

# GMS Flash Alert



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## South Africa - New Process for Breaking Tax Residency

The South African Revenue Service (SARS) published new requirements regarding the process to follow when ceasing South African tax residency.<sup>1</sup> In addition to changing the options for how a taxpayer can declare breaking tax residency, all individuals who cease tax residence must update the Registration Amendment and Verification (RAV01) form on the SARS eFiling platform. For prior coverage, see [GMS Flash Alert 2021-199](#), 14 July 2021.

### WHY THIS MATTERS

The disclosure process in relation to the declaration of the cessation of tax residence in South Africa is continuously evolving. Employers and their globally-mobile employees need to be aware of changes in administrative process and new procedures for individuals changing their tax residence status.

### What Has Changed?

Prior to August 2022 there were two ways a taxpayer could declare the cessation of tax residence to SARS:

- 1) Via the annual income tax return (form ITR12); or
- 2) By email submission to SARS.

Option 2 is now no longer available.

All taxpayers are now required to comply with the new requirement regarding the RAV01 when ceasing tax residency, even if the taxpayer declares it on the ITR12 (option 1).

The RAV01 must be updated prior to the submission of the taxpayer's ITR12 to avoid the return being selected for manual intervention by SARS. Once the taxpayer's ITR12 is selected for manual intervention by SARS, the taxpayer will

be required to update the RAV01, and an income tax assessment will only be issued once this process has been finalised.

Once the RAV01 has been updated and submitted on the eFiling platform, the date on which the taxpayer ceased to be a South African tax resident should be reflected on both the RAV01 and the ITR12, and SARS' records should be updated to state that the taxpayer is now non-resident for tax purposes. This action will prompt a separate request from SARS for the relevant supporting documentation in relation to the cessation of tax residence. This requires the taxpayer to also complete and submit the "*Declaration of Ceasing to be Tax Resident*" form as a supporting document.

## What Documentation Should Be Provided?

Standard requirements (to be submitted with all declarations):

- The signed declaration form from SARS eFiling indicating the basis on which you qualify;
- A letter of motivation setting out the facts and circumstances in detail to support the disclosure that one has ceased to be a tax resident;
- A copy of the taxpayer's passport/travel diary, reflecting the date of departure.

Additional documentation that may be required on request from SARS include the following:

- Assets and liabilities schedule for the previous three (3) years;
- Capital gains tax calculation evidencing that the so-called "exit tax" was considered; and
- Certificate of residence, if available.

**Please note that SARS does not accept any hand-written documents; all documents must therefore be typed.**

## Additional Specific Requirements

In addition to the standard requirements, SARS has provided lists of specific additional information to be provided to SARS, to indicate the basis on which the taxpayer ceased to be a tax resident. These requirements differ, based on which type of residence a person currently holds (e.g., "ordinarily resident" or a "physical presence" tax resident), and taking into account the basis on which residence is being broken (e.g., whether a double taxation agreement is being relied upon or not).

## Summary

	<b>Ceasing tax residence via the ITR12 (i.e., declaration of date on the ITR12)</b>	<b>Ceasing tax residence via the RAV01 (ceasing prior to submission of tax return)</b>	<b>Submission of Tax Compliance Status ("TCS") in order to move money from South Africa offshore when ceasing tax residency</b>
Step 1	Update and submit RAV01 before submission of the ITR 12. If this is not done before the submission of the taxpayer's tax return, his/her tax assessment will not be issued until such time as the RAV01 process has been finalised.	Update and submit RAV01 on the date that the taxpayer ceases to be tax resident or soon thereafter. This will help ensure that all dates reflected are correct and the taxpayer's records match SARS.	The TCS process will not update the RAV01 nor the SARS records of the date the taxpayer ceased tax residence, therefore taxpayers will be required to follow the process of updating the RAV01 in addition to the TCS process. The TCS is only to allow the individual to move money offshore.
Step 2	Submit supporting documents on request from SARS.	Submit supporting documents on request from SARS.	Submit supporting documents on request from SARS.

Source: KPMG in South Africa

## KPMG NOTE

- An assessment will be required to determine whether a taxpayer in fact breaks South African tax residence and the mechanism by which residence is broken – this assessment needs to be done taking all facts and circumstances into account including whether the taxpayer has established tax residence in another tax jurisdiction.
- Attention to detail is important in completing the declaration form from SARS eFiling and the letter of motivation for an individual taxpayer and/or family unit setting out the facts and circumstances to support the disclosure that the individual has ceased to be a tax resident. The relevant supporting documentation along with the declaration and letter can be submitted either with the taxpayer's ITR12 or via RAV01.
- Taxpayers can also submit a Voluntary Disclosure Programme (VDP) application to SARS when an incorrect disclosure in relation to a taxpayer's tax residence was made in the past that resulted in a tax default (e.g., underpaid capital gains tax in the year of breaking residence) and taxes due to SARS.

## FOOTNOTE:

1 See the SARS web page "[Cease to be a Resident.](#)"

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## Contact us

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