

# South Africa is committed to the Automatic Exchange of Information (AEOI)

The Minister of Finance, Pravin Gordhan's 2016 budget speech reiterated South Africa's unwavering commitment to combating tax evasion on a global level.

Gordhan gave a stern warning that "time is now running out for taxpayers who still have undisclosed assets abroad" and noted that international agreements on information sharing would soon "enable tax authorities to act more effectively against illicit flows and abusive practices by multinational corporations and wealthy individuals".

Gordhan asserted his confidence in SARS' ability to take advantage of the new "Common Reporting System" indicating that SARS would be building on the expertise it already gained by the Large Business Centre (established in 2004).

Importantly, Gordhan insists that South Africa is not simply a passive participant in the combat against global tax evasion - "international collaboration is an

essential part of efforts to ensure that the tax system remains robust and contributes to inclusive growth". As an early adopter of the Common Reporting Standard, South Africa is evidencing its active participation and contribution to combatting global tax evasion.

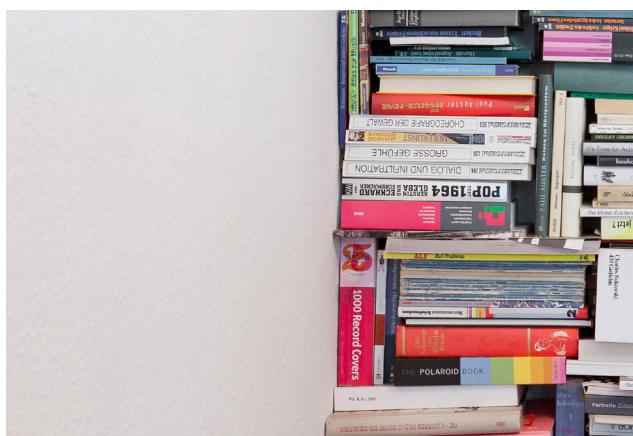
Governments around the globe have become increasingly aware of the extent of undisclosed wealth being held in offshore accounts that is not being reported for tax purposes. Individuals in particular have found it relatively easy to hold and manage investments through financial institutions offshore, without any income being visible to their domestic tax authorities. The challenge for governments is in obtaining sufficient data on these offshore investments to be able to combat offshore tax evasion, and who better to get the information from, than from the very offshore financial institutions that are being invested into! Consequently international bodies such as the G20 and the OECD have started co-ordinating efforts to gain a clearer picture of income and assets worldwide. One such initiative is the Common Reporting Standards (or "CRS").

## So what exactly is the CRS?

The CRS is the new common standard on the automatic exchange of information with respect to financial account information. The CRS is effectively creating a global framework for information sharing between governments which will be applied broadly by member countries to combat offshore tax evasion and to ensure tax compliance.

## What is the impact of the CRS in South Africa?

The CRS directly impacts on South African financial institutions by imposing enhanced client identification, monitoring and reporting obligations. South African financial institutions must identify and report certain specified financial account information to SARS in respect of all their clients that they identify as being foreign tax residents. SARS in



turn will exchange this information automatically with partner countries annually. Similarly, SARS will receive information automatically from partner countries annually, on South African tax residents that have invested through financial institutions in those partner countries.

As a first step in complying with the CRS obligations, South African financial institutions must identify and classify themselves for purposes of determining their CRS status in order to determine the impact of the CRS on them and their business operations. If impacted they will need to adopt robust new client onboarding procedures. This will entail, amongst other things, enhancements to client take-on systems, processes and procedures being applied. Reporting solutions will also need to be developed or adapted to allow for the annual reporting of financial account information to SARS. CRS will, unfortunately, impose a significant regulatory burden on impacted South African financial institutions but must not be ignored. The CRS will be given force and effect in domestic law through enabling provisions in the Tax Administration Act, and compliance with the CRS by financial institutions will be a South African statutory obligation.

#### [What is the impact of the CRS on investors/account holders?](#)

South African individuals and entities are also very much in the cross-hairs of the CRS. Anyone who has invested offshore through a financial institution in a CRS partner country will be impacted by the CRS, in that revenue authorities in all partner countries will automatically exchange financial account information with SARS on all South African tax residents that are reported to them. The effect, certainly in theory, is that SARS will now have sight of all financial account information in respect of South African tax residents that have invested offshore. Armed with sufficient data, SARS will now be able to tackle potential offshore tax evasion or simply ensure tax compliance.

#### [The game of hide-and-seek is ending](#)

There is no longer anywhere to hide or at least it is becoming extremely challenging to hide assets and income offshore – the collaboration by global revenue authorities through the automatic exchange of information sounds the death knell of offshore tax evasion. If you are investing offshore, we recommend following the correct protocols. The Finance Minister has announced a special voluntary disclosure programme ("SVPD") which relates both to income tax defaults and exchange control contraventions.

For Thought Leadership on tax and exchange control regularization, please visit <http://www.kpmg.com/ZA/en/IssuesAndInsights/ArticlesPublications/Tax-and-Legal-Publications/Pages/South-Africa%20Special-Voluntary-Disclosure-Programme-Announced.aspx>

And time is of the essence! The CRS is effective in South Africa, as an early adopter, as from 1 March 2016!

#### [How does CRS compare to FATCA?](#)

CRS leverages extensively off Foreign Account Tax Compliance Act ("FATCA"). The primary distinction being that FATCA requires South African financial institutions to identify and report to SARS, certain financial account information on clients that are identified as being US Persons only i.e. as opposed to the identification and reporting on clients that are foreign tax residents in any foreign jurisdiction in terms of the CRS.

The CRS is not just an enhanced version of FATCA. The CRS is distinct from FATCA and will impose a significant and additional burden on South African financial institutions to comply with its due diligence and reporting obligations.

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