

Tax obligations: A warning for foreigners and expats purchasing property in South Africa

Recent reports show that currently the South African property market is booming and that buyers are showing interest from all corners of the globe. The northern suburbs of Johannesburg, many Western Cape areas, such as Cape Town, The West Coast and the Garden Route are said to be on the foreign property buyers' radar.



Source: Supplied. International tax specialist, Geo Kilian of Hobbs Sinclair.

Expats are also returning to home soil, from European countries such as the United Kingdom, Ireland, and Germany, as well as the Middle East and the United States and buying property.

In light of this interest among both returning South Africans and foreign investors, it is imperative for buyers to navigate the associated tax obligations with care.

As highlighted by international tax specialist Geo Kilian of Hobbs Sinclair, "Proactive tax planning before repatriation or property acquisition can mitigate potential challenges and optimise financial returns." Moreover, property professionals catering to clients in this market must be armed with a comprehensive understanding of the legal obligations and compliance requirements associated with such transactions.

Returning South Africans

South Africans who financially emigrated and relinquished their SA tax residency and tax numbers on their way out will face

a few hurdles when trying to purchase a property in South Africa on their return.

According to Kilian, "South African financial institutions as well as Sars will now see you as a foreigner, which has many ramifications in a property transaction. Bank loans, for instance, are, according to Reserve Bank rules, only granted at 50% of the purchase price to foreign buyers. So foreign investors will either need to provide a 50% deposit, or pay cash and introduce the full amount into South Africa via Reserve Bank approval.

Kilian warns that Sars too, may flag a returning resident who re-instates their tax status after being abroad and not paying South African tax. "This can sometimes be viewed by Sars as tax evasion, and Sars may raise an assessment."



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The wise move, accordingly is to initiate your tax planning before returning home or before purchasing a property in South Africa if you are a foreigner. Kilian suggests that the most tax-effective solutions may be found in offshore tax planning structures.

"If you structure your assets correctly, you can significantly reduce your tax liability," he says. "Most returning ex-pats just want to get home in a hurry, however, planning your financial return should be the first thing you do," he advises.

Foreign buyers

Property professionals in South Africa have noted the uptick in foreign investment with South Africa garnering considerable foreign-investment interest, helped by government incentives through the Foreign Investment Act. This legislation offers tax breaks, import-export privileges, and access to foreign-currency accounts to international investors.

However, prospective foreign property buyers must adhere to South African legal regulations by obtaining necessary approvals and permits.

Kilian, who has assisted many foreign investors with South African property purchases, says that the international tax aspects between countries must be carefully considered, as well as local legislation.

"Sars will look at the number of days you reside in SA, the country you are from, your source of funds, even your flight activity can be monitored."

Rules on foreign transactions will apply and property purchases will be subject to transfer duty as well as obligations such as Capital Gains Tax or Withholding Tax. Foreign investment should be structured taking into account local rules and requirements, yet making the most of what is available for tax-effective investment into the country.

With professional assistance and a thorough understanding of local regulations, investors can make informed decisions to harness the full potential of South Africa's growing property market while ensuring compliance with tax requirements across borders.