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GOVERNMENT NOTICE GOEWERMENSKENNISGEWING

SOUTH AFRICAN REVENUE SERVICE

No. 60

3 February 2015

INCOME TAX ACT, 1962

PROTOCOL AMENDING THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA AND THE GOVERNMENT OF THE REPUBLIC OF INDIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME, SIGNED AT NEW DELHI ON 4 DECEMBER 1996

In terms of section 108(2) of the Income Tax Act, 1962 (Act No 58 of 1962), read in conjunction with section 231(4) of the Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996), it is hereby notified that the Protocol amending the agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income set out in the Schedule to this Notice has been entered into with the Government of the Republic of India and has been approved by Parliament in terms of section 231(2) of the Constitution.

It is further notified in terms of Article II of the Protocol that the date of entry into force is 26 November 2014.

SUID-AFRIKAANSE INKOMSTEDIENS**No. 60****3 Februarie 2015****INKOMSTEBELASTINGWET, 1962****PROTOKOL TOT WYSIGING VAN DIE OOREENKOMS TUSSEN DIE REGERING VAN DIE REPUBLIEK VAN SUID-AFRIKA EN DIE REGERING VAN DIE REPUBLIEK INDIË VIR DIE VERMYDING VAN DUBBELE BELASTING EN DIE VOORKOMING VAN FISKALE ONTDEUKING MET BETREKKING TOT BELASTINGS OP INKOMSTE, GETEKEN TE NIEU-DELHI OP 4 DESEMBER 1996**

Ingevolge artikel 108(2) van die Inkomstebelastingwet, 1962 (Wet No 58 van 1962), saamgelees met artikel 231(4) van die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No 108 van 1996), word hiermee kennis gegee dat die Protokol tot wysiging van die ooreenkoms vir die vermyding van dubbele belasting en die voorkoming van fiskale ontduiking met betrekking tot belasting op inkomste wat in die Bylae tot hierdie Kennisgewing vervat is, aangegaan is met die Regering van die Sultanaat van Oman en deur die Parlement goedgekeur is ingevolge artikel 231(2) van die Grondwet.

Daar word verder bekendgemaak dat ingevolge Artikel II van die Protokol, die datum van inwerkingtreding 26 November 2014 is.

PROTOCOL AMENDING THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA AND THE GOVERNMENT OF THE REPUBLIC OF INDIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME, SIGNED AT NEW DELHI ON 4 DECEMBER 1996

PREAMBLE

The Government of the Republic of South Africa and the Government of the Republic of India;

DESIRING to amend the Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed at New Delhi on 4 December 1996 (hereinafter referred to as "the Agreement");

HAVE AGREED AS FOLLOWS:

ARTICLE I

Article 25 of the Agreement shall be deleted and replaced by the following:

"ARTICLE 25

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

- (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

PROTOKOL TOT WYSIGING VAN DIE OOREENKOMS TUSSEN DIE REGERING VAN DIE REPUBLIEK VAN SUID-AFRIKA EN DIE REGERING VAN DIE REPUBLIEK INDIË VIR DIE VERMYDING VAN DUBBELE BELASTING EN DIE VOORKOMING VAN FISKALE ONTDUIKING MET BETREKKING TOT BELASTINGS OP INKOMSTE, GETEKEN TE NIEU-DELHI OP 4 DESEMBER 1996

AANHEF

Die Regering van die Republiek van Suid-Afrika en die Regering van die Republiek Indië het;

UIT 'N BEGEERTE om die Ooreenkoms ter vermyding van dubbele belasting en ter voorkoming van fiskale ontduiking met betrekking tot belastings op inkomste, wat op 4 Desember 1996 te Nieu-Delhi onderteken is (hierna "die Ooreenkoms" genoem), te wysig;

SOOS VOLG OOREENGEKOM:

ARTIKEL I

Artikel 25 van die Konvensie word geskrap en deur die volgende vervang:

"ARTIKEL 25

UITRUIL VAN INLIGTING

1. Die bevoegde owerhede van die Kontrakterende State ruil sodanige inligting uit wat voorsienbaar tersaaklik is vir die uitvoering van die bepalings van hierdie Ooreenkoms of by die administrasie of afdwinging van die landsreg met betrekking tot belastings van elke soort en beskrywing wat gehef word ten behoeve van die Kontrakterende State of van hulle staatkundige onderverdelings of plaaslike owerhede, in soverre die aanslag daarkragtens nie strydig met die Ooreenkoms is nie. Die uitruil van inligting word nie deur Artikels 1 en 2 beperk nie.

2. Enige inligting wat ingevolge paragraaf 1 deur 'n Kontrakterende Staat ontvang word, word as geheim gehanteer op dieselfde wyse as inligting wat ingevolge die landsreg van daardie Staat verkry word, en word openbaar gemaak aan slegs persone of owerhede (ook howe en administratiewe liggame) wat gemoeid is met die aanslag of invordering van, die afdwinging van of vervolging in verband met, of die beslissing van appèlle rakende die belastings in paragraaf 1 bedoel, of met toesig oor voornoemde. Sodanige persone of owerhede mag die inligting slegs vir sodanige doeleindes gebruik. Hulle mag die inligting in openbare hofverrigtinge of in regterlike beslissings openbaar maak. Nieteenstaande die voorgaande, mag die inligting wat deur 'n Kontrakterende Staat ontvang word vir ander doeleindes gebruik word wanneer sodanige inligting kragtens die wette van albei State vir sodanige ander doeleindes gebruik mag word en die bevoegde owerheid van die voorsienende Staat daardie gebruik magtig.

3. In geen geval word die bepalings van paragrawe 1 en 2 so uitgelê nie dat dit 'n verpligting plaas op 'n Kontrakterende Staat om:

- (a) administratiewe maatreëls toe te pas wat strydig is met die wette en administratiewe praktyk van daardie of die ander Kontrakterende Staat;
- (b) inligting te verskaf wat nie kragtens die wette of in die gewone loop van die administrasie van daardie of die ander Kontrakterende Staat bekombaar is nie;

- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.”

ARTICLE II

Each Contracting State shall notify the other in writing, through the diplomatic channel, of the completion of the procedures required by its laws for the bringing into force of this Protocol. The Protocol shall enter into force 30 days after the date of receipt of the later of these notifications and its provisions shall have effect on that date.

ARTICLE III

This Protocol, which shall form an integral part of the Agreement, shall remain in force as long as the Agreement remains in force and shall apply as long as the Agreement itself is applicable.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed and sealed this Protocol in two originals in the English and Hindi languages, both texts being equally authentic. In case of diversion of interpretation the English text shall prevail.

DONE at Pretoria, on this 26 day of July 2013.

**FOR THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA**

**FOR THE GOVERNMENT OF THE
REPUBLIC OF INDIA**

- (c) inligting te verskaf wat 'n handels-, sake-, nywerheids-, kommersiële of beroepsgeheim of handelsproses sou openbaar maak, of inligting waarvan die openbaarmaking strydig met die openbare beleid (*ordre public*) sou wees.

4. Indien inligting ooreenkomstig hierdie Artikel deur 'n Kontrakterende Staat aangevra word, gebruik die ander Kontrakterende Staat sy inligtingversamelmaatreëls om die aangevraagde inligting te bekom, selfs al het daardie ander Staat nie sodanige inligting vir sy eie belastingdoeleindes nodig nie. Die verpligting vervat in die voorafgaande sin is onderworpe aan die beperkings van paragraaf 3, maar daardie beperkings word in geen geval so uitgelê dat dit 'n Kontrakterende Staat toelaat om die verskaffing van inligting van die hand te wys bloot omdat hy geen huishoudelike belang by daardie inligting het nie.

5. In geen geval word die bepalings van paragraaf 3 so uitgelê nie dat dit 'n Kontrakterende Staat toelaat om die verskaffing van inligting van die hand te wys bloot omdat die inligting gehou word deur 'n bank, 'n ander finansiële instelling, 'n benoemde of 'n persoon wat in 'n volmag- of vertrouenshoedanigheid optree, of omdat dit op eienaarsbelange in 'n persoon betrekking het."

ARTIKEL II

Elk van die Kontrakterende State moet die ander langs die diplomatieke kanaal skriftelik kennis gee van die afhandeling van die prosedures wat sy reg vereis om hierdie Protokol in werking te stel. Die Protokol tree in werking 30 dae na die datum van ontvangs van die laaste van hierdie kennisgewings, en die bepalings van die Protokol is op daardie datum van krag.

ARTIKEL III

Hierdie Protokol, wat 'n integrale deel van die Ooreenkoms uitmaak, bly van krag solank die Konvensie van krag bly en is van toepassing solank die Ooreenkoms van toepassing is.

TEN BEWYSE WAARVAN die ondergetekendes, behoorlik daartoe gemagtig deur hul onderskeie Regerings, hierdie Protokol in twee oorspronklike tekste in die Engelse en Hindi tale, waarvan albei tekste ewe outentiek is, geteken en geseël het. In geval van enige teenstrydigheid ten opsigte van vertolking geld die Engelse teks.

GEDOEN te Pretoria, op hede die 26ste dag van Julie 2013.

**VIR DIE REGERING VAN DIE
REPUBLIC VAN SUID-AFRIKA**

**VIR DIE REGERING VAN DIE
REPUBLIC INDIE**

NOTICE—CHANGE OF TELEPHONE NUMBERS: GOVERNMENT PRINTING WORKS

As the mandated government security printer, providing world class security products and services, Government Printing Works has adopted some of the highly innovative technologies to best serve its customers and stakeholders. In line with this task, Government Printing Works has implemented a new telephony system to ensure most effective communication and accessibility. As a result of this development, our telephone numbers will change with effect from 3 February 2014, starting with the Pretoria offices.

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- Advertising: 012 748 6205/6206/6207/6208/6209/6210/6211/6212
- Publications Enquiries: 012/748 6053/6058 GeneralEnquiries@gpw.gov.za
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- Subscription: 012 748 6066/6060/6058
- SCM: 012 748 6380/6373/6218
- Debtors 012 748 6236/6242
- Creditors: 012 748 6246/6274

Please consult our website at www.gpwonline.co.za for more contact details.

The numbers for our provincial offices in Polokwane, East London and Mmabatho will not change at this stage.

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