BRENTHURST
THE HOME OF WEALTH

INVEST BETTER with BRENTHURST

THE RISKS OF SEMI-NOMADIC LIFESTYLES & CESSATION OF TAX RESIDENCE

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

Is the cessation of tax residence process overdone, overused and, thus, becoming an artificial concept? Is it really as simple as finding employment abroad, obtaining a certificate of tax residency from this other jurisdiction, submitting it to SARS and then your South African tax obligations are now a thing of the past?

As globalisation increases, more South Africans earn income from or hold assets offshore. A growing number of South Africans are also adopting a semi-nomadic lifestyle, spending six months abroad and six months in South Africa. While this arrangement may seem like an ideal way to balance lifestyle, family and financial interests, it carries significant tax and asset risks. Many individuals assume that spending half the year outside South Africa is sufficient to break tax residency, but this is not necessarily the case.

South African tax residency is determined by two key tests: the Ordinary Residence Test and the Physical Presence Test. If SARS believes that an individual's primary home, business connections and social ties are still centred in South Africa, they could still be considered a tax resident – even after spending significant time abroad. By spending six months annually in South Africa, individuals may unintentionally meet the criteria of the Physical Presence Test.

IN THIS ISSUE

Adopting a semi-nomadic lifestyle, like spending six months abroad and six months in SA, may not end one's South African tax residency. Without careful planning, individuals risk being classified as tax residents, facing worldwide taxation, double taxation, capital gains liabilities, estate duty concerns and SARS penalties for incorrect disclosures.

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

ACCORDING TO THIS TEST, AN INDIVIDUAL QUALIFIES AS A TAX RESIDENT IF THEY MEET ALL OF THE FOLLOWING CONDITIONS:

1. **Spend more than 91 days in South Africa in the current tax year.**
2. **Spend more 91 days in South Africa in each of the preceding five tax years.**
3. **Accumulate more than 915 days in total in South Africa over the past five years.**

Non-South African tax residents are only liable to pay tax in South Africa on income derived from a South African source. In contrast, South African tax residents are subject to taxation on their worldwide income, which includes income earned from foreign employment, investments and rental properties. Even if a South African tax resident earns foreign income while working abroad, SARS still requires disclosure of that income.

The foreign employment income exemption allows for a tax-free amount of up to R1.25 million, provided the individual spends more than 183 days outside South Africa during a 12-month period (with at least 60 of those days being consecutive).

To revisit the original questions, the answers, in my view, are yes – cessation of tax residence is fast becoming an artificial concept and no, it is not that simple. SARS is becoming more adept at identifying these cases and, without careful planning, individuals may find themselves at risk of being classified as South African tax residents. This could lead to years of incorrect submissions, where only South African source income was declared, and could end up a costly exercise.

Without proper structuring and compliance, individuals could face the risk of worldwide taxation, double taxation, capital gains liabilities, estate duty concerns and even SARS understatement penalties for incorrect disclosures. Where advice was obtained previously, given how quickly circumstances change, it is important to regularly review the advice and structures in place.

KIM DOOLAN | TAX PRACTITIONER, BRENTHURST WEALTH PAARL

Kim Doolan recently joined Brenthurst Wealth as tax practitioner in the Val de Vie Office. With a proven track record of success in both the public and private sectors, 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