

## EXTERNAL GUIDE

# REQUEST FOR A CERTIFICATE OF RESIDENCE

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## 1 PURPOSE

- a) The purpose of this guide is to provide basic information relating to the request to issue a certificate of residence or to stamp a residence form from another jurisdiction.

## 2 SCOPE

- a) This guide describes the process to be followed where a request for issue of a certificate of residence or a request to stamp a residence form from another jurisdiction is submitted by an individual or a person other than an individual which is a tax resident in South Africa (SA) in terms of the definition of a 'resident' in section 1 of the Income Tax Act No. 58 of 1962 (the Act) and read with Article 4 of the Double Taxation Agreements (DTA).

## 3 INTRODUCTION

- a) With effect from 1 March 2001, SA moved from source-based taxation to residence based taxation which has the effect that:
  - i) A resident's worldwide taxable income is subject to income tax in SA or
  - ii) A non-resident's taxable income from sources within SA is subject to normal tax in SA.
- b) Similarly other countries may also have residence based taxation where a country taxes its residents on their worldwide income and non-residents on income derived from a source within its jurisdiction. The result of such a system is that income derived by a resident of one country from a source in another country is subject to tax in the country of residence and the country of source. Normally countries that have trade relationships enter into agreements for the avoidance of double taxation.
- c) SA has Agreements with a number of jurisdictions for the avoidance of double taxation of income to prevent the same income from being taxed in both countries. Should the same income be taxed in both countries, a credit will normally be allowed in the country of residence for the tax paid in the other country. The DTAs are available on the SARS website as per the links below:
  - i) For African countries:  
[www.sars.gov.za/Legal/International-Treaties-Agreements/DTA-Protocols/Pages/DTAs-and-Protocols-\(Africa\).aspx](http://www.sars.gov.za/Legal/International-Treaties-Agreements/DTA-Protocols/Pages/DTAs-and-Protocols-(Africa).aspx) (for African countries) and
  - ii) The rest of the world:  
[www.sars.gov.za/Legal/International-Treaties-Agreements/DTA-Protocols/Pages/DTAs-and-Protocols-\(Rest-of-the-World\).aspx](http://www.sars.gov.za/Legal/International-Treaties-Agreements/DTA-Protocols/Pages/DTAs-and-Protocols-(Rest-of-the-World).aspx) (for the rest of the world).
- d) The RST01 form and RST02 form for tax refunds with regard to the pensions and annuities are available on SARS website as per the link below:  
[www.sars.gov.za/ClientSegments/Individuals/Tax-Stages/Tax-and-Non-Residents/Pages/Relief-From-South-African-Tax-For-Pension-and-Annuity-Income.aspx](http://www.sars.gov.za/ClientSegments/Individuals/Tax-Stages/Tax-and-Non-Residents/Pages/Relief-From-South-African-Tax-For-Pension-and-Annuity-Income.aspx)
- e) Where a SA individual is on an overseas contract, it is possible that the tax authorities in the foreign jurisdiction will make tax deductions from the employee's income. The SA resident may be entitled for relief of income tax imposed by the country of source

with which SA has a DTA in place dependent on the requirements being met in the relevant Article 4 of the applicable DTA.

- f) The country where a SA resident rendered services or received income normally requires a certificate of residence before considering relief of tax at source. The confirmation of tax residency can be obtained in two ways:
  - i) A resident application form issued by a foreign country where services are rendered or income derived; or
  - ii) A SA resident may request SARS to issue a certificate of residence.
- g) In instances where a resident's application form is issued by a foreign revenue authority, a SARS official has to stamp and sign the form issued by a foreign revenue authority to confirm the person is a SA tax resident. Therefore a person should contact both the SARS branch office and the foreign revenue authority to ensure that the person is apprised of obligations required to be met in both countries.

## **4 GOVERNING LEGISLATION**

- a) Section 1 of the Income Tax Act No 58 of 1962.
- b) International Instruments: Article 4 of the Double Taxation Agreements (DTA).

## **5 DEFINITION OF RESIDENT**

- a) The definition of resident refers to a natural person who is 'ordinarily' resident in the Republic or if that person was 'physically' present in the Republic for a certain period or periods.
- b) A person other than an individual is defined as a resident if the person is incorporated, established or formed in the Republic or which has its place of effective management in the Republic but excludes any person who is deemed to be exclusively a resident of another country for purposes of the application of any agreement entered into between the government of the Republic and that other country for the avoidance of double taxation.

## **6 OPERATIONAL REQUIREMENTS**

### **6.1 MINIMUM REQUIREMENTS FOR APPLICATION OF CERTIFICATE OF RESIDENCE OR STAMPING OF A RESIDENCE APPLICATION FORM FROM ANOTHER JURISDICTION'S REVENUE AUTHORITY**

- a) A person or partner in partnership (partner) must be registered for income tax purposes. Where the person or partner is not registered for income tax the person or partner in must first obtain an income tax reference number to avoid the rejection of the application form. The following application forms to register for income tax are available on SARS website [www.sars.gov.za](http://www.sars.gov.za):
  - i) Individuals must visit the SARS Branch Office to have the online RAV01 completed by the Branch Agent/Consultant and all the information captured be verified from the supporting documents supplied by the taxpayer.
  - ii) Trusts must complete IT77TR 'Application for Registration of Trust'
  - iii) Companies must complete IT77(C) 'Application for registration of Company

- iv) The company must be registered with CIPC before the IT77(C)) form can be completed
- b) If the Non-Profit Organisation (Exempt Institution) is not registered complete RAV01 to register. The Non-Profit Organisation must first be registered for Income Tax and then complete E11 form to apply for exemption from Income Tax.
- c) Government Institutions who are exempt from Income Tax in terms of Section 10(1)(t) of the Income Act and who are registered for either VAT/PAYE, must request the Certificate of Residence via [GovernmentInstitute@sars.gov.za](mailto:GovernmentInstitute@sars.gov.za), providing the details of the VAT and/or PAYE number.
- d) A certificate of residence will be rejected in the following instances:
  - i) The person is not registered for income tax purposes;
  - ii) The application form is incomplete;
  - iii) The person's or partner's tax affairs are not in order;
  - iv) Additional information requested was not submitted;
  - v) The person is not a resident in terms of the definition of 'residence' in section 1 of the Act. For more information refer to Interpretation Note 3 – 'Resident: Definition in Relation to a Natural Person – Ordinarily Resident' and Interpretation Note 4 – Resident: Definition in Relation to a Natural Person – Physical Presence Test.
  - vi) The exempt organisation is not registered for annual income tax purposes,
  - vii) Where the partner is not a South African resident in terms of the definition of 'residence' in section 1 of the Act.

## 6.2 APPLICATION FORMS TO BE COMPLETED

- a) Where the South African resident rendered services or received income from another country and the country requires a certificate of residence or certificate of residence for partners or the stamping of a residence application form from the other jurisdiction's revenue authority, the following application forms for certificate of residence must be completed in full and are available on the SARS website as per the links below:
  - i) RC01 for individuals or a person other than individual persons.  
<http://www.sars.gov.za/AllDocs/OpsDocs/SARSForms/RC01%20-%20Application%20for%20Certificate%20of%20Residence%20for%20Individuals%20-%20External%20Form.pdf>
  - ii) RC02 for persons other than individuals.  
<http://www.sars.gov.za/AllDocs/OpsDocs/SARSForms/RC02%20-%20Application%20for%20Certificate%20of%20Residence%20for%20Persons%20other%20than%20Individuals%20-%20External%20Form.pdf>
  - iii) The application form will indicate the mandatory fields to be completed in red. The application form must be signed and dated.
- b) The completed and signed application form must be submitted at the nearest SARS branch office. The branch office will forward the application forms to the division dealing with certificate of residence application forms. The turnaround time is 21 days or 15 working days if the form was completed in full and no additional information is required.
- c) A number of country's Tax Authorities have a specific form to be signed and stamped by the South African Revenue Service to confirm residence of an individual, trust and

company in South Africa. The RC01 or RC02 application form must also be completed and submitted with the specific form to be signed and stamped.

- d) The applicable completed residence application form from other jurisdictions revenue authority will be mailed to the applicant and the applicant's tax affairs are in order.
- e) A certificate of residence is only valid for a period of one year from the date of issue if the date of issue is for a period going forward. Therefore a certificate for residency in advance will only be from the date of application plus one year. A certificate of residence can be issued retrospectively.

## 7 CROSS REFERENCES

DOCUMENT #	DOCUMENT TITLE	APPLICABILITY
None		

## 8 DEFINITIONS AND ACRONYMS

<b>CIPC</b>	Companies and Intellectual Property Commission
<b>DTA</b>	Double Taxation Agreement
<b>ITS</b>	Income Tax System
<b>LB</b>	Large Business
<b>Person</b>	With reference to this document person means Individuals, Partnership, Company, Close Corporation, Trust, Exempt Institution and other entities submitted an application for a certificate of residence.
<b>SA</b>	South Africa
<b>SARS</b>	South African Revenue Services
<b>Tax Affairs</b>	Returns due for all types of taxes (e.g. Income Tax, PAYE, VAT, STC, etc.) are submitted, deferred arrangements are in place for outstanding taxes, registered details are up to date, etc.

### DISCLAIMER

The information contained in this guide is intended as guidance only and is not considered to be a legal reference, nor is it a binding ruling. The information does not take the place of legislation and readers who are in doubt regarding any aspect of the information displayed in the guide should refer to the relevant legislation, or seek a formal opinion from a suitably qualified individual.

#### For more information about the contents of this publication you may:

- Visit the SARS website at [www.sars.gov.za](http://www.sars.gov.za)
- Visit your nearest SARS branch
- Contact your own registered tax practitioner
- If calling from within South Africa, contact the SARS Contact Centre on 0800 00 7277
- If calling from outside South Africa, contact the SARS Contact Centre on +27 11 602 2093 (only between 8am and 4pm South African time).