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REAI TAXATION AND STATUTORY UPDATE WORKSDHOP

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BDO
AUDIT • ADVISORY • TAX

Points of discussion

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Uniforms and corporate wear provided to employees

The law:

- Section 8 of the Act provides for any allowance expended for business purposes to be exempt from PAYE
- Section 10(1)(nA) provides an exemption where an employee is provided with and is required as a result of their duties to wear a special uniform.
- Paragraph 2 provides that a fringe benefit is deemed to have been received if an individual has received an asset from the employer for no consideration or less than market value

Practical considerations:

- The wearing of the uniform should be a condition of employment
- The clothing should be clearly distinguishable from ordinary clothing
- Where the above requirements are met, the allowance or the provision of the uniform is exempt from tax, therefore, no PAYE.

Inbound foreign lecturers

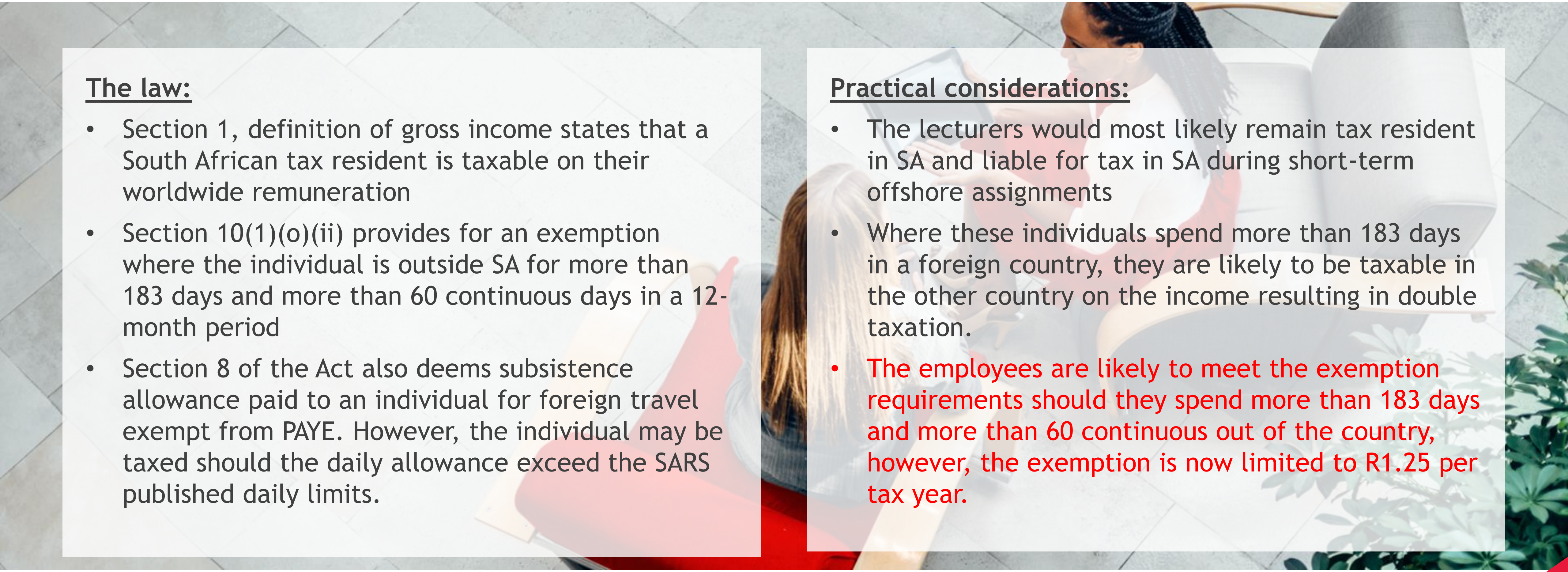
The law:

- Section 1, definition of gross income details that non-resident are tax in SA on SA sourced income.
- Paragraph 2 and paragraph 9 of the Seventh Schedule deems benefits provided to employees as a taxable benefit.
- There are exemptions of up to R25 000 per month for accommodation.
- Paragraph 2 and paragraph 7 of the Seventh Schedule deems the provision of a vehicle to an employee to be taxable.
- SA has various Double Tax Agreement where individuals may be exempt from tax in SA subject to certain conditions.

Practical considerations:

- Foreign nationals in SA for less than 6 years, like to be taxed on income earned for services rendered in SA.
- Accommodation provided to these individuals is taxable if the value exceeds R25 000 per month (subject to certain requirements)
- Car hire or provision of employer owned vehicles taxable.
- Where the individual is from a country with a DTA with SA, potential exemption subject to 3 matters, namely; in SA for less than 183 days, not paid by an SA employer, not paid by an SA permanent establishment.

Outbound lecturers



The law:

- Section 1, definition of gross income states that a South African tax resident is taxable on their worldwide remuneration
- Section 10(1)(o)(ii) provides for an exemption where the individual is outside SA for more than 183 days and more than 60 continuous days in a 12-month period
- Section 8 of the Act also deems subsistence allowance paid to an individual for foreign travel exempt from PAYE. However, the individual may be taxed should the daily allowance exceed the SARS published daily limits.

Practical considerations:

- The lecturers would most likely remain tax resident in SA and liable for tax in SA during short-term offshore assignments
- Where these individuals spend more than 183 days in a foreign country, they are likely to be taxable in the other country on the income resulting in double taxation.
- The employees are likely to meet the exemption requirements should they spend more than 183 days and more than 60 continuous out of the country, however, the exemption is now limited to R1.25 per tax year.

Taxation of retirement funds

The law:

- The Second Schedule of the Act details the taxation of retirement funds.
- Employees are allowed access a lump sum of up to to 1/3 of their fund benefit and any vested provident fund benefit prior to the alignment of the retirement funds
- Schedule 2 also requires the employee to purchase an annuity for the remainder of the 2/3 of their fund benefit.
- The Second Schedule allows for a tax-free amount of the 1/3 lump sum on retirement.
- Section 1, definition of gross income deems the monthly annuity as income as defined and taxable

Practical considerations:

- The employee will be liable for tax on any amount in excess of R550 000 of their lump sum withdrawn.
- The R550 000 lump is a lifetime amount and where the individual has a provident, pension and retirement annuity fund, only R550 000 of the cumulative lump sum is exempt and not per fund
- The monthly annuity received by the individual is subject to tax at the individual's applicable tax rate.

Two-pot Systems mechanics

The law:

- The Second Schedule to the Act was amended to allow the split of retirement fund contribution to a savings and a retirement component
- The Second Schedule allows for 1/3 of the monthly contribution to be housed in a savings component and 2/3 into the retirement component
- From 1 September 2024, employees are now able to withdraw from their savings component.
- Initially, 10% of the fund benefit, limited to R30 000, has been made available as part of the savings component.
- The above initial limits are per fund.

Practical considerations:

- From 1 September 2024, employees can submit withdrawal request to their fund administrators.
- The 10% or R30 000 limit is per fund, therefore, if one has more than one fund, they would have more than one savings pot two withdraw from.
- It is important to note that the individual will be taxable on this withdrawal using their prevailing tax rates.
- The fund administrators would apply for a directive for the withdrawal and where the individual owes SARS, the debt would be deducted from the withdrawal.
- The withdrawal is limited to one withdrawal per year per fund.

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