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Taxes on a global citizens

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ATTORNEYS NOTARIES CONVEYANCERS

GLOBAL CITIZEN –LEARNING OUTCOME

LEARNING OUTCOME

For advisors to understand that there are many hidden tax and exchange complexities of setting up international structures or investments in products for residents either where the resident remains or is considering a change of tax residency

GLOBAL CITIZEN -AGENDA

Red Flags that you must consider for a SA tax and exchange control residents relating to offshore structures and products

Red Flags that you must consider for a SA tax and exchange control residents relating to offshore structures and products when there is a change of residency

GLOBAL CITIZEN SA TX AND EXCHANGE CONTROL

1. Who is a SA tax and exchange Control resident?

2. Why do SA residents consider international structures for SA residents?
   1. Exchange Control restrictions in South Africa
   2. The political and economic climate in South Africa
   3. International multi-family legacy structures
   4. International business opportunities

3. What are the funding methods available via non-resident structures
   1. Pension Premium
   2. Premium to-life products – regulated and unregulated
   3. Loan or preference share funding to Trust or Company
   4. Equity funding to the Company or Foundation
   5. Subscription to Unit Trust – Closed United trust

GLOBAL CITIZEN SA TAX AND EXCHANGE CONTROL

What tax risks are associated with these funding mechanisms from a SA tax perspective?

1. Pension Premium - Section 7(1), donation tax and estate duty
2. Premium to-life products – regulated and unregulated – estate duty and CGT – paragraph 55of the 8th Schedule
3. Loan or preference share funding to Trust or Company – Transfer pricing section 31, attribution rules section 7(8)/paragraph 72 of the 8th Schedule and section 7C
4. Equity funding to the Company or Foundation – Tax residency via effective management from SA or foreign control company (section 9D)
5. Subscription to Unit Trust – Closed United trust – possible section 7(1)?
6. Multilateral Convention to Implement Tax Treaty-Related Relief – 23 January 2023
7. South Africa Reserve Bank noting on Loop Structures

GLOBAL CITIZEN PLANNING – EXIT SA

1. Changing your SA resident status – what is the process?
    1. SARS – section 9H of the ITA, there is a deemed CGT event for a natural person – and possibly for Trust and Company.
    2. SARB cash flow
    3. Complications? Shareholding in Companies and change of tax residency in Companies
2. What pre-planning must you do?
    1. What assets are on your balance sheet?
        1. Which of these assets will have a deemed CGT effect in terms of section 9H of the ITA?
        2. Which assets are an exception to the rule?
    2. What assets are not on your balance sheet but you must consider and Why?
        1. Trust Assets
        2. Indirect ownership in Companies
        3. Endowment Policies

GLOBAL CITIZEN PLANNING – EXIT SA

What is the income tax effect of those assets in the new country on the following investmens?

1. SA endowment structures?
2. Trusts and SA Companies?
3. Base costs of assets when entering new tax jurisdiction on actual and deemed disposals?
4. Exchange Control
5. Tax Risk relating to remaining SA Board appointments for both trusts and Companies

Questions

1. When does section 9H of the Income Tax Act of South Africa apply, and what is the consequence of its application?
2. What is the purpose of the MLI?
3. What is the difference between a regulated and unregulated endowment and its impact on SA estate duty?

Questions and Answers

When does section 9H of the Income Tax Act of South Africa apply, and what is the consequence of its application?

Answer ---

section 9H results in a deemed CGT event when there is a change of tax residency for a natural person

Section 9H results in a deemed CGT for each company asset and dividends tax event for a company

Section 9H also has an impact of a 10% shareholder in a company that ceases to be tax resident

What is the purpose of the MLI

Answer ---

The MLI limits DTA relief where one of the principal tests of entering into a structure is to avail oneself of DTA relief.

Questions

What is the difference between a regulated and unregulated endowment and its impact on SA estate duty?

Answer ---

The regulated endowment is a domestic policy issued in terms of the South Africa Long Terms Insurance Act and taxed according to the fund principle; an underregulated approach is not regulated in the SA long terms Insurance Act.

A regulated policy is a deemed asset for Estate Duty purposes and exempt from CGT on death.

An unregulated policy is not a deemed asset for Estate duty purposes but triggers CGT on death

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  - ERNEST & YOUNG
  - KPMG SOUTH AFRICA
  - SHEPSTONE & WYLIE ATTORNIES
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Global Citizen masterclass

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