

# 南非税收居民身份认定规则

## 一、个人

根据南非所得税法案（Income Tax Act, 1962）对税收居民的定义，南非个人税收居民是指满足“实际居留标准”（physical presence test）的个人，或根据南非普通法是南非“税务上的一般性居民”（ordinary resident）的个人。

“一般性居民”是指该个人在出国后通常情况下回归到南非，则该个人可以被认定为“一般性居民”。在此情况下，南非是该个人经常或主要的居住地，或真正的归属的地方（home）。

如自然人不满足普通法对于“税务上的一般性居民”的定义，但在一个纳税年度内的任何时间点满足了实际居留标准的3个条件，仍将被认定为税收居民。

如要符合“实际居留标准”，个人须满足下述对于个人在南非停留时间的要求，包括：

- 在一个纳税年度中停留超过 91 天；及
- 在相关纳税年度前的连续五个纳税年度中，每个纳税年度都停留超过 91 天；以及
- 在上述连续五个纳税年度中合计停留超过 915 天。

如个人未能满足上述三项条件中的任何一项，都不会认为符合“实际居留标准”。

如果个人不是“一般性居民”，同时也不满足“实际居留测试”或依据相关的双边税收协定仅被视为对方国家税收居民的个人的条件，则该个人为非居民个人。

当个人在一个纳税年度内的任何时间不再符合南非税收居民的定义时，该个人应自该日起不再被视为南非税收居民。

## 二、实体

根据南非所得税法案( Income Tax Act, 1962 )第 1 章( b ) 款对税收居民的定义( Paragraph (b), Section 1 ), “**税收居民**”是指任何在南非注册成立，或实际管理机构设在南非的法人（不指个人），但不包括根据南非和其他国家之间订立的双边税收协定相关规定而应仅被视为对方国家税收居民的实体。

以下两条条款适用于：

当实体在一个纳税年度内的任何时间不再符合南非税收居民的定义时，该实体应自该日起不再被视为南非税收居民。

对于外国投资实体，在评估其实际管理机构是否设于南非时，下列经济活动不考虑在内：

(a) 服务性质为下述两项的

(i) 金融咨询和中介服务法案第 1 章中所定义的金融服务（ Section 1, Financial Advisory and

Intermediary Services Act of 2002, 2002 年第  
37 号法案 ); 或

(ii) 上述 (i) 中所指金融服务的其他附带业务, 第 1  
章第 (2) 节 (Section 1(2)) 列出的符合豁免条件  
的相关金融产品; 以及

(b) 依照金融咨询和中介服务法案法案第 8 章 (Section  
8) 取得牌照、并属于法案第 1 章节定义 (Section 1) 的  
金融服务提供者所提供的服务。

### 三、不视为税收居民的实体

与信托相反, 合伙企业并不属于所得税法的纳税人, 而  
是被认定为税收透明体 ( fiscally transparent )。

### 四、联系方式

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# 南非纳税人识别号规则

## 一、纳税人识别号介绍

纳税人识别号发放给每一个有义务进行纳税登记或自愿进行税务登记的个人。税务管理法案第 3 章( Chapter 3, Tax Administration Act, 2011 ) 制定了有关发放纳税人识别号的相关规定，其中第 24 条作出以下规定：

### 24. 纳税人识别号 (Taxpayer reference number) ——

(1) 南非税务局 (SARS) 可以就一个或多个税种向任何根据税务法案或本章规定登记为纳税人的个人发放纳税人识别号。

(2) 南非税务局可以对尚未登记为纳税人的个人予以登记并发放纳税人识别号。

(3) 已获得纳税人识别号的个人须在递交给南非税务局的所有申报表或文件中填写其对应的纳税人识别号。

(4) 如纳税人未按照前述 (3) 中要求在相关申报表或文件中填写纳税人识别号，南非税务局可以认定其所递交的申报表或文件无效，并应在条件允许的前提下将该情形告知纳税人。

纳税人识别号仅由南非税务局发放。该识别号在所有寄送给纳税人的文件中均有列出。南非税务局仅针对已登记为所得税纳税人的个人/实体发放所得税纳税人识别号。纳税

人识别码一旦发放即为终身有效，即使该税务帐户后期被列入遗产编码之中（coded estate）也不会改变。南非税务局会就增值税及工资薪金代扣税（Pay As You Earn, PAYE)发放不同的税务登记号。但就 CRS 而言，纳税人只需提供所得税纳税人识别号。

自动发放纳税人识别号的相关附加信息

问题一、是否自动为所有税收居民发放纳税人识别号？

个人	是	实体	是
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## 二、纳税人识别号编码规则

南非的所得税纳税人识别号由 10 位数字组成，在第 4 位和第 7 位数字后加有“/”符号。纳税人识别号的首位只能是 0、1、2、3、或 9，例如：1876/234/203。

## 三、如何找到纳税人识别号

在南非税务局与纳税人之间的所有往来通讯中均会引用纳税人识别号。同时，其他相关法定文件，例如纳税申报表（表 IT12 -个人，表 IT 14 -实体）、评估单（表 IT34）、有关稽查的通讯文件、反对通知书或上诉通知书（表 NOO 和 NOA）以及有关税收争议的通讯文件等等也有纳税人识别号的信息。此外，纳税人识别号也引用在第三方提出的信息请求之中。

## 四、国内网站信息

不适用

## 五、联系方式

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资料来源：

南非税收居民认定规则：

<http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-residency/South-Africa-Tax-Residency.pdf>

南非纳税人识别号规则：

<http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-identification-numbers/South-Africa-TIN.pdf>



## **South Africa - Information on residency for tax purposes**

### **Section I - Criteria for Individuals to be considered a tax resident**

Under South African law a resident is defined by the Income Tax Act, 1962, as either an individual who meets the physical presence test or an individual who is ordinarily resident in South Africa under South African common law.

Ordinarily resident: A person will be considered to be ordinarily resident in South Africa, if South Africa is the country to which that person will naturally and as a matter of course return to after his or her wanderings. It could be described as that person's usual or principal residence, or his or her real home.

Any natural person who is not ordinarily resident (common law concept) in South Africa at any time during the year of assessment but meets all three requirements of the physical presence test, will be treated as being a resident.

To meet the requirements of the physical presence test that person must be physically present in South Africa for a period or periods exceeding –

- 91 days in total during the year of assessment under consideration, as well as
- 91 days in total during each of the five years of assessment preceding the year of assessment; and
- 915 days in total during those five preceding years of assessment.

An individual who fails to meet any one of these three requirements will not satisfy the physical presence test.

If the person is not ordinarily resident, does not meet the requirements of the physical presence test or is deemed to be exclusively a resident of another country under an agreement for the avoidance of double taxation, that person will be seen as a non-resident.

Where any person that is a resident ceases to be a resident during a year of assessment, that person must be regarded as not being a resident from the day on which that person ceases to be a resident.

### **Section II - Criteria for Entities to be considered a tax resident**

Under paragraph (b) of the definition of resident in section 1 of the Income Tax Act, 1962, “**resident**” means any person (other than an individual) which is incorporated, established or formed in the Republic or which has its place of effective management

in the Republic, but does not include any person who is deemed to be exclusively a resident of another country for purposes of the application of any agreement entered into between the governments of the Republic and that other country for the avoidance of double taxation.

The following two provisos apply:

Where any person that is a resident ceases to be a resident during a year of assessment, that person must be regarded as not being a resident from the day on which that person ceases to be a resident:

In determining whether a person that is a foreign investment entity has its place of effective management in the Republic, no regard must be had to any activity that—

(a) constitutes—

- (i) a financial service as defined in section 1 of the Financial Advisory and Intermediary Services Act of 2002 (Act 37 of 2002); or
- (ii) any service that is incidental to a financial service contemplated in subparagraph (i) where the incidental service is in respect of a financial product that is exempted from the provisions of that Act, as contemplated in section 1(2) of that Act; and

(b) is carried on by a financial service provider as defined in section 1 of the Financial Advisory and Intermediary Services Act, 2002, in terms of a licence issued to that financial service provider under section 8 of that Act.

### **Section III - Entity types that are as a rule not considered tax residents**

In contrast with a trust, a partnership is not considered to be a person for income tax purposes and is treated as fiscally transparent.

### **Section IV - Contact point for further information**

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## South Africa - Information on Tax Identification Numbers

### Section I – TIN Description

Taxpayer reference numbers are allocated to a person obliged to register as a taxpayer or does so voluntarily. The allocation is regulated under Chapter 3 of the Tax Administration Act, 2011, in particular section 24 that provides as follows:

**24. Taxpayer reference number.**—(1) SARS may allocate a taxpayer reference number in respect of one or more taxes to each person registered under a tax Act or this Chapter.

(2) SARS may register and allocate a taxpayer reference number to a person who is not registered.

(3) A person who has been allocated a taxpayer reference number by SARS must include the relevant reference number in all returns or other documents submitted to SARS.

(4) SARS may regard a return or other document submitted by a person to be invalid if it does not contain the reference number referred to in subsection (3) and must inform the person accordingly if practical.

The South African Tax Identification number is only issued by the South African Revenue Service and can be found on all Taxpayer specific correspondence addressed to the Taxpayer. An Income Tax Reference number is only issued by SARS when a person/entity registers for Income Tax purposes. The TIN issued is valid for a lifetime and does not change even when a tax account is coded estate. While different numbers are issued for Valued Added Tax (VAT) and Pay As You Earn (PAYE) we only require the Income Tax Reference numbers for CRS purpose.

### Additional information on the mandatory issuance of Tax Identification Numbers (TINs)

**Question 1 – Does your jurisdiction automatically issue TINs to all residents for tax purposes?**

Individuals	Yes	Entities	Yes
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### Section II – TIN Structure

A South African Income Tax reference number is 10 numeric digits long, with a slash after the fourth and seventh digit. The tax reference number can only start with 0, 1, 2, 3 or 9 e.g. 1876/234/203

### Section III – Where to find TINs?

The TIN is used in almost all correspondence between SARS and the taxpayer as well as in prescribed documents such as returns (Form IT 12 – individuals – and Form IT14 – legal entities); assessments (Form IT34), , audit correspondence, notices of objection & appeal (Form NOO & NOA) and related dispute correspondence. It is also used in third party information requests.

#### **Section IV – TIN information on the domestic website**

n/a

#### **Section V – Contact point for further information**

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