



South African Revenue Service

Dear Recognised Controlling Bodies

Tax compliance status (TCS) changes in respect of Foreign Investment Allowance (FIA) and Emigration

Effective from 1 March 2021, Government will implement changes to the foreign exchange control system, as outlined in Annexure E of the 2020 Budget Review. The Foreign Exchange Control changes, together with the amendments in the Taxation Laws Amendment Act, 2020, will impact the TCS requests for FIA and Emigration as well as the withdrawal of retirement funds as follows:

- The concept of “emigration” and the South African Reserve Bank’s approval process via the MP336(b) form will be terminated. Thereafter, for tax purposes, only the event of an individual “ceasing to be a resident for tax purposes” in South Africa will be relevant.
- All applications, where the applicant had their MP336(b) attested by an Authorised Dealer on or before 28 February 2021, will still be able to apply for a Tax Compliance Status (TCS) in respect of “Emigration” during the period until 28 February 2022, in terms of the current procedure dealing with emigration for exchange control purposes.
- All applications for TCSs for individuals ceasing to be a tax resident, from Monday, 1 March 2021 onwards, other than those under the previous bullet, will be processed by SARS based on a new dispensation where SARS will confirm that the taxpayer has ceased to be a resident for tax purposes. An MP336(b) will no longer be required as part of the TCS application process. The taxpayer must still apply via the SARS TCR01 “Emigration” Application.
- From 1 March 2021 onwards, taxpayers will be able to access their applicable retirement benefits if they can prove, to the fund, that they have been non-resident for tax purposes for an uninterrupted period of three years and an applicable Tax Directive is issued to the fund by SARS. Taxpayers must provide the applicable Tax Compliance Status (TCS) to the Authorised Dealers, as well as documentation from the fund that indicates or confirms the final amount paid to the taxpayer, before any transfers can be effected
- The current process of controlling or blocking an emigrant's remaining assets in a special “blocked funds account” will fall away and all transfers from these will be handled as normal fund transfers in line with any other FIA transfer.
- A TCS in respect of FIA will be required for all transfers of listed securities from a securities register in South Africa to a securities register outside South Africa. (The effective date of this will be communicated by the South African Reserve Bank).

In addition, the required supporting documents in respect of Emigration and FIA have been updated to reflect the recent changes in Foreign Exchange Control processes as well as the promulgation of the Taxation Laws Amendment Act, 2020.

When applying for the TCS in respect of FIA, these transfers must be treated as any other foreign capital transfer and the taxpayer needs to select the applicable 'Source of capital to be invested'. The option for 'Emigrant's Remaining Assets' is no longer available for selection on eFiling.

Please visit the SARS website www.sars.gov.za for more information on these changes.

Sincerely

THE SOUTH AFRICAN REVENUE SERVICE

February 2021