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IMPORTANT

Information

from Government Printing Works

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5. All notice submissions that do not comply with point 2 will be charged full price for the notice submission.
6. The current cut-off of all Gazette's remains unchanged for all channels. (Refer to the GPW website for submission deadlines – www.gpwonline.co.za)
7. Incorrectly completed forms and notices submitted in the wrong format will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email info.egazette@gpw.gov.za)
8. All re-submissions by customers will be subject to the above cut-off times.
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You are therefore advised that effective from **Monday, 18 May 2015** should you not comply with our new rules of engagement, all notice requests will be rejected by our new system.

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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

SOUTH AFRICAN REVENUE SERVICE**NO. 970****16 OCTOBER 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 CYPRUS
FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL
EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**

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 Cyprus and has been approved by Parliament in terms of section 231(2) of the Constitution.

It is further notified in terms of Article IV Paragraph 1 of the Protocol that the date of entry into force is 18 September 2015.

SUID-AFRIKAANSE INKOMSTEDIENS

NO. 970

16 OKTOBER 2015

INKOMSTEBELASTINGWET, 1962**PROTOKOL TOT WYSIGING VAN DIE OOREENKOMS TUSSEN DIE REGERING VAN DIE REPUBLIEK VAN SUID-AFRIKA EN DIE REGERING VAN DIE REPUBLIEK SIPRUS VIR DIE VERMYDING VAN DUBBELE BELASTING EN DIE VOORKOMING VAN FISKALE ONTDUIKING MET BETREKKING TOT BELASTINGS OP INKOMSTE EN OP KAPITAAL**

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 Republiek Siprus en deur die Parlement goedgekeur is ingevolge artikel 231(2) van die Grondwet.

Daar word verder bekendgemaak dat ingevolge Artikel IV Paragraaf 1 van die Protokol, die datum van inwerkingtreding 18 September 2015 is.

SCHEDULE**PROTOCOL AMENDING THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA AND THE GOVERNMENT OF THE REPUBLIC OF CYPRUS FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL****PREAMBLE**

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

DESIRING to amend the Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, with Protocol, signed on 26th November 1997, at Nicosia (in this Protocol referred to as "the Agreement");

HAVE AGREED AS FOLLOWS:

ARTICLE I

Paragraph 1 of Article 4 shall be deleted and replaced by the following:

- "1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State."

ARTICLE II

Article 10 shall be deleted and replaced by the following:

"ARTICLE 10**DIVIDENDS**

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:
 - (a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which holds at least 10 per cent of the capital of the company paying the dividends; or
 - (b) 10 per cent of the gross amount of the dividends in all other cases.

BYLAE**PROTOKOL TOT WYSIGING VAN DIE OOREENKOMS TUSSEN DIE REGERING VAN DIE REPUBLIEK VAN SUID-AFRIKA EN DIE REGERING VAN DIE REPUBLIEK SIPRUS VIR DIE VERMYDING VAN DUBBELE BELASTING EN DIE VOORKOMING VAN FISKALE ONTDUIKING MET BETREKKING TOT BELASTINGS OP INKOMSTE EN OP KAPITAAL****AANHEF**

Die Regering van die Republiek van Suid-Afrika en die Regering van die Republiek Siprus het,

UIT 'N BEGEERTE om die Ooreenkoms vir die vermyding van dubbele belasting en die voorkoming van fiskale ontduiking met betrekking tot belasting op inkomste en op kapitaal, met Protokol, wat op 26 November 1997 in Nicosia onderteken is (in hierdie Protokol "die Ooreenkoms" genoem), te wysig;

SOOS VOLG OOREENGEKOM:**ARTIKEL I**

Paragraaf 1 van Artikel 4 word geskrap en deur die volgende paragraaf vervang:

- "1. Vir die doeleindes van hierdie Ooreenkoms beteken die uitdrukking "inwoner van 'n Kontrakterende Staat" enige persoon wat ingevolge die wette van daardie Staat aanspreeklik is vir belasting daarin as gevolg van daardie persoon se domisilie, verblyf, plek van bestuur of enige ander kriterium van 'n soortgelyke aard, en sluit dit ook daardie Staat en enige staatkundige onderverdeling of plaaslike owerheid daarvan in. Hierdie uitdrukking sluit egter nie 'n persoon in nie wat in daardie Staat belastingpligtig is net ten opsigte van inkomste uit bronne in daardie Staat."

ARTIKEL II

Artikel 10 word geskrap en deur die volgende paragraaf vervang:

"Artikel 10**Dividende**

1. Dividende wat deur 'n maatskappy, wat 'n inwoner van 'n Kontrakterende Staat is, aan 'n inwoner van die ander Kontrakterende Staat betaal word, kan in daardie ander Staat belas word.
2. Sodanige dividende kan egter ook belas word in die Kontrakterende Staat waarvan die maatskappy wat die dividende betaal 'n inwoner is, en wel ooreenkomstig die wette van daardie Staat, maar as die voordelige eienaar van die dividende 'n inwoner van die ander Kontrakterende Staat is, mag die belasting wat aldus gehef word nie meer wees nie as:
 - (a) 5 persent van die bruto bedrag van die dividende indien die voordelige eienaar 'n maatskappy is wat minstens 10 persent van die kapitaal van die maatskappy hou wat die dividende betaal; of
 - (b) 10 persent van die bruto bedrag van die dividende in alle ander gevalle.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term “dividends” as used in this Article means income from shares or other rights participating in profits (not being debt-claims), as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the Contracting State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except in so far as such dividends are paid to a resident of that other State or in so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company’s undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.”

ARTICLE III

Article 26 of the Agreement shall be deleted and replaced by the following:

“ARTICLE 26

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, in so far 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.

Die bevoegde owerhede van die Kontrakterende State moet by onderlinge ooreenkoms besluit oor die wyse van toepassing van hierdie beperkings. Hierdie paragraaf raak nie die belasting van die maatskappy ten opsigte van die wins waaruit die dividende betaal word nie.

3. Die uitdrukking "dividende" soos in hierdie Artikel gebruik, beteken inkomste uit aandele of ander regte wat in winste deel (wat nie skuldeise is nie), asook inkomste uit ander regs persoonlike regte wat onderhewig is aan dieselfde belastingbehandeling as inkomste uit aandele ingevolge die wette van die Kontrakterende Staat waarvan die maatskappy wat die uitkering doen 'n inwoner is.

4. Die bepalings van paragrafe 1 en 2 is nie van toepassing nie indien die voordelige eienaar van die dividende, wat 'n inwoner van 'n Kontrakterende Staat is, in die ander Kontrakterende Staat, waarvan die maatskappy wat die dividende betaal 'n inwoner is, besigheid dryf deur middel van 'n permanente saak wat daarin geleë is of in daardie ander Staat onafhanklike persoonlike dienste verrig vanaf 'n vaste basis wat daarin geleë is, en die aandeelhouding ten opsigte waarvan die dividende betaal word, effektief aan sodanige permanente saak of vaste basis verbonde is. In sodanige geval is die bepalings van Artikel 7 of Artikel 14, na gelang van die geval, van toepassing.

5. Waar 'n maatskappy, wat 'n inwoner van 'n Kontrakterende Staat is, wins of inkomste uit die ander Kontrakterende Staat verkry, hef daardie ander Kontrakterende Staat geen belasting op die dividende wat deur die maatskappy betaal word nie, uitgesonderd in soverre sodanige dividende aan 'n inwoner van daardie ander Staat betaal word of in soverre die aandeelhouding ten opsigte waarvan die dividende betaal word, effektief verbonde is aan 'n permanente saak of 'n vaste basis wat in daardie ander Staat geleë is, en onderwerp hy ook nie die maatskappy se onuitgekeerde wins aan 'n belasting op onuitgekeerde wins nie, selfs al bestaan die dividende wat betaal word of die onuitgekeerde wins in geheel of gedeeltelik uit wins of inkomste wat in sodanige ander Staat ontstaan."

ARTIKEL III

Artikel 26 van die Ooreenkoms word geskrap en deur die volgende vervang:

"ARTIKEL 26

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 ingevolge paragraaf 1 deur 'n Kontrakterende Staat ontvang, 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.

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;
- (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.

6. The mode of application of this Article is set out in the attached Annex which shall form an integral part of this Protocol.”

ARTICLE IV

1. Each of the Contracting States shall notify to the other in writing, through the diplomatic channel, of the completion of the procedures required by its law for the bringing into force of this Protocol, which shall form an integral part of the Agreement. The Protocol shall enter into force on the date of receipt of the later of these notifications.

2. The provisions of the Protocol shall apply from the date of the introduction in South Africa of the system of taxation at shareholder level of dividends declared.

3. In geen geval word die bepalings van paragraaf 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) inligting te verskaf wat 'n handels-, sake-, nywerheids-, kommersiële of beroepsgeheim of handelsproses sou openbaar maak, of inligting te verskaf 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 voorgaande 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 te weier om inligting te verskaf 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 te weier om inligting te verskaf 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.

6. Die wyse van toepassing van hierdie Artikel word uiteengesit in die aangehegte Aanhangsel wat 'n integrale deel van hierdie Protokol uitmaak."

ARTIKEL IV

1. Elk van die Kontrakterende State moet die ander deur middel van diplomatieke kanaal skriftelik kennis gee van die afhandeling van die prosedures wat sy reg vereis om hierdie Protokol, wat 'n integrale deel van die Ooreenkoms uitmaak, in werking te stel. Die Protokol tree in werking op die dag van ontvangs van die laaste van hierdie kennisgewings.

2. Die bepalings van die Protokol is van toepassing vanaf die datum van die bekendstelling in Suid-Afrika van die stelsel van belasting op aandeelhouervlak van dividende verklaar.

ARTICLE V

This Protocol shall remain in force for as long as the Agreement remains in force.

IN WITNESS WHEREOF the undersigned, duly authorised thereto by their respective Governments, have signed and sealed this Protocol in two originals in the English and Greek language. In case there is any divergence of interpretation between the Greek and the English texts, the English text shall prevail.

DONE at Pretoria, this 1st day of April 2015.

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

**FOR THE GOVERNMENT OF THE
REPUBLIC OF CYPRUS**

ARTIKEL V

Hierdie Protokol bly van krag solank die Ooreenkoms van krag bly.

TEN BEWYSE WAARVAN die ondergetekendes, behoorlik daartoe gemagtig deur hulle onderskeie Regerings, hierdie Protokol geteken en geseël het in twee oorspronklike tekste in die Engelse en Griekse tale.

GEDOEN te Pretoria, op hede die 1^{ste} dag van April 2015.

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

**VIR DIE REGERING VAN
DIE REPUBLIEK SIPRUS**

Annex to the Protocol amending the Agreement between the Republic of South Africa and the Republic of Cyprus for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, with Protocol, signed at Nicosia, on 26 November 1997

Mode of Application of Article 26 "Exchange of Information"
of the Agreement

1. The requesting Contracting State shall provide the following information when making a request for information under Article 26 to demonstrate the foreseeable relevance of the information to the request:

- (a) the identity of the person under examination or investigation;
- (b) a statement of the information sought including its nature and the form in which the requesting Contracting State wishes to receive the information from the requested Contracting State;
- (c) the tax purpose for which the information is sought;
- (d) grounds for believing that the information requested is held in the requested Contracting State or is in the possession or control of a person within the jurisdiction of the requested Contracting State;
- (e) to extent known, the name and address of any person believed to be in possession of the requested information;
- (f) a statement that the request is in conformity with the law and administrative practices of the requesting Contracting State, that if the requested information was within the jurisdiction of the requesting Contracting State then the competent authority of the requesting Contracting State would be able to obtain the information under the laws of the requesting Contracting State or in the normal course of administrative practice and that it is in conformity with this Agreement;
- (g) a statement that the requesting Contracting State has exhausted all means available in its own territory to obtain the information, except those that would cause excessive difficulties.

2. Information requested by a Contracting State shall not be provided unless the requesting State has reciprocal provisions and/or applies appropriate administrative practices for the provision of the information requested.

Aanhangsel by die Protokol tot wysiging van die Ooreenkoms tussen die Republiek van Suid-Afrika en die Republiek Siprus vir die vermyding van dubbele belasting en die voorkoming van fiskale ontduiking met betrekking tot belasting op inkomste en op kapitaal, met Protokol, wat op 26 November 1997 te Nicosia onderteken is

Wysiging van Toepassing van Artikel 26 "Uitruil van inligting"
van die Ooreenkoms

1. Die versoekende Kontrakterende Staat moet die volgende inligting verskaf wanneer hy 'n versoek om inligting rig ingevolge Artikel 26 ten einde die voorsienbare tersaaklikheid van die inligting ten opsigte van die versoek aan te toon:

- (a) die identiteit van die persoon wie se sake nagegaan of wat ondersoek word;
- (b) 'n verklaring van die inligting wat verlang word, ook die aard daarvan en die vorm waarin die versoekende Kontrakterende Staat verkies om die inligting vanaf die versoekte Kontrakterende Staat te ontvang;
- (c) die belastingdoel waarvoor die inligting verlang word;
- (d) die redes waarom vermoed word dat die aangevraagde inligting in die versoekte Kontrakterende Staat gehou word of in besit of onder beheer is van 'n persoon binne die jurisdiksie van die versoekte Kontrakterende Staat;
- (e) in soverre dit bekend is, die naam en adres van 'n persoon wat vermoedelik in besit is van die aangevraagde inligting;
- (f) 'n verklaring dat die versoek in ooreenstemming is met die reg en administratiewe praktyke van die versoekende Kontrakterende Staat, dat indien die aangevraagde inligting binne die jurisdiksie van die versoekende Kontrakterende Staat was, die bevoegde owerheid van die versoekende Kontrakterende Staat in staat sou wees om die inligting te bekom ingevolge die reg van die versoekende Kontrakterende Staat of in die gewone loop van administratiewe praktyk en dat die versoek in ooreenstemming met hierdie Ooreenkoms is;
- (g) 'n verklaring dat die versoekende Kontrakterende Staat alle metodes in sy eie gebied tot sy beskikking nagevolg het om die inligting te bekom, uitgesonderd daardie wat tot buitensporige probleme sou aanleiding gee.

2. Inligting versoek deur 'n Kontrakterende Staat word nie verskaf nie, tensy die versoekende Staat wederkerige bepalings het en/of toepaslike administratiewe praktyke toepas vir die verskaffing van die inligting wat versoek word.

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5. All notice submissions that do not comply with point 2 will be charged full price for the notice submission.
6. The current cut-off of all Gazette's remains unchanged for all channels. (Refer to the GPW website for submission deadlines – www.gpwonline.co.za)
7. Incorrectly completed forms and notices submitted in the wrong format will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email info.egazette@gpw.gov.za)
8. All re-submissions by customers will be subject to the above cut-off times.
9. All submissions and re-submissions that miss the cut-off will be rejected to the customer to be submitted with a new publication date.
10. Information on forms will be taken as the primary source of the notice to be published. Any instructions that are on the email body or covering letter that contradicts the notice form content will be ignored.

You are therefore advised that effective from **Monday, 18 May 2015** should you not comply with our new rules of engagement, all notice requests will be rejected by our new system.

Furthermore, the fax number **012- 748 6030** will also be **discontinued** from this date and customers will only be able to submit notice requests through the email address submit.egazette@gpw.gov.za.

