



DAVEY'S Locker



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Special voluntary disclosure programme

On offshore assets and income

by Tony Davey

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The Minister of Finance, in his 2016 Budget Speech, announced a special voluntary disclosure programme (svdp) to enable applicants to regularize both their tax and exchange control affairs (152 TSH 2015).

Tax relief

- In circumstances in which the applicant failed to comply with a tax Act, 50 per cent of the total amount used to fund the acquisition of offshore assets before 1 March 2015 will be included in taxable income and subjected to normal tax. Thus the effective rate is 20,5% of the original funding amounts. This is a valuable concession, since it pertains primarily to pre-tax moneys, which would otherwise have attracted up to 41% in tax.
- Investment returns on offshore assets received or accrued from 1 March 2010 onward will be included in taxable income in full and subjected to normal tax.
- Investment returns before 1 March 2010 will be exempt.
- Interest on tax debts arising

from the disclosure of amounts used to fund the acquisition of offshore assets or investment returns on such offshore assets will commence from 1 March 2010.

- No understatement penalties will be levied when an application under the svdp is successful.
- As is currently the position under the existing vdp, SARS will not pursue criminal prosecution for a tax offence.

Exchange control relief

- Applicants granted administrative relief on unauthorized foreign assets or structures (of whatever nature, excluding bearer instruments) may have to pay a levy based on the current market value concerned as at 29 February 2016.
- The levy amount is 5% of the leviable amount if the regularized assets or their sale proceeds are repatriated to South Africa. It is 10% of the leviable amount if the regularized assets are kept offshore.

- The levy must be paid from foreign-sourced funds. When insufficient liquid foreign assets are available, an additional 2% will be added, to the extent that local assets are used to settle the levy.
- Individuals will not be allowed to deduct their R10 million foreign capital allowance or any remaining portion of the allowance from the leviable amount, and the levy may not be reduced by fees or commissions.

Qualifying applicants

Individuals (plus executors of deceased estates) and companies may regularize both their tax and exchange control affairs, together with settlors, donors, and beneficiaries of foreign discretionary trusts, as long as they elect to have the trust's offshore assets and income deemed to be held by them.

svdp Period

Applications will commence on 1 October 2016 and run for six months, until 31 March 2017.

