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*Sable International
and exchange control changes
implications for private individuals*

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Today's Agenda

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- Summary of changes affecting individuals
 - Tax emigration
 - AIT
 - Technical changes
 - Inheritances

Summary of changes to exchange control



Implications for individuals



SARS compliance required in every instance of transferring funds out of SA for residents, emigrants, and SA residents previously abroad



R1m SDA only if not tax emigrated



Trust distributions – resident vs non-resident



Annuity income



Retirement annuities – three-year rule

AIT

Approval International Transfers

- Previously FIA (Foreign Investment allowance)
- More disclosure as part of application including:
 - Interests in Trusts – local and offshore
 - Assets and liabilities – local and foreign
 - 25% or more share in a local SA company
 - Bank statement showing funds at date of submission

Retention of Foreign Gifts and Other Authorised Foreign Assets Abroad

Without having to declare to an Authorised Dealer and effective 22 February 2022, exemption from Regulation 6 and 7 is provided as follows:

- Resident individuals may receive and retain abroad monetary and other legitimate gifts and donations received from a non-resident source.
- Resident individuals may retain foreign assets inherited from a South African estate, which date of finalization of the Liquidation and Distribution Account should be on/ after 22 February 2022.
- Residents with authorized foreign assets may lend and/or dispose of such authorized foreign assets to other South African residents, subject to local tax disclosure and compliance.

What are Authorised Foreign Assets Abroad

You always need to determine whether the deceased acquired the offshore asset, and with what funds:

- Annual R1m Single Discretionary Allowance
- Annual R10m Foreign Investment Allowance (AIT) with valid SARS Tax Clearance Certificate FIA together with SARS PIN letter
- Growth/ income on permissible foreign funds
- Income earned whilst physically abroad from a foreign employer after 01 July 1997
- Foreign inheritances from a bona-fide non-resident estate late
- Other amounts if specific approval has been obtained from the SARB

Tax emigration

- Tax emigration / cessation of tax residency / changing status with SARS to non-resident / financial emigration
- **What is it?** – process of informing SARS that taxpayer is no longer resident in SA – ordinarily resident or physically present
- **Who does it effect** – from 1 April 2021 – everyone leaving SA should notify SARS of no longer being tax resident and date on which they become non-tax resident
- **Implications** - Exit tax and deemed CGT + no more R1 mil SDA / AIT for all transfers
- **What about people who left prior to 31 March 2021?** One suspects the further back you left the less likely the need to tax emigrate, mainly because SARS don't want people who left 20 years ago re-registering for tax only to tax emigrate... SARS don't want that admin.
- Tax advice may be required particularly where clients had worldwide assets when leaving SA and didn't pay deemed CGT
- **Not a new thing**, just that now SARB can use the encashment of RAs to ensure tax emigration

How does tax emigration differ from expat tax?

Tax emigration

- Controls how you get taxed by the South African Revenue Services (SARS)
- Lets SARS know that you have changed your tax status
- Taxing rights change accordingly
 - From a South African tax resident to a non-tax resident
 - SARS loses taxing rights from your worldwide assets to your South African sourced assets

How does tax emigration differ from expat tax?

Expat tax

- An exemption allowed to a South African tax resident (working as an employee abroad)
- As a South African tax resident your income worldwide can be brought in
 - You can try to exempt it under the expat tax or the R1.25 million exemption

Retirement annuity encashment

- tax compliance application with SARS,
- including change of tax status to non-resident and then,
- tax resident in another jurisdiction for consecutive three-year period (the “three-year rule”)

Navigating exchange control and inheritances for overseas beneficiaries

There are various scenarios in South African exchange control of the different statuses of beneficiaries inheriting from South African deceased estates.

Inheritances



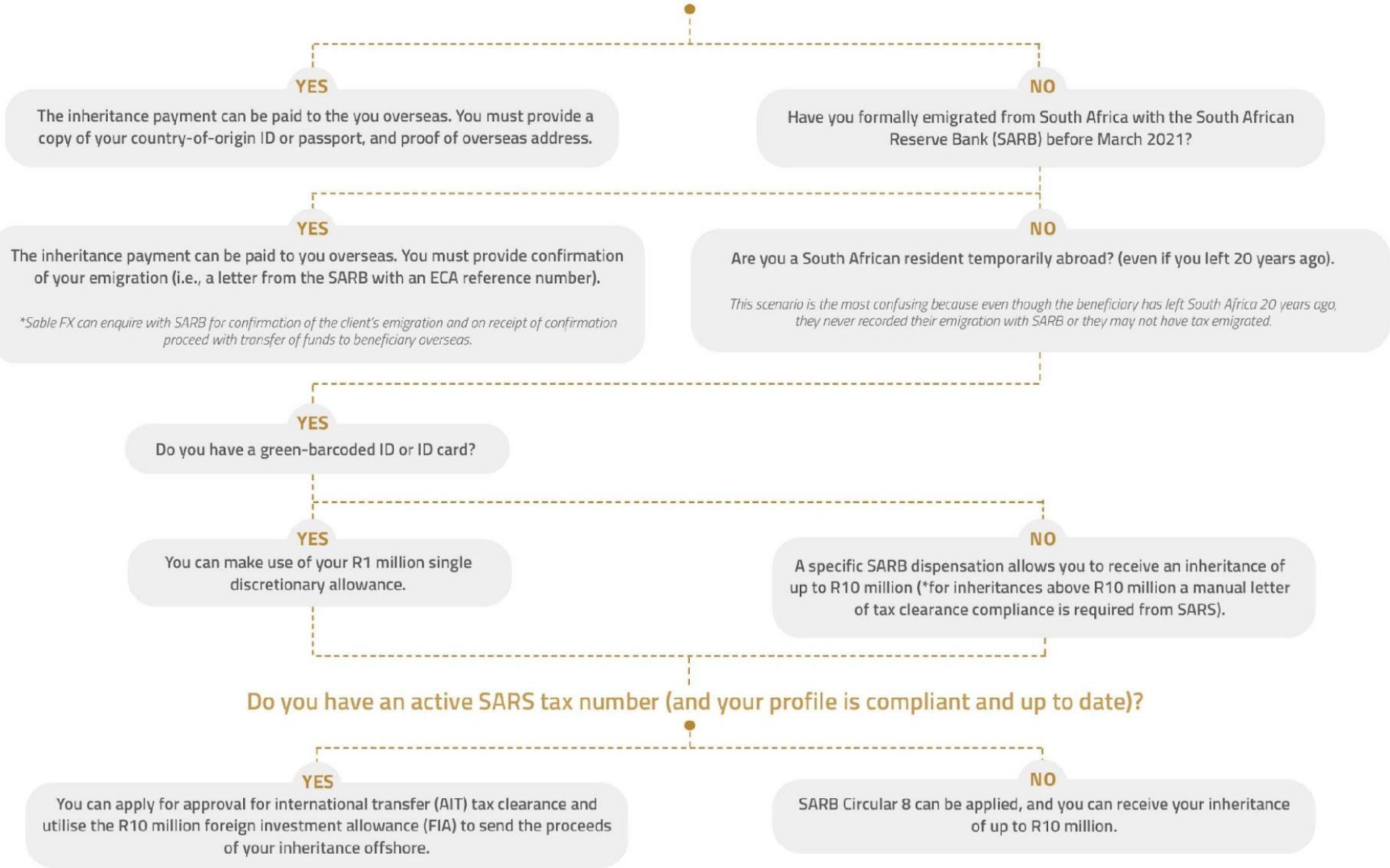
Bona-fide
non-residents

South Africans
previously financially
emigrated

SA resident living
abroad with ID
book – allowances

SA resident living abroad –
Circular 8, 2021 for
inheritances under R10
million

Are you a bona fide non-resident (i.e. born overseas and never been a South African resident)?



Let's get practical

Beneficiary Questionnaire

1. Have you formally/financially emigrated with SARB (MP336)?
2. Do you have a green bar coded SA ID book
3. Do you have an active SARS tax number and compliant
4. When did you leave SA and how long did you live in SA for
5. Do you have any remaining assets in SA
6. Copy of SA ID and current passport

Options - Inheritances

- With green bar coded SA ID book – SDA or AIT
- No / Lost ID book or no / inactive tax number
 - SARB Circular 8/2021 – applications by individuals who cease to be residents for tax purposes AND who are no longer active on SARS registered database and receive and inheritance or life insurance policy up to R10 million
 - Greater than R10 mil – manual letter of compliance from SARS
- Proof of Financial emigration – send any amount
- Bona fide non-resident

Examples:

- Year left SA
 - 2020 - use allowances
 - 2015 – must be sure no longer on SARS system in order to use circular 8
 - 2005 – circular 8 for inheritance up to R10 mil; less than R1 mil and ID use SDA
 - 2000 – Financially emigrated – proof of FE = straight forward otherwise circular 8
 - 1988 – circular 8

Options – Trust distributions

- With green bar coded SA ID book – SDA or AIT
- No / Lost ID book or no / inactive tax number
 - Passport says born in SA – tax clearance
- Proof of Financial emigration – tax clearance
- Bona fide non-resident – receive distribution subject to providing Trust info to exchange control

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