BRENTHURST GLOBAL WEALTH

INVEST BETTER with BRENTHURST
BUILDING WEALTH SINCE 2004

IN THIS ISSUE

South African spouses may face unexpected donations tax when one becomes a non-resident.

Transfers made since February 2026 can trigger tax, with potential interest and penalties, making proactive planning essential before liabilities arise.

JHB (HQ)	+27 (0) 11 799 8100
JHB (SANDTON)	+27 (0) 10 035 1391
PTA	+27 (0) 12 347 8240
CAPE TOWN	+27 (0) 21 418 1236
BELLVILLE	+27 (0) 21 914 9646
CLAREMONT	+27 (0) 21 100 3901
STELLENBOSCH	+27 (0) 21 882 8706
PAARL (VAL DE VIE)	+27 (0) 21 100 3901
GEORGE	+27 (0) 44 050 6057
MAURITIUS	+ 230 5843 5215

THE HIDDEN TAX

MARRIED COUPLES MIGHT MISS

KIM DOOLAN | TAX PRACTITIONER, BRENTHURST VAL DE VIE, PAARL

Picture a fairly common South African situation. Your spouse took up a job overseas last year, or finally settled abroad after months of visas, paperwork and goodbyes. While you wound up things back home, you paid off the last of a bond, covered some moving costs, or simply sent money over to help them get started.

It might not have felt like a financial transaction, more like family looking after family.

However, under recent changes to South African tax law, that would be considered a donation, and taxed accordingly.

Since the Budget Speech on 25 February 2026, National Treasury has drawn a new line through one of the oldest tax breaks married couples relied on. Donations between spouses used to be entirely tax free – no limit, no questions asked. That exemption now only applies in full if the spouse receiving the donation is still a South African tax resident.

Once they've ceased residency, whatever you give them, transfer to them, or pay on their behalf can trigger donations tax. And Treasury has said this applies from budget day itself, not from whenever the final law gets passed.

A RULE THAT'S ALREADY WORKING, BEFORE IT'S LAW

HERE'S WHAT MAKES THIS SO EASY TO MISS. THE CHANGE IN THE TAX LAW IS STILL ONLY A DRAFT.

The Draft Taxation Laws Amendment Bill that will formally write it into law is open for public comment until 28 August 2026, and it isn't expected to reach Parliament until closer to year end. So, there's a real gap from when SARS already started applying the rule and when most people would reasonably assume a ‘proposed’ change becomes active.

The problem is that, unless you were reading tax commentary in February, there was no way of knowing your family's arrangement had quietly become taxable.

MISS THE DEADLINE AND THE BILL FOLLOWS YOU BOTH

THIS IS THE PART WHERE PEOPLE GET CAUGHT OUT. DONATIONS TAX HAS TO BE DECLARED AND PAID WITHIN A MONTH OF THE DONATION, USING A FORM CALLED AN IT144.

Miss that window, which is easy to do when you didn't know a donation had even taken place, and you and your spouse both become liable for the full amount. SARS can pursue either spouse for it, wherever in the world they now live.

These transfers also tend to go undeclared, rather than deliberately hidden, which means SARS isn't working against a ticking clock the way it would on an ordinary return. The liability doesn't quietly disappear. It can surface years later, with interest attached.

And this isn't only about spouses moving abroad. The same principle applies to South Africa's much broader ‘connected persons’ rules, which assume any transaction between family members, or between you and a family trust or company, may not be at arm's length. Donations tax is simply the sharpest edge of it at present.

COULD THIS ALREADY APPLY TO YOU?

Has your spouse become, or is close to becoming, a non-resident for tax purposes? Have you transferred money, paid a debt, or handed over an asset on their behalf since 25 February 2026? And do you actually know whether that was declared to SARS?

If you answered yes to any of these, or you're not sure, that uncertainty is the problem. It isn't a detail to tidy up later.

THERE'S STILL TIME TO GET AHEAD OF THIS

The upside of a law which is yet to be finalised, is that you get a window most tax changes never offer. You can check what transactions have already transpired, declare it properly if needed, and plan what comes next before the rules are permanently locked in.

It's also worth knowing that donations tax rarely travels alone. Moving assets to a spouse who's left South Africa can bring capital gains tax into the picture too. So, it makes sense to have both checked simultaneously, rather than one at a time.

However, you don't need to tackle this on your own. At Brenthurst, our tax team deals with exactly these situations and would much rather help you get ahead of a liability, than have you discover it through a SARS letter.

KIM DOOLAN | TAX PRACTITIONER, BRENTHURST VAL DE VIE, PAARL

Kim Doolan has recently joined Brenthurst Wealth as internal tax practitioner in the Val de Vie Office.

With a proven track record of success in both public and private sector, which includes eight years at the South African Revenue Service, she has experience in ensuring compliance across all tax types as well as mitigating risks associated with tax obligations.

Kim obtained her Master of Commerce in Taxation from Rhodes University and is currently studying to achieve a Professional Certificate in Principles of International Taxation.

Phone: +27 (0) 21 100 3901 | **Email:** kim@brenthurstwealth.co.za