



—
Investing for a
world of change

Making sense of double taxation agreements: retirement fund lump sums and annuities



Janine Langenhoven
Senior Legal Counsel

South African clients who emigrate often worry about paying tax in multiple countries on their retirement fund benefits, such as lump sums withdrawn and annuities purchased after retirement.

A common concern is that they may be taxed unnecessarily. Double taxation agreements (DTAs) aim to avoid this, but applying their provisions to retirement fund benefits can be complex. Financial advisors must understand which country has taxing rights for each type of retirement fund benefit or annuity income and be able to navigate the processes of the South African Revenue Service (SARS) to ensure the correct tax outcome for their clients.

Understanding DTAs and retirement fund benefit taxation

Most countries tax their residents on worldwide income and tax non-residents on local source income. This overlap means that without relief, a non-resident client's South African income could be taxed in both South Africa and their new country of residence. DTAs exist to avoid this outcome by stipulating how specific types of income are taxed: typically only in one of the two countries or if in both, with the country of residence granting a tax credit. South Africa has many treaties in place that prevent double taxation on a range of income types, including relief on pension or annuity income and retirement fund lump sums.

The fine print of each treaty matters

The wording of the various DTAs is not the same, and the mere fact that a client is no longer a South African tax resident does not mean that SARS has automatically lost its taxing rights in respect of retirement fund lump sums or annuity income. Article 17 or 18 of a DTA typically deals with taxing rights relating to pensions, annuities or lump sums. Understanding the different terminology used in a DTA is crucial:

- **Pensions** include only periodic payments, typically paid by a retirement fund after a member has reached retirement age.
- The term “**annuities**” is broader than “pensions” and usually refers to periodic income, often paid in return for consideration/a lump sum investment. Member-owned annuities purchased from an insurer would be included under this term.
- **Other similar remuneration** is broad enough to include non-periodic payments, such as retirement fund lump sums.
- The article dealing with **other income** (usually Article 20 or 21) may, under certain DTAs, determine the taxing rights in respect of lump sums. This may be the case, for example, if Article 17 or 18 does not explicitly refer to “**other similar remuneration**” or where certain conditions are not met – such as a requirement that the benefit be “**in consideration of past employment**”. This “other income” article covers income not addressed elsewhere in the treaty. Note that the article numbering may differ by agreement.

Analysing treaty wording using the UK-SA DTA as an example

Article 17

Pensions and Annuities

1. *Subject to the provisions of paragraph 2 of Article 18 of this Convention:*
 - a. *pensions and other similar remuneration paid in consideration of past employment, and*
 - b. *any annuity paid,*
to an individual who is a resident of a Contracting State shall be taxable only in that State.
2. ...

In this DTA, Article 17 deals with both annuities and lump sums (as it refers to “similar remuneration”). However, for lump sums to fall under this article, they must be “*paid in consideration of past employment*”.

It therefore prescribes that the UK will have sole taxing rights where a UK tax resident receives the following income from a South African source:

- Annuity income, or
- Retirement fund lump sums, provided these are paid “in consideration of past employment”, i.e. lump sums paid from a pension, provident or preservation fund.

What if the retirement fund lump sum is not employment-related, as may be the case with lump sums paid from a retirement annuity fund?

In that case we would have to refer to Article 20 of this DTA.

Article 20

Other Income

1. *Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.*
2. ...
3. *Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Convention and arising in the other Contracting State may also be taxed in that other State.*

This article sets out that both countries may have taxing rights, and therefore we would have to go further and refer to **Article 21 (Elimination of Double Taxation)**, which explains that the tax payable in South Africa shall be allowed as a credit against the tax payable in the UK.

What about the recent tax changes in the UK?

In April 2025, the UK scrapped the remittance basis tax regime and moved to **a pure residence-based tax system**. Essentially, if a client is tax resident in the UK, that country will now tax their worldwide income and capital gains, regardless of where the income is earned or whether it is brought into the UK.

Recognising that this change is drastic, the UK government also introduced a transitional measure – effectively a grace period for new residents. For the first four years of UK residence, eligible expats can enjoy a full exemption on foreign income and gains (subject to certain conditions).

It is important that clients also keep these changes in mind when considering the taxing rights in respect of retirement fund lump sums and annuities.

The table below highlights how selected DTAs address taxing rights for South African retirement lump sums and annuities, assuming the client has become a tax resident of the other country.

Summary of DTA examples

Country of residence	Taxation of SA annuity income	DTA article	Notes	Taxation of SA retirement fund lump sum	DTA article	Notes
Australia	Taxed in both countries - if member-owned annuity Taxed in Australia - if fund-owned annuity	18	-	Taxed in both countries	21	-
Canada	Taxed in both countries	18	-	Taxed in both countries	21	-
Ireland	Taxed in SA	18	-	Taxed in SA	18	-
Netherlands	Taxed in SA	17	-	Taxed in SA	17	-
New Zealand	Taxed in New Zealand – exempt in SA	17	Annuitant to apply for SARS tax directive	Taxed in both countries	20	-
UK	Taxed in the UK – exempt in SA	18	Annuitant to apply for SARS tax directive	Taxed in the UK (only if linked to employment – not RA)	18	Ask administrator to apply for DTA relief – if linked to employment

Practical guidance for financial advisors

Advising emigrating clients on retirement fund withdrawals requires balancing tax technicalities with real-world planning. Here are key considerations for advisors:

- **Verify treaty coverage.** First, determine if a DTA exists with the client’s new country and what it covers. Not all treaties grant full relief. For example, if your client is moving to a country without a DTA with South Africa, prepare them for continued South African taxation on their retirement income and explore foreign tax credit mechanisms in the new country. If a DTA does exist, read the pension article carefully: confirm whether it covers both periodic payments and lump sums, and whether it gives exclusive taxing rights to one country or allows dual taxation with credit.
- **Ensure tax emigration is formalised.** Clients often assume that living abroad means they are automatically non-resident for tax. Guide them through formally ceasing tax residency in South Africa (if they haven’t done so already), including submitting the necessary declarations to SARS. A client who remains a South African tax resident (even inadvertently) cannot claim DTA relief – the treaties only protect those whom SARS agrees are non-resident. Finalising any remaining South African tax obligations (like filing outstanding returns) is also important before seeking a directive.

Making sense of double taxation agreements: retirement fund lump sums and annuities

- **Plan the retirement withdrawal strategy.** Discuss with your client whether to take a full lump sum withdrawal or to retire (if at or above the retirement age) and receive a series of annuity payments. The DTA nuances make this a critical planning point.
- **Ensure coordination with annuity administrators.** Advisors should proactively inform the client's annuity administrator once a directive is obtained, and ensure they have the SARS directive on file before the next income payment. Without it, they are legally obligated to deduct PAYE. Similarly, if a directive is up for renewal, remind the client to update the paperwork (like providing the new residency certificate) in time.
- **Prepare documentation early to prevent delays.** Assist clients in obtaining the necessary documents for the RST01. A tax residency certificate from the new country can sometimes take weeks to acquire – therefore start this process early. Likewise, liaise with the client's former employer to get the detailed employment letter if needed.
- **Manage expectations.** Despite SARS's official timeline of 21 working days, DTA relief applications can experience delays. Advisors should be ready to follow up persistently. It may help to engage a tax practitioner or use SARS's dedicated channels for escalations if a directive application is long outstanding. Make sure you temper your client's expectations regarding how quickly relief will be in place.
- **Stay updated on changes.** The landscape is constantly evolving – for example, directives are now valid for three years, and the government has introduced the “two-pot” retirement system, which could affect withdrawal types. Keep abreast of SARS releases and tax law updates that impact expatriate retirement withdrawals.
- **Facilitate client refund claims.** If a refund is due (e.g. tax was withheld on annuity income that should have been exempt), assist the client in lodging the SARS objection/request for a refund. Ensure all required documents such as proof of foreign tax, bank details and ID copy are submitted to support the claim.
- **Consider professional collaboration.** Given the complexity of cross-border tax, don't hesitate to consult a cross-border tax specialist for tricky cases. Collaborating with international tax experts or the client's foreign tax advisor could lead to more comprehensive planning.

Conclusion

Double taxation agreements can be a powerful tool to protect your emigrating clients' retirement benefits from unfair double tax, but they require careful navigation. By understanding the complexities, following SARS procedures and advising on optimal withdrawal strategies, South African financial advisors can help clients retain more of their retirement money when they move abroad.

The key is a combination of technical knowledge and practical planning. Ensure the treaty relief is correctly applied (via directives or refunds) and that clients remain compliant in both jurisdictions. With a thorough grasp of DTA implications for lump sums and annuities, you can confidently guide your clients through the maze of cross-border retirement taxation, adding significant value to their financial journey.

Appendix: navigating the SARS process – applying for tax relief under DTAs

Lump sums

The administrators of retirement funds are required to apply for tax directives where a lump sum is being paid out. It is therefore the responsibility of the client and their financial advisor to inform the administrator that the DTA between South Africa and the client's new country of residence stipulates that South Africa does not have taxing rights if that is the case.

Various supporting documents must be attached to the tax directive application, including:

- A letter indicating that the DTA must be taken into account,
- A certificate of residence, not older than 12 months, issued by the tax authority where the client resides, and
- The client's history of employment, on the letterhead of the employer, where the tax directive application is submitted by an occupational fund or a preservation fund. This letter must indicate the client's start and end date of employment, and in which country services were rendered.

Furthermore, the administrator must ensure that the 'Non-Resident Service Rendered Inside Republic [Section 9(2)(i)]' container is completed when doing the directive application. This container must be completed even if the non-resident did not render any services outside South Africa, but the DTA must be taken into account.

What about savings withdrawal benefits?

- To obtain DTA relief, clients are required to apply for an RST01 directive via eFiling and provide the outcome to the administrator of the retirement fund, together with the other supporting documents.
- The client's tax reference number is mandatory for the savings withdrawal benefit and must be provided on the RST01 application form.
- The Fund must submit an *IRP3(a) Application for a Tax Directive: Gratuities and Two Pot Savings Withdrawal Benefit* and attach the RST01 directive outcome confirming the tax rate applicable to the savings withdrawal benefit.
- SARS will issue a manual tax directive (IRP3(e)) to the retirement fund based on the tax rate received on the RST01 application.

Annuities

Once it has been determined that the client's new country of residence has taxing rights in respect of annuity income, and not South Africa, it would be necessary for the non-resident client to apply for an **RST01** tax directive (***Application by Non-Resident for a Directive for Relief from South African Tax for Pension and Annuities in terms of a DTA***) from SARS. This would apply to residents in New Zealand and the UK, for example, receiving an annuity income from South Africa.

Below is a summary of the **procedure to apply for a DTA tax directive** and key considerations:

- **Confirm non-resident status:** The client must have ceased to be a South African tax resident. Only non-residents for tax purposes are eligible to apply for the RST01 relief. Ensure the client's South African tax number is active and their tax affairs are in order before applying.
- **Submit RST01 via eFiling:** The RST01 is now an **electronic form on SARS eFiling**. All required fields must be completed accurately.
- **Specify country of residence:** It is crucial to select the correct country on the application so SARS applies the appropriate DTA.
- **Attach required documents:** SARS requires several supporting documents as attachments to the RST01 submission:
 - **A certificate of tax residence** from the client's new country (issued by that country's tax authority).
 - **An employment history letter** on the former employer's letterhead detailing the months worked in South Africa versus abroad during that time. This assists SARS to verify that the pension/annuity relates to foreign service if relevant.
 - **Proof of foreign taxation:** If the treaty article requires that the income be taxable in the other country for South Africa to exempt it, include proof (e.g. a tax assessment from the foreign country showing the pension/annuity income). This document must be less than 12 months old.
- **Await SARS processing:** SARS indicates it will evaluate the RST01 application within 21 working days. In practice, follow-ups may be needed if this period lapses. Once approved, SARS issues a **directive** (to both the applicant and the administrator of the annuity) instructing that the pension/annuity be paid either tax-free or at a specified reduced rate, in accordance with the DTA.

- **Directive validity:** A DTA tax directive is now **valid for three years** (extended from one year), provided the client's circumstances remain unchanged. Advisors should diarise the renewal and ensure a new application is submitted before expiry to continue the tax relief.
- **Annual confirmation:** Even with a multi-year directive, **administrators must obtain a new certificate of foreign residence each year** from the client. The client's country of residence must remain the same; if the client moves to a different country, the directive becomes invalid from the date of that change (and a new RST01 for the new country would be required, if the DTA provides relief).

Rejections: SARS will reject the directive request if any conditions are not met. Common reasons include the client's South African tax affairs not being up to date, missing documents, or if **the DTA in question does not actually exempt the income** (i.e. if under that treaty South Africa retains taxing rights).

Tip: Given the prevalence of administrative delays, it is advisable to submit the RST01 a few months before the start of the tax year or before an annual annuity payment is scheduled. This ensures there's time to resolve any issues, so that by the time the payment is due, the directive is in hand.

Important information

All information and opinions provided are of a general nature and are not intended to address the circumstances of any particular individual or entity. We are not acting and do not purport to act in any way as an advisor or in a fiduciary capacity. No one should act upon such information or opinion without appropriate professional advice after a thorough examination of a particular situation. We endeavour to provide accurate and timely information, but we make no representation or warranty, express or implied, with respect to the correctness, accuracy or completeness of the information and opinions. We do not undertake to update, modify or amend the information on a frequent basis or to advise any person if such information subsequently becomes inaccurate. Any representation or opinion is provided for information purposes only.

Certain Ninety One funds are offered as long-term insurance policies issued by Ninety One Assurance Limited, a registered insurer in terms of the Long-term Insurance Act. A prospectus is available in respect of the underlying investment fund on request from Ninety One Assurance Limited. All pooled products are administered by Ninety One Investment Platform (Pty) Ltd (an authorised financial services provider) and underwritten by Ninety One Assurance Limited. Ninety One SA (Pty) Ltd is an authorised financial services provider and investment manager.

This is the copyright of Ninety One and its contents may not be re-used without Ninety One's prior permission. Ninety One Investment Platform (Pty) Ltd and Ninety One SA (Pty) Ltd are authorised financial services providers.

Contact information

36 Hans Strijdom Avenue
Foreshore, Cape Town 8001
Telephone: +27 (0)21 901 1000
Client service support: 0860 500 100
Email: clientservice@ninetyone.com

Please contact our Advisor Service Centre
on telephone: 0860 444 487.

Alternatively, please contact your Ninety One
investment consultant.

—

www.ninetyone.com

