OPES | CASE STUDY

South African Expats living and working abroad

Tim Mullins, a telecommunications specialist working in Dubai, plans to return to South Africa to semi-retire in 5 years, following a career that has seen him work abroad for 15 years. His aim is to have his financial affairs structured in an efficient manner to meet his immediate needs, as a South African expatriate, but also his future needs on his return to South Africa.

This case study considers the implications of the amendment to the South African Income Tax Act and the repeal of the exemption of foreign earnings from 2020 under section 10(1)(o)(ii) of ITA.

Please note that this case study is for illustrative purposes only and serves as an example of how OTAP product may apply to the needs of a client given a set of specific circumstances. This case study is not intended to constitute advice of any kind including tax and financial advice and should not be construed or relied upon as such.

Scenario Overview

- Tim is 53 years old, married with one teenage child
- Earns a salary of $150,000 per annum and expects to receive an end of service gratuity of around $230K (as per Article 132 UAE Labour Law)
- His savings include: an offshore bond, Luxembourg based unit trust portfolio and cash on deposit in the Isle of Man with respective values of $350K, $150K and $200K
- Tim requires his assets to remain invested offshore and in hard currency when returning to South Africa
- He wants a safe harbour for protecting his wealth as it represents his lifetime savings
- In the event of his death he wants his spouse to receive the funds quickly and seamlessly
- He has made no provision for foreign wills, dealing with probate or the succession of his offshore assets
- Tim is very concerned about changes to the Income Tax Act in South Africa which will see his income in excess of R1 million being taxed from 2020 onwards, impacting his ability to save during his last few years working abroad

Did you know: From 1st March 2020 a South African Expat with income in excess of R 1 million per annum will most likely start paying income tax in South Africa at up to 45%.

Considerations

Tim's Financial Adviser recommends that he considers;

- Consolidating his international investments and savings into an international retirement plan, such as the OPES International Retirement Plan
- Restructuring his employment contract so that his employer has a contractual obligation to provide a pension which the employer can fund by way of contribution into retirement plan. This may deliver a number of specific advantages and provide a solution that caters for his present and future needs (dependant on individual circumstances), including: the protection of his foreign assets, tax efficiency, international investments in hard currency, flexible access to funds and seamless passing of funds to his spouse on his death.

The proposal aims at giving Tim a solution that provides peace of mind on his return to South Africa as his funds won't be exposed to the political and economic risks of the country which should in turn provide a more certain outcome in retirement for him and his wife. Possible benefit consideration could be;

Asset Protection – once Tim has contributed his existing assets into his new retirement plan, the assets enjoy immediate legal protection from claims against him and/or his estate. This provides the safe haven he is looking for and mitigates potential legal and political risks on his return to South Africa.

Tax Efficiency – Growth on the assets in the retirement plan, whether they are from his existing savings or pension contributions from his employer, grow free of tax in Guernsey. Contributions made by him are returned without tax whereas any gains will be subject to tax when distributed. Contribution made by his employer for services rendered, can be drawn exempt from tax in South Africa. By renegotiating his employment contract, he has reduced his income on the one hand, and normalising his tax burden on the other. In addition, by sacrificing his salary, he has secured retirement provision.

On his death, the unused funds in the plan are not subject to foreign situs, estate duties or other inheritance or wealth taxes which may otherwise arise. The combination of these features provides an attractive and efficient package of benefits that one would expect from a pension plan.

Investment & Currency Choice – Using the example of our OPES plan, this would offer access to all major currencies and an almost infinite investment choice to cater for his specific needs.

Flexibility in Retirement – OPES Benefits are very flexible and can be accessed from 50. Which include lump sums, regular benefits or a single lump sum to the full value of the plan. This flexibility enables Tim to access funds in a manner that meets his requirements with the option to stop, restart or amend benefits without penalty.

Alleviates Probate – once Tim's assets are transferred into a plan such as OPES the need for foreign wills, attorneys, or executors on his passing are fully mitigated as no probate processes apply to the plan. Alleviating domestic and foreign probate can have a significant saving in terms of cost and time and is often overlooked.

Seamless Succession – Tim has the option under our plan for his wife and child to continue to benefit from those assets or have them distributed almost immediately on his death rather than having to go through his Estate. Either way, his wish for his family to inherit the assets quickly is met as the process takes a matter of weeks and does not form part of or is subject to the winding-up of his estate, providing peace of mind to Tim's spouse.

Financial Outcomes

Significant **cost savings** are achieved by restructuring his affairs

Fully utilise tax exemptions on earned and foreign pension income

Assets grow free of tax within the pension

Reduced administration costs as wealth is consolidated

Not subject to probate and executor costs on death

Mitigation of potential foreign and other death duties

Members **capital contributions** can be **returned without tax**

Peace of mind for beneficiary(s) as **death benefit is paid in a matter of weeks**

Primary outcomes required

Protect existing and future assets from claims against his estate	Access to hard currency and international investments	Consolidate and protect existing wealth for retirement
Grow funds for retirement through additional regular contributions	Efficient succession options for his family on his death	Normalise the tax burden on earned income whilst working outside of SA

Secondary set of comprehensive benefits

Tax free roll-up in the Plan and income exempt of tax in SA*	Access to funds from the age of 50 with multiple benefit options	Flexibility to set and amend the amount, frequency and type of benefit
Mitigates foreign Wills, cross border tax and probate	The Plan is not subject to exchange control or domestic South African law	Foreign assets protected from foreign situs and local duties on death

*Income tax exemption only applies to benefits paid from employer contributions.

Advantages to Mr. Mullins and his family

By consolidating his existing savings and investments, he has protected his wealth, improved the certainty of his financial position in retirement and achieved a level of tax efficiency. His OPES would enable him to retain his international investments in hard currency and with his employer starting to provide for his retirement under a new contract, further improves his overall position. In addition, this mitigates political and economic risk on his return to South Africa, enhances the protection of his assets, facilitates tailored benefit options and provides peace of mind for his family should he pass away unexpectedly.

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