Currency and Exchanges Act 9 of 1933 (CEA)

Topic: Finance and Exchange Control

IN A CALABASH

Introduction

Though the Currency and Exchanges Act 9 of 1933 (CEA) has been amended over the years to such a degree that very little remains, it nonetheless regulates all matters pertaining to exchange control.

Exchange control is usually imposed to prevent the loss of foreign currency resources through the transfer abroad of real or financial capital assets held in South Africa.

Exchange control is an effective system of control over the movement of financial and real assets into and out of South Africa, which simultaneously avoids interference with the efficient operation of the commercial, industrial and financial system.

Objectives of the Act

The Act regulates and monitors the flow of currency in and out of South Africa including the–

- sending, selling or transferring of an asset out of the country;
- sending or transferring money or currency out of the country; and
- buying and selling of a national currency.

Application of the Act and its implication to Tourism

This Act is particularly important for the tourism industry because it will apply to any person or legal entity wishing to transfer money, assets or other valuable property out of South Africa which exceeds a certain value.

Summary of the provisions of the Act

In terms of the CEA, before a person or legal entity may transfer out of South Africa sums of money exceeding certain stated limits, approval for this transfer has to be obtained from the Reserve Bank.

To obtain the required approval, one should seek the guidance and use the services of an authorised dealer. An authorised dealer is a bank registered with the Registrar of Banks that is authorised to deal in foreign exchange and handle applications of this nature. Only an authorised dealer of the Reserve Bank can obtain clearance for transfers of monies or assets out of South Africa.

In relation to the tourism Industry, the following transfers of currency out of South Africa are applicable.

Allowances for individuals

All South African residents over the age of 18 are allowed to take out a single discretionary allowance of R1 000 000 per calendar year.

This allowance may be used for travel, donations, gifts, study allowance, alimony and child support, wedding expenses, foreign capital allowance and maintenance payments.

All South African residents under the age of 18 years are allowed to take out R200 000 per calendar year.

A South African resident may use their credit card to purchase goods and services online from another country, but the value should not exceed R20 000 per annum.

South African residents also have the right to invest abroad up to R4 million per calendar year.

Conditions of transfer

- Foreign currency for travel purposes may not be bought more than 60 days prior to the departure of the traveller. For travel purposes, a valid air ticket must be presented indicating that the journey commences from South Africa.
- Travellers must convert unused foreign exchange within 30 days of returning to South Africa.
- The costs of land arrangements (hotels, cruises, tours, etc.) form part of one's travel allowance but the payment of airfares do not.
- Using your credit card while travelling abroad forms part of your travel allowance.
- In addition, each traveller may take R25 000 in South African Reserve Bank notes when visiting abroad.
- When the insurance value of one's personal belongings, which are not for sale, exceeds R50 000, one will need an NEP form (Declaration in respect of goods leaving the common monetary area without the accrual of foreign exchange proceeds) attested by a bank or by Customs and Excise. Please enquire at your nearest Foreign exchange outlet should you need this form.

Allowances for companies

Companies are allowed to spend up to R20 000 000 (twenty million Rand) per calendar year in respect of travel.

Requests to exceed this value must be submitted to the South African Reserve Bank.

Company representatives using this facility still qualify for the single discretionary allowance, which includes travel allowance, of R1 000 000 per annum.

Processing the application for exchange control

Before one may transfer money out of South Africa, one should seek the assistance of an authorised dealer, who will, when submitting the application on one's behalf, require–

- the name of the applicant or registered name of company;
- a passport or company registration number;
- a brief outline of the individual's or the company's activities and nature of business;
- details of any foreign affiliates and/or shareholding;
- motivation for the application;
- the Rand amount applied for;
- the names of officials travelling and their anticipated travel schedule;
- confirmation that the allowance will be utilised only for travel-related expenses and not to generate any profits; and
- flight details.

In this regard, one may be required to complete and process the following documents–

- an appropriate tax clearance certificate, to be obtained from SARS;
- signature of a Declaration of Adherence to allowances;
- audit trail of money remitted to South Africa that is to be repatriated;
- supporting invoices; and
- Reserve Bank clearance.

WHAT HAPPENS IF YOU DO NOT COMPLY?

Any failure to follow the correct processes and procedures as laid down under the CEA and the regulations can result in a 10% 'fee' on currency transfers out of South Africa or, in extreme cases, could result in repatriation.

RECOMMENDED ACTIONS OR CONTROLS WHICH SHOULD BE IMPLEMENTED BY THE TARGET AUDIENCE TO ENSURE COMPLIANCE WITH THE ACT

In order to avoid penalty fees or repatriation, it is important to be aware that one needs to get permission when monies or assets are sent out of South Africa.

FURTHER INFORMATION

Regulators

Department of Finance
The Reserve Bank

Websites

www.treasury.gov.za
www.resbank.co.za