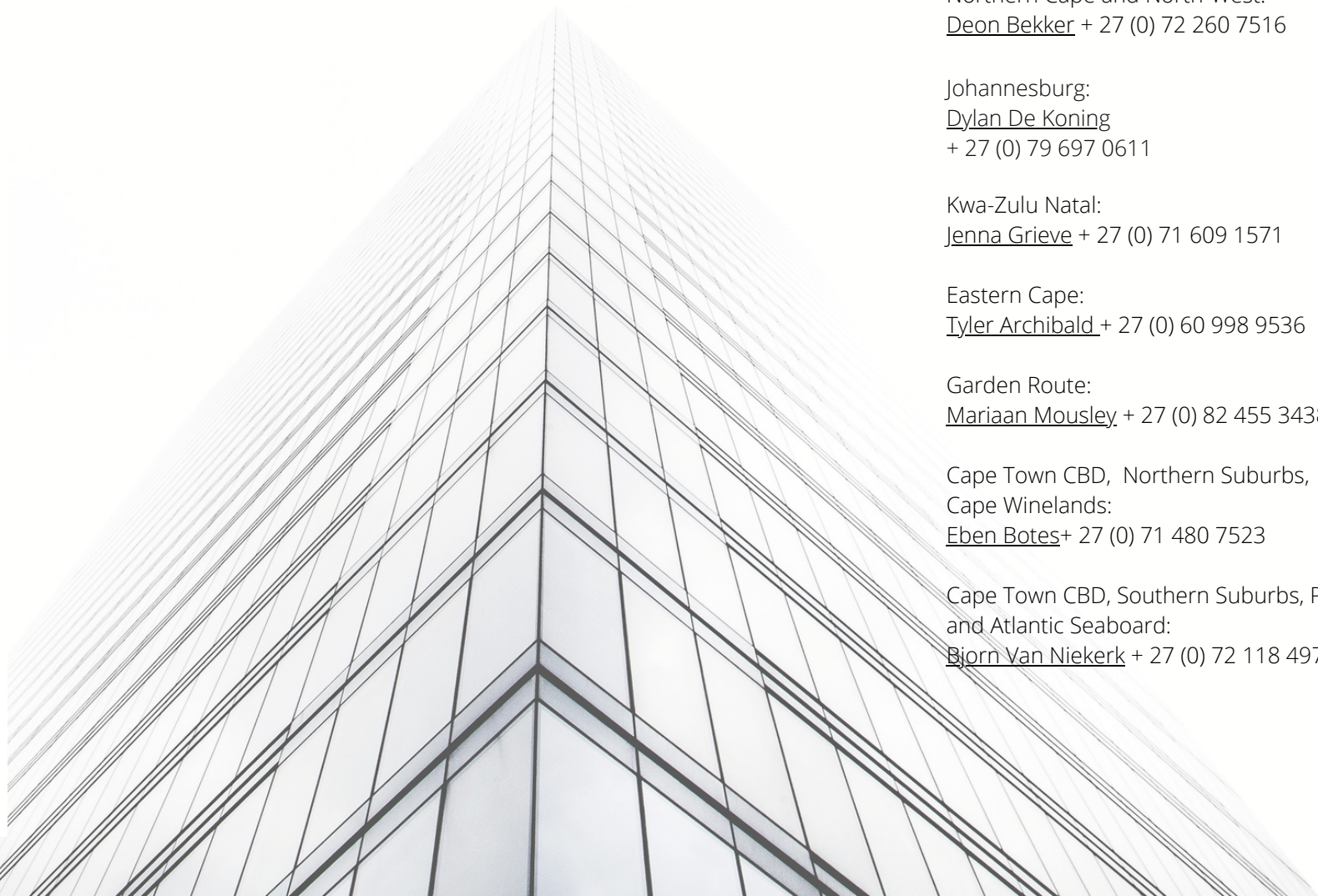
CEASING TO BE A TAX RESIDENT IN SOUTH AFRICA

INCOMPASS Forex

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BACKGROUND

South Africa operates a residence-based tax system for individuals. This means that tax residents are subject to tax on their worldwide income (excluding certain exemptions or exclusions) and non-residents are only subject to tax on income from a source within South Africa.

In March 2021, certain exemptions and exclusions were amended, the results of which included:

South African tax residents abroad now have to pay South African tax of up to 45% of their foreign employment income where it exceeds a threshold of R1.25 million per SA tax year.

The much promoted route of Financial Emigration to alter your tax status from resident to non-resident/Emigrant was abolished and moved from a dual SA Reserve Bank (SARB) and SA Revenue Services (SARS) process to a singular process that only involves SARS.

Non-tax resident taxpayers will now only be able to transfer certain retirement benefits abroad if they can prove that they have been non-resident for tax purposes for an uninterrupted period of 3 tax years.

The three-year period of non-tax residence does not apply to a person who concluded a SARB emigration process prior to 1 March 2021.

CEASING TO BE A TAX RESIDENT

Incompass is not an accountancy firm and therefore unable to assist with the application for a non-tax resident status, but for your information we have extracted the following from SARS website on the process of becoming non-tax resident.

Please note this extract is from February 2022 and you should seek independent professional help to ensure its continued accuracy:

"The taxpayer must inform SARS by way of one of the following two channels:

If a taxpayer ceased to be a tax resident of South Africa during the current year of assessment, the taxpayer can inform SARS through the wizard on the income tax return (ITR12) and the date on which the taxpayer ceased to be a tax resident must be provided.

Alternatively, the taxpayer can inform SARS by submitting the Declaration of Cease to be a Tax Resident to contactus@sars.gov.za."

If the declaration is made on the income tax return (ITR12), you will receive a request for supporting documents to substantiate the declaration you have made. The relevant information that must be supplied to SARS will depend on the basis on which you have ceased to be a tax resident.

If the declaration is made via email (Contact Us), the Declaration form must be completed and be submitted with the relevant supporting documentation.

If you previously declared that you ceased to be a tax resident, how do you request confirmation?

If you previously informed SARS that you have ceased to be a tax resident of South Africa, and would like to request confirmation of your status, you can submit your request by way of a letter to Contact Us.

The letter should contain the:

- *background to the request;*
- *basis on which you have ceased to be a tax resident; and*
- *date and manner in which SARS has previously been informed."*

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ARE THERE ANY CONSEQUENCES IF YOU CEASE TO BE A TAX RESIDENT?

There may well be consequences if you cease to be a tax resident and professional advice should be sought from an appropriately qualified professional. Incompass cannot provide advice in this regard but consequences could include what is being referred to as an exit tax:

- You have a deemed disposal for capital gains tax purposes at the time you break your tax residence.
- Such a deemed disposal can include all of your worldwide assets, excluding immovable property situated in South Africa.
- Once you have ceased to be a tax resident in South Africa, you are no longer taxed in South Africa on your worldwide income, but only on South African sourced income.

WHEN IS EXIT TAX DUE?

Exit tax must be paid on the day before the taxpayer becomes a non-resident for tax purposes. On such a day they are deemed to have disposed of their worldwide asset base at market value and hence trigger a CGT event.

ACCESSING PENSION FUNDS

The previous process of financial emigration has been replaced with a residency test and specifies that if a retirement fund member can prove that they have been living abroad for 3 years or more, they may access their retirement savings.

Whilst this may make it easier for people who left South Africa some time ago (the rules apply retrospectively), people who have recently emigrated or are about to, now face a longer wait. In essence the new regulations state you can only 'emigrate' your pension savings 3 years after becoming a non tax resident.

RETIREMENT TAX IMPLICATIONS

Again expert advice should be sought here and it appears the tax on emigrated pension savings is consistently under review.

As of February 2022, and as an example, the top tax bracket for pre-retirement withdrawals is 36%. Meaning if you are withdrawing R3 million, the income tax charge could be more than R1,000 000.

WHAT CAN BE TRANSFERRED PRIOR TO GAINING NON RESIDENCY STATUS

Individuals can use their normal Single Discretionary Allowance of 1 million rand as well as their Foreign Capital Allowance of R10 million per calendar year.

Special applications can be made for transfers abroad in excess of these amounts.

CONCLUSION

As alluded to above, individuals will each have their own specific set of circumstances and whilst Incompass will gladly assist with any international transfers, professional advice should be sought as to the repercussions and exit taxes due when making a declaration of non residency to SARS.