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Last chance for tax dodgers to come clean

Worldwide move to share individuals' information

South Africans are to be given one last chance to come clean and admit to offshore holdings that they have previously not declared.

While the government wishes to make the offer attractive to citizens, current proposals are not as lenient as the amnesty offered in 2003-04. However, internationally conditions have changed and hiding one's assets offshore is likely to become difficult.

Following global legislation similar to SA's Financial Intelligence Centre Act (Fica) which requires both proof of identity and place of residence, there is now a worldwide move to provide information between governments on individuals' assets.

Brian Butchart, MD of Brenthurst Wealth Management, says while the markets have not been doing that much recently, the wealth management arena is far from boring and the latest issue for the wealthy is a further attempt by government to get them to fully disclose their offshore assets.

While the 2003-04 amnesty netted an estimated R65bn in disclosures it is believed that a further R200bn in offshore capital is still outside the tax net.

"The Special Voluntary Disclosure Programme (SVDP) is in the final stages of being formulated and it could be the last opportunity people have to make their peace with SARS with regard to undisclosed offshore assets. As things stand the programme will run from now until the end of June next year," Butchart says.

Details are being tweaked so some numbers may change but the basics are known.

The Foreign Exchange penalties include:

- 10% of capital sum must be paid to SARS if the taxpayer leaves the money offshore;
- The penalty is lower at 5% for those who opt to bring their money back to SA; and
- There is a further 2% if people use local funds to pay the penalty.

Moreover, there is tax to be paid. "Currently 40% of the highest asset value in the past five tax years will be added to your taxable income and taxed at your marginal tax rate," Butchart says.

While the plan may at first glance appear onerous, it is a lot better than the present VDP regime in which people have to pay 20% if they leave their assets offshore and 10% if they are repatriated and all tax must be paid and there is no limit to how far SARS may go.

"Not all offshore assets would be considered undeclared assets which would be liable for penalties," Butchart says. "Some individuals, for example, may have inherited money from relatives living abroad and kept it there. As long as it was declared and the taxes on the interest and growth was paid after inheritance these funds are perfectly legal. Anyone unsure about their status should consider consulting with an expert to determine their potential liabilities."

He says when the new programme starts this month it will be people's last chance to come clean before global developments paint them into a corner. Next year the global community starts using its common reporting standards.

"SA is one of the early adopters and thus one of a group of countries automatically exchanging information according to a common standard. If you are a South African citizen, for example, with an offshore asset in the Isle of Man the tax authority in the Isle of Man will automatically provide information on that asset to SARS," Butchart says.

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R200bn **in offshore capital is believed to be still outside the tax net**

"The new protocol is the sharing of information between tax authorities to uncover assets that have previously been concealed. In this way SARS will be able to see if people are generating taxable income on which they are not paying tax."

The new programme builds on legislation such as SA's Fica and the idea that banks and other financial service providers must "know your client" and know the source of their funds.

"The latest stage started in June last year when the US authorities asked other countries for information on US citizens (referred to as Fatca).

"However, at this time the US will not be disclosing such information to other countries on their citizens. This has stirred up a hornets' nest and the rest of the world is objecting to this one-sided approach.

"Some people without assets in the US might now consider shifting their investments across but there is no guarantee that the US will not give into pressure and also participate.

"We also suspect that individuals, especially the super wealthy, could potentially emigrate to where there capital is," Butchart said.