



DAVEY'S Locker



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Global tax village

International tax noose tightens

by Tony Davey

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'Global village', according to Wikipedia, is a term relating to the constant presence between one another due to the use of telecommunications. The term is credited to Canadian-born Marshall McLuhan. In his books *The Gutenberg Galaxy: The Making of Typographic Man* and *Understanding Media*, McLuhan described how the globe has been contracted into a village by electric technology and the instantaneous movement of information from every quarter to every point at the same time.

The advent of Common Reporting Standards (CRS) is testimony to the global tax village, being international exchange of tax information between the tax authorities of most countries, currently numbering 112.

The recently published draft Tax Laws Amendment Bill, 2017 has proposed further interventions in the international tax arena.

Foreign employment income

The proposal is to repeal in full, effective as from 1 March

2019, the s 10(1)(o)(ii) exemption in the Income Tax Act.

Currently, if a resident renders services abroad exceeding 183 days in a twelve-month period, of which at least sixty are continuous, foreign employment income is exempt from tax.

Tax relief of foreign taxes paid (if any) can be claimed under s 6quat.

And a double tax agreement (DTA) will take precedence in the event of any dispute about the taxing rights between countries.

Controlled foreign company extended to foreign trusts

The s 9D definition is to be expanded, effective as from 1 January 2018, so as to include an indirect shareholding in a foreign company via a foreign trust, of which a resident is a beneficiary.

Currently, if a resident (together with other residents) holds more than 50% of the participation rights (shareholding) in a foreign company, the effect is that the

taxable income of the company is deemed to be apportioned to the shareholders, notwithstanding the fact that no dividend is declared.

The proposed amendment is intended to close a technical loophole, under which a foreign trust is interposed between the foreign company and the residents.

Conclusion

We must await the final versions of the proposed amendments, but the clear message is that the world is becoming a global tax village, with taxing rights based primarily upon a taxpayer's country of ordinary residence.

[In a fit of midnight madness, in Tony's last piece, on the donation of foreign assets, at the point at which he spoke of a nonresident's establishing an offshore trust, donating property to it, and then immigrating here, I added 'for the first time'. Sorry.—Ed]

