

Subject: Comments on repeal of Section 10(1)(o)(ii) Act, No 58 of 1962

Dear National Treasury and South African Receiver of revenue,

I am Burgert (Barry) Pretorius, a natural born South African and the originator of the South African tax petition group. The petition is attached for your attention and I, hereby, implore you to take note of our submission.

I am not a tax specialist, but as a layman have gained experience on our tax system/structures and living abroad have taken it upon myself to represent South Africans working abroad.

The petition group was formed in March 2017 and a petition was started with the objective of –

The South African Expatriates Tax Petition Group was founded to advance the interests of South African Expatriates earning income outside of South Africa and who might become liable under new legislation to pay more taxes. The group will focus on informing expatriates on developments in the promulgation of this legislation and provide a forum for expatriates to act as a uniform front to oppose legislation which might put them at an unfair disadvantage.

Consistently over the past 6 months we have strived and adhered to the following rules –

No rude derogatory comments about Middle Eastern countries in specific may be made as there are strict laws enforced related to social media content and no physical petition/protest based meetings may be held. No racially based comments will be tolerated. Posts that incite non-constructive comments and do not further the intent of the petition group will be removed.

Any use of foul language, cyber bullying, posting of political articles/ financial investment and tax consultants advertisement pages will be removed and repeated posting will lead to members removal from this group. Any comments related to or suggesting the avoidance of paying taxation outside government enacted tax laws will be deleted.

No direct advertising by financial advisers and consultants will be allowed, postings will be removed and repeated posting thereof will lead to adviser/consultant responsible banned from the group. Members may recommend to other members consultants/advisers without placing links to the service provider web pages.

Group demography -

This group, currently of 13378 members, and attached petition signed by 10667 petitioners, do not represent only the South Africans working abroad. This is made of wage earners, family members, friends and colleagues whom have come out in support of those earning their living abroad. It is also many South Africans still residing and working in South Africa whom wish to come and work abroad and are concerned about the impact of the repeal of section 10 on them being able to work abroad.

Its members reflect the South African population and all races, genders and age groups can be found within its makeup. It is reflective of (as can be seen by the data in Attachment A - List of countries) a large south African based group as well as South Africans working in the furthest and remote corners of the world.

It is a multi-racial, multi-cultural group brought together by the unifying factor of both personal fear and concern for individual futures and for the health of the economy and next generations following in our footsteps.

Sources of information -

These comments are not based upon statistical analysis of databases, on theoretical calculations. This comes from hundreds of man hours spent in telephone conversations and messaging on one to one basis with my fellow South Africans. This is old and young black/white/colored/Indian South Africans reaching out to myself over social media platforms Facebook, Messenger, WhatsApp , LinkedIn, emails and telephone calls. Laws must and need to consider the impact upon the daily lives of its citizens. It should not be only based upon the technicalities and the inputs of professionals, academics and corporate entities.

Tax compliancy -

To a large extent the low numbers of annual tax returns, submitted by South Africans abroad, is also reflective of tax consultants advising their clients to do nil or 'zero value tax returns' and not to do tax returns as they have been based abroad for so many years, and the employees of the Receiver of Revenue giving the same advice to South Africans abroad. There seems even within these organizations a history of misunderstanding the tax laws and causing confusion amongst the workers abroad. Both the consultant industry and the Receiver of Revenue should take some responsibility for having created a mindset of not having to submit tax returns by South Africans residing abroad.

Fear factor -

The budget announcement and release of the draft bill, proposing the repeal of Article 10, has resulted in a predominant sense of doom and gloom under South Africans. A

lack of clear definitions of whom and how they/we are affected by the repeal has generated confusion and fear resulting in anger and decisions being made which will not auger well for South Africa's future. Most of these members are average working-class citizens and the prevailing fear is not due to having illicit funds or assets that SARS might lay claim to but that they will not be able to pay the taxes if deemed tax liable by repeal of article 10. Those residing in so called zero or low tax regions, whom face the reality of high consumption based taxes, are confused by the lack of clarity on tax deductibles, exchange rate factors to name but a few elements that is feeding this fear. The most pertinent display of this fear and concern came from the spouses and extended families in South Africa itself many whom contacted me in person stating clearly that without the support of those residing abroad they would become financially destitute.

Speculation and greed -

One of the most concerning result of this repeal is the response from the financial groups whom are using this as a platform from which to make profit from selling services such as financial emigration and investments into other countries. As originator of this group I have been approached from Hong Kong and Thailand to name a few seeking access to my database and blatantly trying to convince me or make offers for access to the database and trust I have established with my fellow South Africans. A multitude of pension and investments schemes has been proposed to me that would have South Africans paying some low tax to these countries or apparently protect them from the SA tax base. They have all been denied such access, I have sent a clear message that they are not welcome and have expressed my disgust to them. Draining the financial resources and tax evasion in any form is and will not be part of our engagement with our country of origin or a solution to be considered.

Panic and pre-emptive decisions being made -

Many South Africans, now working abroad, appear to be left with two options. Cut financial ties with South Africa completely and abandon its economy or return to a South African job market that is already under pressure to provide jobs for all. Both these choices are not good for South Africa.

Large numbers of these are initiating emigration procedures, draining our resource pool off millions of manhours of experience and skill sets. I am employed by a Middle East government in a oil and gas company. My KPI consist of 30% of my work allocated to practical training of young graduate engineers. The investment by theses governments into their nationals is remarkable and knowing that so many South Africans may now retire to many countries in the world, offering attractive "golden parachute passports and citizenship", fills me with a great unease for the future of South Africa's growth. These "packages" start as low as \$20 000 starting fee.

In addition, many UAE "permanent residency based" South Africans have started obtaining TDA's -Tax domicile certificates which with DTA's that contest that they are not tax residents of SA or ordinary residents. These certificates cost AED 2400 per annum (R 8640.00), money that again is being drained away from South Africa. This cost does not include the manhours spent in obtaining the relevant documents required. News articles of people associated with our president regarding establishing residency in Dubai has only served to promote this course of action.

Tax Domicile Certificate is available on the UAE Ministry of Finance website as listed below:

<https://www.mof.gov.ae/.../mse.../VTAX/Pages/ServiceCardTax.aspx>. The application may be done online and a detailed. User Manual may be downloaded as a PDF (accessible by clicking on the icon - at bottom of MoF page that says "User Guide"). Note that the service is offered to individuals if they have resided in the UAE for at least 180 days. To submit an online application, the service requires that the following documents be uploaded:

1. Copy of the individual's passport.
2. Copy of a valid Residential ID.
3. A certified copy of (residential) the individual's lease agreement.
4. Source of income/Salary certificate.
5. A validated 6-month bank statement.
6. A report from the General Directorate of Residency and Foreigners Affairs specifying the number of days the resident has stayed in the UAE. The report mentioned that report in point 6 may be obtained from your local emirate based immigration office: In Dubai - Directorate of Residence And Foreigners Affairs. Address: Terminal 3, Dubai International Airport. In Abu Dhabi - Directorate of Residence And Foreigners Affairs. Address: Terminal 3, Abu Dhabi International Airport.

NOTE: You will first need to go to an DR&FA accredited typing center in order to get an application letter (for the report to be issued) which also serves a letter of no objection to be signed by your sponsor. Cost = AED 160 The Tax Domicile Certificate costs AED 2,000 plus AED3.00

Financial consequences for South Africans abroad -

Those residing in the Middle Eastern countries availed themselves of extremely high bank loans with very attractive interest rates. This, in addition to long term 10-15 year off shore investments based upon an income exempted for SA taxes, place them in dire financial positions. Withdrawal from these investments due, to now having to pay taxes,

would cost huge penalties and loss of funds resulting in many returning to SA without those funds and becoming a burden on the state.

Failure of payments on loans in these countries, even bouncing of a cheques, is met with laws strictly applied resulting in incarceration in jail and your passport/ability to leave the country withheld. Repeal of article 10 and the effective propose date of 1 March 2019 does not allow enough time to adjust or compensate for the above commitments made.

Many comments will be submitted by individual members of this group's members and the petitioners on the costing structures and consumption based "tax" system and taxes in the form of "levies" on expats related to housing, schooling and utilities in these low tax countries are true and factual and as one of them living in such a country I can confirm these as factually correct.

Conclusion -

Greater clarity is required from both Treasury and the South African Receiver of Revenue is required.

A viable alternative exemption system should be proposed if article 10 is removed. and at a minimum deduction for expats on housing, schooling, transportation, excessive co-payments on medical expenses should be considered. If they are considered residents of SA they must in turn be considered as conducting business abroad in earning that income.

We hereby assure you of your best intent to take part in the discussion process and will avail any details required on the signed petition and the expat petition group to enable validation and informed decision making.

Yours sincerely

Barry Pretorius