

South Africa: Additional proposed relief for foreign remuneration exemption due to COVID-19

4 November 2020

In brief

In June this year, the Disaster Management Tax Relief Bill, 2020, and the Disaster Management Tax Relief Administration Bill, 2020 ('the COVID-19 tax relief Bills'), were introduced in Parliament in order to give effect to tax proposals and aimed at addressing the fiscal and economic effects of COVID-19 in South Africa.

In a Draft Response Document presented to Parliament relating to the COVID-19 tax relief Bills, the National Treasury indicated that it would consider additional tax proposals to address the effects of the pandemic that would have less of an impact on the fiscal framework.

On 13 October 2020, the National Treasury and the South African Revenue Service presented a Draft Response Document on the 2020 Draft Taxation Laws Amendment Bill. Included in this Draft Response Document is a proposal that, for years of assessment ending in the 12-month period ending on 28 February 2021, the number of days required for a South African resident to be outside South Africa in order to qualify for the foreign remuneration exemption be reduced from 183 days to 117 days.

In detail

Background of the exemption

Remuneration earned by South African tax residents for services rendered for or on behalf of any employer outside South Africa are exempt from South African tax if the employee meets certain requirements regarding the number of days that they spend rendering those services outside South Africa. Effective from 1 March 2020, only the first R1.25 million of remuneration for services rendered abroad qualify for exemption, with any remuneration exceeding this R1.25 million cap generally being fully taxable in South Africa.

In order to qualify for the exemption, the employee must meet the following requirements regarding absence from South Africa:

- The employee must be outside South Africa for a total of 183 full days during any period of 12 months;
- The employee must be outside South Africa for a continuous (i.e. uninterrupted) period of more than 60 full days during the 12-month period referred to above; and
- The employee's services must have been rendered during the periods of absence from South Africa.

The requirements relating to absence must be met in respect of any twelve-month period during which the services were rendered outside South Africa.

The effect of COVID-19 on South African residents working abroad

As in many countries, international travel restrictions have been imposed in South Africa for extended periods. This has resulted in the disruption of international travel and the movement of South African residents who would otherwise have been engaged in employment abroad. Many such residents would, but for these travel restrictions, have qualified for the foreign remuneration exemption, but now potentially face a steep and unforeseen tax liability that is a direct result of their inability to travel.

The proposal

In order to take into account the lockdown period during COVID-19, it is proposed, in the Draft Response Document presented to Parliament on 13 October 2020, that the 66-day period commencing on 27 March 2020 and ending on 31 May 2020 (i.e. when South Africa operated under COVID-19 alert levels five and four) be subtracted from the total of 183 days of absence required in order to be eligible for the foreign remuneration exemption.

Consequently, in order to qualify for exemption, it is proposed that the number of days that a person is required to have spent working outside South Africa be reduced from more than 183 days to more than 117 days in any 12-month period for any year of assessment ending during the 12-month period ending on 28 February 2021.

Regarding the existing requirement that 60 of the days spent outside South Africa should constitute a continuous period, it is proposed that this requirement remain unchanged.

The takeaway

South African residents who would otherwise have qualified for the foreign remuneration exemption, but for travel restrictions imposed because of COVID-19, should avail themselves of the relief afforded by the proposed measure.

Let's talk

For a deeper discussion of how this impacts your business, please contact your Global Mobility Services engagement team or one of the following professionals:

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