanlam Life Insurance Limited
Sanlam Life Insurance Ltd. | Email life@sanlam.co.za | Tel + 27 21 916 5000 / 0860 726 526 | Fax +27 21 947 9440
Reg No 1998/021121/06 | Licensed Financial Services Provider