



MINISTRY OF FINANCE  
REPUBLIC OF SOUTH AFRICA

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## MEDIA STATEMENT

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### MINISTER OF FINANCE INSTRUCTS INVESTIGATIONS INTO OFFSHORE HOLDINGS

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The Minister of Finance has noted reports on the clients of a Panamanian legal firm and certain South Africans that may be linked to offshore bank accounts. The Ministry would like to point out the relevant agencies (eg SARS, FIC, SARB) always investigate such reports to ensure that those that have such links have complied with the law.

There are many transactions on a daily basis between South Africans and the rest of the world, and holding funds in an offshore bank is by itself not illegal, as long as the necessary approvals and disclosures have been made to the relevant authorities. Funds in an offshore account may contravene exchange control regulations and tax laws if the source of the funds has not been disclosed to the appropriate authorities. Individuals or companies who are involved in businesses offshore need to ensure that they do not fall foul of for example Exchange Control Regulations, 1961, the Income Tax Act, 1962, and the Tax Administration Act, 2011.

The Treasury welcomes the release of such information which, like the recent release of information related to the clients of HSBC, provides the basis for authorities to act against those who illegally move funds out of SA. The world is systemically narrowing the scope for those who want to hide their offshore assets and avoid paying their taxes due to the South African fiscus. It is in the interests of all those hiding their assets to come clean and disclose, and the Government offers such persons a way to legitimise their financial affairs before they are caught out.

### SPECIAL VOLUNTARY DISCLOSURE PROGRAMME

A special voluntary disclosure programme (VDP) was proposed in the 2016 Budget to make it easier for non-compliant individuals and firms to disclose assets held and income earned offshore. As was noted in the 2016 Budget Review; "With a new OECD global standard for the automatic exchange of financial information between tax authorities coming into effect from 2017, time is running out for taxpayers who still have undisclosed assets abroad."

In terms of this proposal, if adopted by Parliament and enacted, both the South African Reserve Bank and the South African Revenue Service will relax the existing VDP rules from 1 October 2016 to 31 March 2017.





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The Minister would like encourage those that may be affected to use the VDP opportunity and ensure their tax and exchange control affairs are in order. Depending on the nature of the contravention of the laws, action against those who have flouted the rules includes the imposition of taxes, understatement and other penalties, forfeiture of funds and criminal prosecution.

### **EXCHANGE OF INFORMATION**

South Africa is at the forefront of international work on exchange of information (EOI) and has acceded to a number of bilateral agreements, as well as a multilateral agreement, to make EOI possible. South Africa continues to enhance this network of international agreements, including the negotiation of protocols to existing agreements to ensure the latest EOI standards are met.

The country has participated in the work of the Global Forum on Transparency and Exchange of Information for Tax Purposes. The Global Forum's fundamental standard for EOI is EOI on request. That is to say a tax authority in one jurisdiction will provide information in respect of a specific taxpayer or group of taxpayers that is foreseeably relevant to their tax affairs in another jurisdiction, on request by that other jurisdiction.

The new standard adds automatic EOI. That is to say a tax authority in one jurisdiction will automatically provide financial account information to other jurisdictions in respect of the other jurisdictions' taxpayers. The Standard for Automatic Exchange of Financial Account Information in Tax Matters or simply the Common Reporting Standard (CRS) was endorsed by the G20 in 2014.

Some 96 countries/ jurisdictions have committed to implementing the CRS by 2018. South Africa is a member of the early adopters' group of 55 jurisdictions. This means that from 2016, SARS will be collecting information and automatically exchange it on an annual basis from 2017. Amendments to the Tax Administration Act, 2011, to underpin implementation of the standard were included in the Tax Administration Laws Amendment Act, 2015.

SARS is working with the local financial sector to prepare it for the implementation of the standard and has contributed experts for the peer review of jurisdictions' confidentiality frameworks and their implementation prior to the commencement of automatic EOI under the CRS.

### **BASE EROSION AND PROFIT SHIFTING**

In a globalised economy where capital mobility and adoption of technology has advanced, Base Erosion and Profit Shifting (BEPS) has become a significant risk and challenge to the tax base.





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To help mitigate these risks, the G20/OECD launched the BEPS Action Plan in July 2013. South Africa has been a full participant in this work, which aims at addressing mismatches, gaps and weaknesses in international tax and treaty law that permit double non-taxation.

Although the BEPS Action Plan covers a wide variety of issues, a key issue in the EOI space relates to Country-by-Country (CbC) reporting. A major challenge for tax administrations reviewing cross border transactions is lack of information to identify risk. CbC reports will provide an overview of group revenues, profitability, tax, employees and assets around the world for this purpose. The first reports, for financial years starting in 2016, will be due in 2017/18 and will be provided to other tax administrations through automatic EOI.

### **FINANCIAL INTELLIGENCE CENTRE AND SA RESERVE BANK**

The Financial Intelligence Centre (FIC) receives reports of suspicious activity in relation to potential tax evasion, as well as money laundering and other criminal offences. The improved know your client and beneficial ownership requirements proposed in the Financial Intelligence Centre Amendment Bill, 2015, will assist in underpinning the CRS and other EOI initiatives described above.

The SA Reserve Bank also monitors cross-border flows, with some transactions requiring specific approvals through authorised dealers.

### **AFRICAN TAX ADMINISTRATION FORUM (ATAF)**

ATAF is currently busy with a work program on EOI and the establishment of EOI units in African tax administrations, including the setting up of the necessary legal and information technology frameworks throughout our continent. ATAF is also working very closely with the Global Forum, in particular on a project called the Africa Initiative that will assist in building sustainable EOI capabilities in Africa.

### **BACKGROUND**

Further details on EOI are found on the following links:

<http://www.sars.gov.za/Legal/International-Treaties-Agreements/DTA-Protocols/Pages/default.aspx> and [http://www.sars.gov.za/Legal/International-Treaties-Agreements/Pages/Exchange-of-Information-Agreements-\(Bilateral\).aspx](http://www.sars.gov.za/Legal/International-Treaties-Agreements/Pages/Exchange-of-Information-Agreements-(Bilateral).aspx)

Details on CRS are on this link: <http://www.sars.gov.za/Legal/International-Treaties-Agreements/DTA-Protocols/Pages/default.aspx>

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