

NOTICE TO AUTHORIZED DEALERS
AND AUTHORIZED AGENTS

EXCHANGE CONTROL REGULATIONS ACT 1952

This Notice is one in an administrative series issued by The Central Bank of The Bahamas to draw attention to the Regulations made under the Exchange Control Regulations Act, 1952 and the Exchange Control Regulations 1956, and to give certain exemptions, permissions, authorities and directions, and imposes certain obligations upon those concerned. This Notice also takes account of the fact that the Scheduled Territories include The Commonwealth of The Bahamas only.

RESIDENTIAL STATUS

This issue comes into effect 1st March, 1976 and supersedes those which were previously issued.

INTRODUCTION

1. The Exchange Control Regulations 1956 differentiates between persons, firms, etc. who are resident within the Scheduled Territories and those residing outside the Scheduled Territories.
2. This classification is of fundamental importance as different rules apply depending on the residential status of the parties concerned.
3. This Notice sets out the manner in which Authorized Dealers and Authorized Agents should determine the residential status of the customers for Exchange Control purposes, and the circumstances in which they should review and, if necessary change, the designation of their accounts.
4. It is of the utmost importance that Authorized Dealers and Authorized Agents bring to the notice of their customers:
 - (a) Any change in the designation of their customers' accounts resulting from a change in their residential status for the purpose of the Exchange Control Regulations 1956, and
 - (b) Any consequent restriction on payments to, or for credit of, or by or on behalf of, their customers or on transactions in securities in which their customers may be concerned.

DETERMINATION OF RESIDENCE

5. Authorized Dealers and Authorized Agents should enquire of the customer whether his residential status has been determined by The Central Bank of The Bahamas and where it has, should designate the customer's account accordingly unless present circumstances make such a designation unrealistic, in which case reference should be made to The Central Bank of The Bahamas. In other cases, customers should be treated for all purposes of the Exchange Control Regulations 1956 as follows:

A. BUSINESSES

Businesses (whether bodies corporate or not and whether head offices or branches) established and operating in:

- i. a country outside The Bahamas – non-resident
- ii. the Bahamas – resident; unless the business is newly established and is to operate as a branch of a non-resident business, in which case reference should be made to The Central Bank of The Bahamas giving as much information as possible including the nature of the Business.

B. EMBASSIES, LEGATIONS, INTERNATIONAL ORGANIZATIONS ETC.

Embassies, Legations, Consulates, Offices of High Commissioners, International Organizations and the career and established (other than locally recruited) members of their staffs (and families of all such persons) representing countries outside The Bahamas are regarded as non-residents.

C. PERSONAL REPRESENTATIVES AND TRUSTEES

Personal representatives and trustees when acting solely in that capacity for a deceased person who at the date of death was resident for Exchange Control purposes in a country outside the Bahamas are regarded as non-residents.

D. TRUST

Trusts and Settlements may be treated on the same lines as business, e.g. if there is a resident settlor involved it will be a resident trust and vice versa. Specific reference should, however, be made to The Central Bank of The Bahamas for the designation of new trusts and settlements.

E. OTHER PERSONS

Except as provided above, the following individuals irrespective of nationality:

- (i) persons who are resident and whose country of established residence is outside The Bahamas and have satisfied the bank concerned that they do not maintain in The Bahamas a banking account regarded as resident by The Central Bank of The Bahamas – non-resident;
- (ii) persons living temporarily in The Bahamas whose country of established residence before coming to The Bahamas was outside The Bahamas and who have satisfied the Authorized Dealer and Authorized Agents concerned that they have not lived, are not permitted to live or work and do not intend to live in The Bahamas for a period of more than 364 days from the date of their arrival – non-resident;
- (iii) persons living in The Bahamas who are holders of Certificates of Permanent Residence without the right to engage in gainful employment – non-resident;
- (iv) persons living temporarily in The Bahamas other than those described at sub-paragraph (ii) whose country of established residence before coming to The Bahamas was outside The Bahamas and who have satisfied the Authorized Dealer or Authorized Agent concerned that they have not lived, are not permitted to live or work and do not intend to live in The Bahamas for a period of more than ten years from the date of arrival – temporary resident; reference should however be made to The Central Bank of The Bahamas if such persons remain in The Bahamas for a period of more than ten years;
- (v) all other persons – resident.

NOTE 1 Authorized Dealers and Authorized Agents should mark accounts opened under the terms of sub-paragraph (ii) and (iv) in such a way that will enable them to take action in accordance with paragraphs 8 and 9 if the customer does stay more than 364 days or ten years.

NOTE 2 Married women living with their husbands normally take the residential status of the husband, regardless of whether they have retained the citizenship of a country outside The Bahamas.

DIFFICULTY IN DETERMINING RESIDENTIAL STATUS

6. Where Authorized Dealers and Authorized Agents are unable under the terms of paragraph 5 to determine the residential status for a new customer or where the customer does not agree with the residential status proposed, reference should be made to The Central Bank of The Bahamas giving as much information as possible including:
 - (a) The country in which established residence is claimed and future residential intentions;
 - (b) The nationality/nationalities currently possessed;
 - (c) The countries of residence during the past five years giving the period spent in each country;
 - (d) Purpose of stay in The Bahamas;
 - (e) Where applicable, evidence that the person concerned has been allowed to live and engage in gainful employment in The Bahamas;
 - (f) The purpose for which the account is to be maintained;
 - (g) The nature of transactions to be passed through the account.

CHANGE OF RESIDENTIAL STATUS

Non-Resident to Resident of The Bahamas

7. Where an Authorized Dealer or an Authorized Agent is satisfied that a customer, resident for Exchange Control purposes in a country outside the Bahamas, has changed his country of established residence to The Bahamas he should be treated for all purposes of the Exchange Control Regulations as a resident of the Bahamas. In those cases where the customer had at some time previously been granted the facilities set out in Exchange Control Notice Nos. 5 and 6, The Central Bank of The Bahamas should be advised in writing of the change in status.

Non-Resident to Temporary Resident

8. Where an Authorized Dealer is satisfied that a customer, who is considered non-resident for Exchange Control purposes has lived in The Bahamas for a period of one year or more but is not a citizen of The Bahamas, or the holder

of a certificate of permanent residence, and is allowed to live, or live and work in The Bahamas for an additional period not exceeding nine years, he should be treated as a temporary resident of The Bahamas. A foreign currency account held by such person need not be converted to Bahamian dollars. However, the account must be funded entirely from sources outside the Bahamas. External Bahamian Dollar Accounts must be redesignated 'resident' regardless of the source of the funds. Foreign currency securities held in The Bahamas must be held by or to the order of an Authorized Agent.

TEMPORARY RESIDENT TO RESIDENT

9. Where an Authorized Dealer or Authorized Agent is satisfied that a customer, who is considered a temporary resident for Exchange Control purposes, has lived in The Bahamas for a period of ten years or more, but is not a citizen of The Bahamas, or the holder of a certificate of permanent residence, and is allowed to live, or live and work in The Bahamas for an additional period, he should be treated as a resident of The Bahamas for the purposes of the Exchange Control Regulations. However, he may apply for exemption from certain exchange control obligations.

TEMPORARY RESIDENT TO NON-RESIDENT

10. Where an Authorized Dealer or Authorized Agent is satisfied that a customer, who is considered a temporary resident for Exchange Control purposes has changed his country of established residence from The Bahamas to a country outside The Bahamas, or becomes the holder of a certificate of permanent residence without the right to engage in gainful employment he should be treated as a non-resident of The Bahamas. However, an application should be made to The Central Bank of The Bahamas for the conversion to foreign currency of any Bahamian dollar balances held, or for the redesignation of his Bahamian Dollar Account as an "external" account. Bahamian dollar fixed deposits held by such persons must be credited to an external current account on maturity. Foreign currency securities need no longer be held by or to the order of an authorized agent.

RESIDENT TO NON-RESIDENT

11. The procedure set out in Exchange Notice No. 6 should be followed.

OBLIGATIONS OF NEW RESIDENTS

12. In all cases where customers are to be treated as residents of The Bahamas under the terms of Paragraphs 7 and 9, their obligations under the Exchange Control Regulations should be explained to them. If a customer is not a citizen of The Bahamas he should also be advised that he may be eligible for a measure of exemption from his obligations under the Regulations in respect of any assets expressed in a foreign currency.

GENERAL

13. Reference should be made to The Central Bank of The Bahamas in any case which presents difficulty, or where the customer does not agree that his residential status should be altered, even though the Authorized Dealer or Authorized Agent with whom an account is maintained or securities held, is empowered to act under the provisions of the paragraphs above.