



Davey's Locker

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SARB voluntary disclosure program

The post-VDP position

by Tony Davey

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As mentioned in 103 *TSH* 2011, a permanent voluntary disclosure programme (VDP) is instituted in the Tax Administrative Bill, which will probably be enacted in the first quarter of 2012. This relief, which applies to all 'tax Acts' (excluding the Customs and Excise Act) does not extend to Excon breaches monitored by the South African Reserve Bank (SARB).

A reader has enquired what is the position with SARB for those who missed the 31 October 2011 Excon VDP deadline, bearing in mind that, as an exception to the SARS secrecy provisions in the Income Tax Act, SARS may disclose information to SARB.

My informal information from SARB is that there is now no relief, and it is a matter for negotiation within broad guidelines.

Those voluntarily requiring regularization for Excon breaches will be required, by affidavit, to detail the contraventions involved and provide the description, location and value of unauthorized foreign assets. You will be spared criminal prosecution but a levy of 20% to 40% of foreign assets will be imposed, with no credit or set-off for the current R4 million foreign investment allowance. Advance anonymous applications will not be considered, so hiding in the

shadow of legal privilege is of little use.

Allowance increased

Just after the medium-term Budget policy statement the National Treasury issued a statement entitled 'Further information on investment and prudential regulatory announcements in 2011 MTBPS',

It is proposed for individuals that the annual R4 million foreign investment allowance plus the current R1 million single discretionary allowance be consolidated into an annual R5 million foreign investment allowance.

The additional R1 million allowance currently includes travel, alimony, foreign gifts and the like.

This all sounds like good news but bear the following in mind: The foreign investment allowance (currently R4 million) requires as a precondition for approval by SARB a SARS tax clearance, while the discretionary allowance (R1 million) does not.

As the discretionary allowance falls away and is absorbed into a single investment allowance, tax clearance is bound to be required. If I am correct, maybe an exempt threshold for emergency travel should be allowed.

