

TAX & EXCHANGE CONTROL ALERT

IN THIS ISSUE

TRAVELLING ABROAD AND TRAVEL ALLOWANCES – WHAT YOU CAN AND CAN'T DO

Europe, America, Asia – for South Africans fortunate enough to do so, travelling abroad is, safe to say, something that they enjoy. It is common for travellers to buy foreign currency from an Authorised Dealer, such as a bank or authorised dealer in foreign exchange, in order to pay for the expenses that they will incur abroad. However, it is important to keep in mind that according to South Africa's exchange control laws, there are rules regarding the use of such travel allowances. In our Tax and Exchange Control [Alert](#) of 6 October 2017, we briefly touched on this issue.

CUSTOMS HIGHLIGHTS

This week's selected highlights in the Customs and Excise environment since our last instalment.

TRAVELLING ABROAD AND TRAVEL ALLOWANCES – WHAT YOU CAN AND CAN'T DO

All South African persons who are 18 years or older, are entitled to make use of the single discretionary allowance.

Travel allowances may be taken abroad in the form of foreign currency banknotes, travellers cheques or may be transferred to the traveller's own bank account or to the traveller's spouse's account, but not to a third party's bank account.



Europe, America, Asia – for South Africans fortunate enough to do so, travelling abroad is, safe to say, something that they enjoy. It is common for travellers to buy foreign currency from an Authorised Dealer (AD), such as a bank or authorised dealer in foreign exchange, in order to pay for the expenses that they will incur abroad. However, it is important to keep in mind that according to South Africa's exchange control laws, there are rules regarding the use of such travel allowances. In our Tax and Exchange Control [Alert](#) of 6 October 2017, we briefly touched on this issue.

The purpose of this article is to expand on the issues raised in that article and to highlight the most important rules that South African residents should be aware of, when applying for foreign currency to use for their travels abroad.

General rules regarding the granting of travel allowances

As discussed in our [Alert](#) of 6 October 2017, all South African persons who are 18 years or older, are entitled to make use of the single discretionary allowance (SDA). The SDA comprises an amount of R1 million per calendar year, which any South African resident (18 years or older) may use for any legal purpose abroad, without obtaining a tax clearance certificate. South African residents who are under the age of 18 years, may be granted a maximum annual travel allowance of R200,000 per calendar year.

One of the legal purposes for which the SDA may be used is to take funds abroad in the form of travel allowances. In terms of the Currency and Exchanges Manual for Authorised Dealers (AD Manual), which must be read with the Exchange

Control Regulations, 1961 (Regulations), persons may take foreign currency up to the limit of their SDA, ie R1 million, abroad in the form of travel allowances. From a practical perspective, this means that if, for example, persons have used R100,000 of their SDA during any calendar year before going on their December holiday, they may in principle apply to take foreign currency up to the value of R900,000 abroad. It is important for South African residents to keep track of the amount of their SDA that they have used in a calendar year, as exceeding their SDA will constitute a contravention of the Regulations.

Travel allowances may be taken abroad in the form of foreign currency banknotes, travellers cheques or may be transferred to the traveller's own bank account or to the traveller's spouse's account, but not to a third party's bank account. Minors' travel allowances may also be transferred to their parents' bank accounts abroad. Furthermore, travellers may also use their credit or debit cards to pay for travel expenses abroad, within their annual SDA limit.

Who's Who Legal

Emil Brincker has been named a leading lawyer by Who's Who Legal: Corporate Tax – Advisory and Who's Who Legal: Corporate Tax – Controversy for 2017.

Mark Linington has been named a leading lawyer by Who's Who Legal: Corporate Tax – Advisory for 2017.

TRAVELLING ABROAD AND TRAVEL ALLOWANCES – WHAT YOU CAN AND CAN'T DO

CONTINUED

South African residents should be aware that any amounts taken or transferred abroad for purposes of travel may not be used for any other purpose, in terms of Regulation 2(4).



Documentation and provision of foreign currency prior to travel

Where persons wish to make use of their SDA to purchase foreign currency from an AD for travel outside the Common Monetary Area (CMA), which consists of Lesotho, Namibia, South Africa and Swaziland, they must produce their passenger tickets. In such instances, they may not be furnished with foreign currency more than 60 days prior to the date of departure, unless the funds are to be used for business travel or land arrangements. Land arrangements refer to expenses related to tours, hotel accommodation and vehicle rental, which are made at the request of South African resident travel agents or tour operators.

When making use of their SDA to apply for a travel allowance, prospective travellers must provide the AD with a written undertaking that they will:

- travel within 60 days from the date of the request for foreign currency;
- not purchase foreign currency from an AD in excess of the applicable limits;

- will offer for resale all foreign currency that they received in the event of the trip being cancelled, to an AD or an ADLA (authorised dealer in foreign exchange with limited authority, such as Bureaux de Change); and
- will offer for resale to an AD or ADLA any unused foreign currency within 30 days of returning to South Africa.

Permissible use of travel allowances

Although it might not be common knowledge, South African residents should be aware that any amounts taken or transferred abroad for purposes of travel may not be used for any other purpose, in terms of Regulation 2(4). Once a person has returned to South Africa from overseas travel, they must resell any remaining foreign currency to an AD or ADLA within 30 days, in terms of Regulation 2(5) read with Regulation 6(1). From a practical perspective, this means that if a person travels abroad with his family and has a foreign bank account, he may not deposit any unused portion of his travel allowance or any of his family members' travel allowances into his foreign bank account

Best Lawyers 2018 South Africa Edition

Included 53 of CDH's Directors across Cape Town and Johannesburg.

Recognised Chris Charter as Lawyer of the Year for Competition Law (Johannesburg).

Recognised Faan Coetzee as Lawyer of the Year for Employment Law (Johannesburg).

Recognised Peter Hesseling as Lawyer of the Year for M&A Law (Cape Town).

Recognised Terry Winstanley as Lawyer of the Year for Environmental Law (Cape Town).

Named Cliffe Dekker Hofmeyr Litigation Law Firm of the Year.

Named Cliffe Dekker Hofmeyr Real Estate Law Firm of the Year.



TRAVELLING ABROAD AND TRAVEL ALLOWANCES – WHAT YOU CAN AND CAN'T DO

CONTINUED

While it might seem that there is a lot to keep in mind when you apply for a travel allowance, it is not necessarily the case.



and use it for investment purposes. Where any portion of an amount granted as a travel allowance is used for investment purposes in this manner, the funds and the growth on such funds, will constitute an unauthorised asset held in contravention of South Africa's exchange control laws. A South African resident may have to pay a fine on such assets, or worse, forfeit the unauthorised asset and face criminal prosecution.

With regards to Regulations 2(5) and 6(1) referred to above, business travellers who go on a business trip within 90 days of returning to South Africa from a previous business trip, may retain such foreign currency to use during the next business trip. Where persons have returned to South Africa from travelling abroad and have resold the unused portion of their travel allowance to an AD or ADLA, as required, they may use such amount at a later stage during the calendar year, as part of their SDA.

Conclusion

While it might seem that there is a lot to keep in mind when you apply for a travel allowance, it is not necessarily the case. The morals of the story are this:

- Don't exceed your R1 million annual SDA limit when applying for a travel allowance;
- Don't use any portion of your travel allowance for investment purposes abroad; and
- Resell any unused foreign currency to an AD or ADLA, within 30 days of returning to South Africa, unless you fall within the business traveller exception discussed above.

As long as a traveller keeps these things in mind, there is not too much to worry about.

This article was originally published in the December 2017 edition of Without Prejudice.

Louis Botha

CHAMBERS GLOBAL 2011 - 2017 ranks our Tax and Exchange Control practice in Band 2: Tax.

Gerhard Badenhorst ranked by CHAMBERS GLOBAL 2014 - 2017 in Band 1: Tax: Indirect Tax.

Emil Brincker ranked by CHAMBERS GLOBAL 2003 - 2017 in Band 1: Tax.

Mark Linington ranked by CHAMBERS GLOBAL 2017 in Band 1: Tax.

Ludwig Smith ranked by CHAMBERS GLOBAL 2017 in Band 3: Tax.



CUSTOMS AND EXCISE HIGHLIGHTS

Please note that this is not intended to be a comprehensive study or list of the amendments, changes and the like in the Customs and Excise environment, but merely selected highlights which may be of interest.

In the event that specific advice is required, kindly contact our Customs and Excise specialist, Director, Petr Erasmus.



Herewith below selected highlights in the Customs and Excise environment since our last instalment.

1. The International Trade Administration Commission has:
 - 1.1 Received a Customs tariff application (certain sections may be quoted from the Customs Tariff Applications List 13/2017 of 24 November 2017) for the creation of a rebate provision on "Digital 'smart cards' (excluding proximity cards or tags), classifiable in tariff subheading 8523.52.10 in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit, provided the 'smart cards' are not available in the SACU area".

Enquiries: ITAC Ref: 23/2017, Mr. Pfarelo Phaswana and/ or Ms. Mukeliwe Manyoni, Tel: 012 394 3628 / 3676 or e-mail pphaswana@itac.org.za / mmanyoni@itac.org.za. Representations should be made within 14 days of the date of the notice.
 - 1.2 Made a final determination relating to the sunset review of the anti-dumping duties on frozen bone-in portions of fowls of the species gallus domesticus originating in or imported from the United States of America (certain sections may be quoted from the Department of Trade and Industry notice 920 of 2017 dated 24 November 2017).

After considering all interested parties comments, the Commission made a final determination that the

expiry of the anti-dumping duties on frozen bone-in portions of fowls of the species gallus domesticus originating in or imported from the United States of America would likely lead to the recurrence of dumping and continuation or recurrence of material injury to the SACU industry.

The Commission therefore made a final determination to recommend to the Minister of Trade and Industry that the anti-dumping duties on the subject product be maintained at 940c/kg for the following sub-tariff headings 0207.14.91, 0207.14.93, 0207.14.95, 0207.14.96, 0207.14.97, 0207.14.98 and 0207.14.99.

The Minister approved the Commission's recommendation. The Commission's detailed reasons for its decision are set out in Commission's Report No. 564: Sunset review of the anti-dumping duties on frozen bone-in portions of fowls of the species gallus domesticus originating in or imported from the United States of America (USA): Final determination.

Enquiries may be directed to the investigating officer Ms Thuli Nkomo at (012 394-1190), e-mail: tnkomo@itac.org.za.

Please advise if additional information is required.

.....
Petr Erasmus

OUR TEAM

For more information about our Tax & Exchange Control practice and services, please contact:



Emil Brincker
National Practice Head
Director
T +27 (0)11 562 1063
E emil.brincker@cdhlegal.com



Mark Linington
Private Equity Sector Head
Director
T +27 (0)11 562 1667
E mark.linington@cdhlegal.com



Candice Gibson
Senior Associate
T +27 (0)11 562 1602
E candice.gibson@cdhlegal.com



Gerhard Badenhorst
Director
T +27 (0)11 562 1870
E gerhard.badenhorst@cdhlegal.com



Heinrich Louw
Senior Associate
T +27 (0)11 562 1187
E heinrich.louw@cdhlegal.com



Petr Erasmus
Director
T +27 (0)11 562 1450
E petr.erasmus@cdhlegal.com



Varusha Moodaley
Senior Associate
T +27 (0)21 481 6392
E varusha.moodaley@cdhlegal.com



Dries Hoek
Director
T +27 (0)11 562 1425
E dries.hoek@cdhlegal.com



Louis Botha
Associate
T +27 (0)11 562 1408
E louis.botha@cdhlegal.com



Ben Strauss
Director
T +27 (0)21 405 6063
E ben.strauss@cdhlegal.com



Jerome Brink
Associate
T +27 (0)11 562 1484
E jerome.brink@cdhlegal.com



Mareli Treurnicht
Director
T +27 (0)11 562 1103
E mareli.treurnicht@cdhlegal.com



Gigi Nyanin
Associate
T +27 (0)11 562 1120
E gigi.nyanin@cdhlegal.com



Nandipha Mzizi
Candidate Attorney
T +27 (0)11 562 1741
E nandipha.mzizi@cdhlegal.com

BBBEE STATUS: LEVEL THREE CONTRIBUTOR

This information is published for general information purposes and is not intended to constitute legal advice. Specialist legal advice should always be sought in relation to any particular situation. Cliffe Dekker Hofmeyr will accept no responsibility for any actions taken or not taken on the basis of this publication.

JOHANNESBURG

1 Protea Place, Sandton, Johannesburg, 2196. Private Bag X40, Benmore, 2010, South Africa. Dx 154 Randburg and Dx 42 Johannesburg.
T +27 (0)11 562 1000 F +27 (0)11 562 1111 E jhb@cdhlegal.com

CAPE TOWN

11 Buitengracht Street, Cape Town, 8001. PO Box 695, Cape Town, 8000, South Africa. Dx 5 Cape Town.
T +27 (0)21 481 6300 F +27 (0)21 481 6388 E ctn@cdhlegal.com

©2017 2056/DEC

