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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF LABOUR

NO. R. 1595

23 DECEMBER 2016

**LABOUR RELATIONS ACT, 1995
REGISTRATION OF A TRADE UNION**

I, Malixole Ntleki, Acting Registrar of Labour Relations, hereby notify, in terms of section 109(2) of the Labour Relations Act, 1995, that **Allied Workers and Transport Union (AWATU) (LR 2/6/2/2520)** has been registered as a trade union with effect from...12/12/2016.....

**ACTING REGISTRAR OF LABOUR RELATIONS**

12/12/2016

DEPARTMENT OF LABOUR

NO. R. 1596

23 DECEMBER 2016

LABOUR RELATIONS ACT, 1995

INTENTION OF CANCELLATION OF REGISTRATION OF AN EMPLOYERS'
ORGANISATION

I, Maloxile Ntleki, Acting Registrar of Labour Relations, hereby, in terms of section 106(2B) give notice of my intention to cancel the registration of **Bou Industrie Assosiasie Wes-Boland (LR 2/6/3/170)** for the following reasons:

- The employers' organisation has ceased to function in terms of its constitution
- The organisation did not comply with the provisions of section 98, 99 and 100 of the Act [Section 106(2A)(b)]

The organisation and all interested parties are hereby invited to make written representations as to why the registration should not be cancelled. **Only representations pertaining to this Notice and the following case number: 241 of 2016 will be considered.**

Objections must be lodged to me, c/o the Department of Labour, Laboria House, 215 Francis Baard Street, PRETORIA. [Postal address: Private Bag X117, PRETORIA, 0001 – Fax No. (012) 309-4156/4848, within 60 days of the date of this notice.



ACTING REGISTRAR OF LABOUR RELATIONS

05/12/2016

SOUTH AFRICAN REVENUE SERVICE

NO. R. 1597

23 DECEMBER 2016

**CUSTOMS AND EXCISE ACT, 1964
AMENDMENT OF RULES (DAR163)**

Under sections 19A and 120 of the Customs and Excise Act, 1964, the rules published in Government Notice R.1874 of 8 December 1995 are amended to the extent set out in the Schedule hereto **with effect from 1 January 2017**.



**THOMAS SWABIHI MOYANE
COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE**

SCHEDULE

(a) By the substitution in rule 75.00 of the following heading and rule:

“Registration of rebate users affected by amendments of items, tariff headings or subheadings in Schedule No. 3 or 4 effective from 1 January 2017

75.00 From 1 January 2017, a rebate user shall be regarded as being registered to receive imported goods classifiable within an amended item or tariff heading or subheading shown in the column for “Version 2017 (HS 2017)” if such rebate user is, immediately prior to that date, registered under any item of Schedule No. 3 or 4 to receive imported goods classifiable within the corresponding item or tariff heading or subheading for “Version 2016 (HS 2012)” listed in the correlation table on the SARS website.”

(b) By the substitution in item 202.00 of the Schedule to the rules for forms DA 260 in respect of wine of the following forms:

"DA 260	Excise Account: Wine (SVM)
DA 260.01	Excise Account Schedule (Production): Wine (SVM)
DA 260.02	Excise Account Schedule (Receipts from C & E warehouses): Wine (SVM)
DA 260.04	Excise Account Schedule (Summary of non-duty paid removals): Wine (SVM)
DA 260.04A	Excise Account Schedule (Itemised list of non-duty paid removals): Wine (SVM)
DA 260	Excise Account: Wine (SOS)
DA 260.02	Excise Account Schedule (Receipts from C & E warehouses): Wine (SOS)
DA 260.04	Excise Account Schedule (Summary of non-duty paid removals): Wine (SOS)
DA 260.04A	Excise Account Schedule (Itemised list of non-duty paid removals): Wine (SOS)
DA 260	Excise Account: Wine (OS)
DA 260.02	Excise Account Schedule (Receipts from C & E warehouses): Wine (OS)
DA 260.04	Excise Account Schedule (Summary of non-duty paid removals): Wine (OS)
DA 260.04A	Excise Account Schedule (Itemised list of non-duty paid removals): Wine (OS)"

EXCISE ACCOUNT		WINE (SVM) - SPECIAL MANUFACTURING WAREHOUSE										DA 260	
		LICENSED WAREHOUSE NAME >>>> PHYSICAL ADDRESS >>>> >>>> >>>>					WAREHOUSE NUMBER >>>> EXCISE CLIENT CODE >>>> YEAR & MONTH(S) >>>> FROM DATE >>>> TO DATE >>>>						
PRODUCT CODE TARIFF ITEM(S)		UWNE 104.15.03 104.15.13 104.15.21		FWNE 104.15.05 104.15.17 104.15.26		SWNE 104.15.01		OWNE 104.15.04 104.16.06 104.15.16 104.15.19 104.15.23 104.15.27					
STATISTICAL UNIT		LI Packed Packed Unpacked Packed Packed Unpacked					LA Packed Packed Unpacked						
Opening Balance												DA 260.01	
Plus Production												DA 260.02	
Plus Receipts From C&E Warehouses													
Plus Adjustments													
= SUBTOTAL													
Less Adjustments													
Less Non-Duty Paid Removals												DA 260.04	
Less Duty Paid Removals													
= Closing Balance													
Total Balance Check													
DUTY CALCULATION													
EXCISE VALUE FOR DUTY PAID REMOVALS (per tariff item)													
TOTAL EXCISE VALUE FOR DUTY PAID REMOVALS												R -	
DECLARATION													
I (Name & Surname)												Dutiable QTY	
IN MY CAPACITY AS												Rate of Duty	
FOR (Licensee Name)												Duty Payable	
												Overpayment	
												Underpayment	
HEREBY DECLARE THAT ALL INFORMATION SUPPLIED ON THIS DOCUMENT IS TRUE AND CORRECT.												GROSS EXCISE DUTY PAYABLE	
												Less Gross Over-Payment	
												SUBTOTAL	
												Plus Gross Under-Payment	
												= NETT EXCISE DUTY PAYABLE	
SIGNATURE DATE													
FOR OFFICIAL USE ONLY													
CONSOLIDATED DECLARATIONS			ASSURANCE ACTIVITY		NAME		SIGNATURE		DATE		DATE RECEIVED		
Code	Number	Date	Accepted								(OFFICIAL DATE STAMP AND SIGNATURE)		
			Face Checked										
			Compliance Checked										

EXCISE ACCOUNT SCHEDULE			WINE									DA 260.04 A			
ITEMISED LIST OF NON-DUTY PAID REMOVALS			(SVM) - SPECIAL MANUFACTURING WAREHOUSE												
LICENSED WAREHOUSE NAME >>>>>									WAREHOUSE NUMBER >>>>>						
PHYSICAL ADDRESS >>>>>									EXCISE CLIENT CODE >>>>>						
REMOVAL TYPE >									YEAR & MONTH(S) >>>>>						
(See DA 260.04)									FROM DATE >>>>>						
A Seperate Form Must Be Used For Each Removal Type												TO DATE >>>>>			
PRODUCT CODE			UWNE			FWNE			SWNE	OWNE					
TARIFF ITEM(S)			104.15.03	104.15.13	104.15.21	104.15.05	104.15.17	104.15.25	104.15.01	104.15.04	104.15.08	104.15.15	104.15.19	104.15.23	104.15.27
			Packed	Packed	Unpacked	Packed	Packed	Unpacked		Packed		Packed		Unpacked	
STATISTICAL UNIT			LI						LA						
SUPPORTING DOCUMENTS															
(Official Declarations/ Commercial Documents)															
TYPE	NUMBER	DATE													
BROUGHT FORWARD FROM PREVIOUS DA 260.04 A															
SUBTOTALS CARRIED FORWARD TO NEXT DA 260.04 A															
GRAND TOTALS CARRIED FORWARD TO DA 260.04															

SARS		EXCISE ACCOUNT										WINE (SOS) - SPECIAL STORAGE WAREHOUSE				DA 260	
LICENSED WAREHOUSE NAME >>>>								WAREHOUSE NUMBER >>>>									
PHYSICAL ADDRESS >>>>								EXCISE CLIENT CODE >>>>									
>>>>								YEAR & MONTH(S) >>>>									
>>>>								FROM DATE >>>>									
>>>>								TO DATE >>>>									
PRODUCT CODE		UWNE			FWNE			SWNE		OWNE							
TARIFF ITEM(S)		104.15.03	104.15.13	104.15.21	104.15.05	104.15.17	104.15.25	104.15.01	104.15.04	104.15.06	104.15.15	104.15.19	104.15.23	104.15.27			
		Packed	Packed	Unpacked	Packed	Packed	Unpacked		Packed		Packed		Unpacked				
STATISTICAL UNIT		LI						LA									
Opening Balance																	
Plus Receipts From C&E Warehouses		DA 260.02															
= SUBTOTAL																	
Less Non-Duty Paid Removals		DA 260.04															
= Closing Balance																	
Total Balance Check																	
DECLARATION																	
I (Name & Surname)																	
IN MY CAPACITY AS																	
FOR (Licensee Name)																	
HEREBY DECLARE THAT ALL INFORMATION SUPPLIED																	
ON THIS DOCUMENT IS TRUE AND CORRECT.																	
SIGNATURE		DATE															
FOR OFFICIAL USE ONLY																	
CONSOLIDATED DECLARATIONS			ASSURANCE ACTIVITY		NAME			SIGNATURE			DATE			DATE RECEIVED			
Code	Number	Date	Accepted											(OFFICIAL DATE STAMP AND SIGNATURE)			
			Face Checked														
			Compliance Checked														

EXCISE ACCOUNT SCHEDULE			WINE										DA 260.04 A		
ITEMISED LIST OF NON-DUTY PAID REMOVALS			(SOS) - SPECIAL STORAGE WAREHOUSE												
LICENSED WAREHOUSE NAME >>>>								WAREHOUSE NUMBER >>>>							
PHYSICAL ADDRESS >>>>								EXCISE CLIENT CODE >>>>							
REMOVAL TYPE >								YEAR & MONTH(S) >>>>							
(See DA 260.04)								FROM DATE >>>>							
A Seperate Form Must Be Used For Each Removal Type								TO DATE >>>>							
PRODUCT CODE			UWNE			FWNE			SWNE		OWNE				
TARIFF ITEM(S)			104.15.03	104.15.13	104.15.21	104.15.05	104.15.17	104.15.25	104.15.01	104.15.04	104.15.08	104.15.15	104.15.19	104.15.23	104.15.27
			Packed	Packed	Unpacked	Packed	Packed	Unpacked			Packed	Packed	Unpacked		
STATISTICAL UNIT			LI					LA							
SUPPORTING DOCUMENTS															
(Official Declarations/ Commercial Documents)															
TYPE	NUMBER	DATE													
BROUGHT FORWARD FROM PREVIOUS DA 260.04 A															
SUBTOTALS CARRIED FORWARD TO NEXT DA 260.04 A															
GRAND TOTALS CARRIED FORWARD TO DA 260.04															

SARS		EXCISE ACCOUNT		WINE (OS) - STORAGE WAREHOUSE								DA 260				
LICENSED WAREHOUSE NAME >>>>				WAREHOUSE NUMBER >>>>												
PHYSICAL ADDRESS >>>>				EXCISE CLIENT CODE >>>>												
>>>>				YEAR & MONTH(S) >>>>												
>>>>				FROM DATE >>>>												
>>>>				TO DATE >>>>												
PRODUCT CODE		UWNE			FWWE			SWNE	OWNE							
TARIFF ITEM(S)		104.16.03	104.16.13	104.16.21	104.16.06	104.16.17	104.16.26	104.16.01	104.16.04	104.16.08	104.16.15	104.16.19	104.16.23	104.16.27		
		Packed	Packed	Unpacked	Packed	Packed	Unpacked		Packed		Packed		Unpacked			
STATISTICAL UNIT		LI							LA							
Opening Balance																
Plus	Receipts From C&E Warehouses	DA 260.02														
=	SUBTOTAL															
Less	Non-Duty Paid Removals	DA 260.04														
Less	Closing Balance															
=	Total On Which Duty Must Be Paid															
Total Balance Check																
DUTY CALCULATION																
EXCISE VALUE FOR DUTY PAID REMOVALS (per tariff item)																
TOTAL: EXCISE VALUE FOR DUTY PAID REMOVALS		R -														
DECLARATION																
(Name & Surname)	Dutiable QTY															
IN MY CAPACITY AS	Rate of Duty															
FOR (Licensee Name)	Duty Payable															
	Overpayment															
	Underpayment															
HEREBY DECLARE THAT ALL INFORMATION SUPPLIED ON THIS DOCUMENT IS TRUE AND CORRECT.									GROSS EXCISE DUTY PAYABLE							
									Less: Gross Over-Payment							
									SUBTOTAL							
									Plus: Gross Under-Payment							
SIGNATURE		DATE							= NETT EXCISE DUTY PAYABLE							
FOR OFFICIAL USE ONLY																
CONSOLIDATED DECLARATIONS		ASSURANCE ACTIVITY			NAME			SIGNATURE			DATE			DATE RECEIVED		
Code	Number	Date	Accepted													
			Face Checked													
			Compliance Checked													
(OFFICIAL DATE STAMP AND SIGNATURE)																

EXCISE ACCOUNT SCHEDULE RECEIPTS FROM C&E WAREHOUSES			WINE (OS) - STORAGE WAREHOUSE											DA 260.02	
LICENSED WAREHOUSE NAME >>>>			WAREHOUSE NUMBER >>>>												
PHYSICAL ADDRESS >>>>			EXCISE CLIENT CODE >>>>												
>>>>			YEAR & MONTH(S) >>>>												
>>>>			FROM DATE >>>>												
>>>>			TO DATE >>>>												
PRODUCT CODE			UWNE			FWNE			SWNE		OWNE				
TARIFF ITEM(S)			104.15.03	104.15.13	104.15.21	104.15.05	104.15.17	104.15.25	104.15.01	104.15.04	104.15.06	104.15.15	104.15.19	104.15.23	104.15.27
			Packed	Packed	Unpacked	Packed	Packed	Unpacked		Packed		Packed		Unpacked	
STATISTICAL UNIT			LI							LA					
<i>(Official Declarations / Commercial Documents)</i>															
TYPE	NUMBER	DATE													
BROUGHT FORWARD FROM PREVIOUS DA 260.02															
SUBTOTALS CARRIED FORWARD TO NEXT DA 260.02															
GRAND TOTALS CARRIED FORWARD TO DA 260															

SOUTH AFRICAN REVENUE SERVICE

NO. R. 1598

23 DECEMBER 2016

**REGULATIONS FOR PURPOSES OF PARAGRAPH (b) OF THE DEFINITION OF
“INTERNATIONAL TAX STANDARD” IN SECTION 1 OF THE TAX
ADMINISTRATION ACT, 2011 (ACT NO. 28 OF 2011), PROMULGATED UNDER
SECTION 257 OF THE ACT, SPECIFYING THE CHANGES TO THE COUNTRY-
BY-COUNTRY REPORTING STANDARD FOR MULTINATIONAL ENTERPRISES**

For purposes of paragraph (b) of the definition of “**international tax standard**” in section 1 and under section 257 of the Tax Administration Act, 2011, I, Pravin Jamnadas Gordhan, the Minister of Finance, hereby specify in the Schedule hereto, the changes to the Country-by-Country Reporting Standard for Multinational Enterprises.



P J GORDHAN

MINISTER OF FINANCE

SCHEDULE

REGULATIONS SPECIFYING THE COUNTRY-BY-COUNTRY REPORTING STANDARD FOR MULTINATIONAL ENTERPRISES

PREAMBLE

- A. The Republic of South Africa ("South Africa") has agreed to participate in the joint Base Erosion and Profit Shifting Action Project of the Group of 20 ("G20") and Organisation for Economic Co-operation and Development ("OECD");
- B. The *OECD/G20 Base Erosion and Profit Shifting Project Transfer Pricing Documentation and Country-by-Country Reporting, Action 13 — 2015 Final Report*, which includes the Country-by-Country Reporting Standard, was published on 5 October 2015; and
- C. The Competent Authority of South Africa signed the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports on 27 January 2016;

These Regulations specify the changes to the Country-by-Country Reporting Standard for Multinational Enterprises ("MNEs") required for South Africa's circumstances.

Article 1

Definitions

For purposes of these Regulations the following terms have the following meanings:

1. The term "**Group**" means a collection of enterprises related through ownership or control such that it is either required to prepare Consolidated Financial Statements for financial reporting purposes under applicable accounting principles or would be so required if equity interests in any of the enterprises were traded on a public securities exchange.
2. The term "**MNE Group**" means any Group that:

- (i) includes two or more enterprises the tax residence for which is in different jurisdictions, or includes an enterprise that is resident for tax purposes in one jurisdiction and is subject to tax with respect to the business carried out through a permanent establishment in another jurisdiction; and
- (ii) is not an Excluded MNE Group.

3. The term “**Excluded MNE Group**” means, with respect to any Fiscal Year of the Group, a Group having total consolidated group revenue of less than R10 billion (or, if paragraph 2 of Article 2 applies, 750 million Euro) during the Fiscal Year immediately preceding the Reporting Fiscal Year as reflected in its Consolidated Financial Statements for such preceding Fiscal Year.

4. The term “**Constituent Entity**” means:

- (i) any separate business unit of an MNE Group that is included in the Consolidated Financial Statements of the MNE Group for financial reporting purposes, or would be so included if equity interests in such business unit of an MNE Group were traded on a public securities exchange;
- (ii) any such business unit that is excluded from the MNE Group’s Consolidated Financial Statements solely on size or materiality grounds; and
- (iii) any permanent establishment of any separate business unit of the MNE Group included in (i) or (ii) above provided the business unit prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting, or internal management control purposes.

5. The term “**Reporting Entity**” means the Constituent Entity that is required to file a country-by-country report conforming to the requirements in Article 4 in its jurisdiction of tax residence on behalf of the MNE Group. The Reporting Entity may be the Ultimate Parent Entity, the Surrogate Parent Entity, or any entity described in paragraph 2 of Article 2.

6. The term “**Ultimate Parent Entity**” means a Constituent Entity of an MNE Group that meets the following criteria:

- (i) it owns directly or indirectly a sufficient interest in one or more other Constituent Entities of such MNE Group such that it is required to prepare Consolidated Financial Statements under accounting principles generally applied in its jurisdiction of tax residence, or would be so required if its equity interests were traded on a public securities exchange in its jurisdiction of tax residence; and
- (ii) there is no other Constituent Entity of such MNE Group that owns directly or indirectly an interest described in subsection (i) above in the first mentioned Constituent Entity.

7. The term “**Surrogate Parent Entity**” means one Constituent Entity of the MNE Group that has been appointed by such MNE Group, as a sole substitute for the Ultimate Parent Entity, to file the Country-by-Country Report in that Constituent Entity’s jurisdiction of tax residence, on behalf of such MNE Group, when one or more of the conditions set out in subsection (ii) of paragraph 2 of Article 2 applies.

8. The term “**Fiscal Year**” means an annual accounting period with respect to which the Ultimate Parent Entity of the MNE Group prepares its financial statements.

9. The term “**Reporting Fiscal Year**” means that Fiscal Year the financial and operational results of which are reflected in the Country-by-Country Report defined in Article 4.

10. The term “**Qualifying Competent Authority Agreement**” means an agreement that:

- (i) is between authorised representatives of those jurisdictions that are parties to an International Agreement; and
- (ii) requires the automatic exchange of Country-by-Country Reports between the party jurisdictions.

11. The term “**International Agreement**” means the Multilateral Convention for Mutual Administrative Assistance in Tax Matters, any bilateral or multilateral Tax Convention, or any Tax Information Exchange Agreement to which South Africa is a party, and that by its terms provides legal authority for the exchange of tax information between jurisdictions, including automatic exchange of such information.

12. The term “**Consolidated Financial Statements**” means the financial statements of an MNE Group in which the assets, liabilities, income, expenses and cash flows of the Ultimate Parent Entity and the Constituent Entities are presented as those of a single economic entity.

13. The term “**Systemic Failure**” with respect to a jurisdiction means that a jurisdiction has a Qualifying Competent Authority Agreement in effect with South Africa, but has suspended automatic exchange (for reasons other than those that are in accordance with the terms of that Agreement) or otherwise persistently failed to automatically provide to South Africa Country-by-Country Reports in its possession of MNE Groups that have Constituent Entities in South Africa.

Article 2

Filing Obligation

1. Each Ultimate Parent Entity of an MNE Group that is resident for tax purposes in South Africa must file a Country-by-Country Report conforming to the requirements of Article 4 with the South African Revenue Service (“SARS”) with respect to its Reporting Fiscal Year on or before the date specified in Article 5.

2. A Constituent Entity which is not the Ultimate Parent Entity of an MNE Group must file a Country-by-Country Report conforming to the requirements of Article 4 with SARS with respect to the Reporting Fiscal Year of an MNE Group of which it is a Constituent Entity, on or before the date specified in Article 5, if the following criteria are satisfied:

- (i) the entity is resident for tax purposes in South Africa; and
- (ii) one of the following conditions applies:
 - (a) the Ultimate Parent Entity of the MNE Group is not obligated to file a Country-by-Country Report in its jurisdiction of tax residence; or
 - (b) the jurisdiction in which the Ultimate Parent Entity is resident for tax purposes has a current International Agreement to which South Africa is a party but does not have a Qualifying Competent Authority Agreement in

effect to which South Africa is a party by the time specified in Article 5 for filing the Country-by-Country Report for the Reporting Fiscal Year; or

- (c) there has been a Systemic Failure of the jurisdiction of tax residence of the Ultimate Parent Entity that has been notified by SARS to the Constituent Entity resident for tax purposes in South Africa.

Where there are more than one Constituent Entities of the same MNE Group that are resident for tax purposes in South Africa and one or more of the conditions set out in subsection (ii) above apply, the MNE Group may designate one of such Constituent Entities to file the Country-by-Country Report conforming to the requirements of Article 4 with SARS with respect to any Reporting Fiscal Year on or before the date specified in Article 5 and to notify SARS that the filing is intended to satisfy the filing requirement of all the Constituent Entities of such MNE Group that are resident for tax purposes in South Africa.

3. Notwithstanding the provisions of paragraph 2 of Article 2, when one or more of the conditions set out in subsection (ii) of paragraph 2 of Article 2 apply, an entity described in paragraph 2 of Article 2 is not required to file a Country-by-Country Report with SARS with respect to any Reporting Fiscal Year if:

- (i) the MNE Group of which it is a Constituent Entity has made available a Country-by-Country Report conforming to the requirements of Article 4 with respect to such Fiscal Year through a Surrogate Parent Entity that files that Country-by-Country Report with the tax authority of its jurisdiction of tax residence on or before the date specified in Article 5; and
- (ii) the following conditions are satisfied:
 - (a) the jurisdiction of tax residence of the Surrogate Parent Entity requires filing of Country-by-Country Reports conforming to the requirements of Article 4;
 - (b) the jurisdiction of tax residence of the Surrogate Parent Entity has a Qualifying Competent Authority Agreement in effect to which South Africa

is a party by the time specified in Article 5 for filing the Country-by-Country Report for the Reporting Fiscal Year;

- (c) the jurisdiction of tax residence of the Surrogate Parent Entity has not notified SARS of a Systemic Failure;
- (d) the jurisdiction of tax residence of the Surrogate Parent Entity has been notified in accordance with paragraph 1 of Article 3 by the Constituent Entity resident for tax purposes in its jurisdiction that it is the Surrogate Parent Entity; and
- (e) a notification has been provided to SARS in accordance with paragraph 2 of Article 3.

4. SARS must publish a list of jurisdictions contemplated in item (b) of subsection (ii) of paragraph 2 of Article 2 and may fulfil its obligation under item (c) of that subsection by publishing a list of jurisdictions contemplated in that item.

Article 3

Notification

1. Any Constituent Entity of an MNE Group that is resident for tax purposes in South Africa must notify SARS if it is the Ultimate Parent Entity or the Surrogate Parent Entity, no later than 12 months after the last day of the Reporting Fiscal Year of such MNE Group.

2. Where a Constituent Entity of an MNE Group that is resident for tax purposes in South Africa is not the Ultimate Parent Entity nor the Surrogate Parent Entity, it must notify SARS of the identity and tax residence of the Reporting Entity, no later than 12 months after the last day of the Reporting Fiscal Year of such MNE Group.

Article 4

Country-by-Country Report

1. For purposes of these Regulations, a Country-by-Country Report with respect to an MNE Group is a report containing:
 - (i) Aggregate information relating to the amount of revenue, profit (loss) before income tax, income tax paid, income tax accrued, stated capital, accumulated earnings, number of employees, and tangible assets other than cash or cash equivalents with regard to each jurisdiction in which the MNE Group operates;
 - (ii) An identification of each Constituent Entity of the MNE Group setting out the jurisdiction of tax residence of such Constituent Entity, and where different from such jurisdiction of tax residence, the jurisdiction under the laws of which such Constituent Entity is organised, and the nature of the main business activity or activities of such Constituent Entity.
2. The Country-by-Country Report must contain the information set out in, and apply the definitions and instructions contained in, the standard template set out in “Annex III to Chapter V” set out in the *OECD/G20 Base Erosion and Profit Shifting Project Transfer Pricing Documentation and Country-by-Country Reporting, Action 13 – 2015 Final Report*.

Article 5

Time for filing

The Country-by-Country Report required by these Regulations must be filed no later than 12 months after the last day of the Reporting Fiscal Year of the MNE Group.

Article 6

Use and Confidentiality of Country-by-Country Report Information

1. SARS must only use the Country-by-Country Report for purposes of assessing high-level transfer pricing risks and other base erosion and profit shifting related risks in South Africa, including assessing the risk of non-compliance by members of the MNE Group with applicable transfer pricing rules, and where appropriate for

economic and statistical analysis. Transfer pricing adjustments by SARS may not be based on the Country-by-Country Report.

2. SARS must preserve the confidentiality of the information contained in the Country-by-Country Report at least to the same extent that would apply if such information were provided to it under the provisions of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters.

Article 7

Effective Date

These Regulations are effective for Reporting Fiscal Years of MNE Groups beginning on or after 1 January 2016.

SUID-AFRIKAANSE INKOMSTEDIENS

NO. R. 1598

23 DESEMBER 2016

REGULASIES VIR DOELEINDES VAN PARAGRAAF (b) VAN DIE OMSKRYWING VAN “INTERNASIONALE BELASTINGSTANDAARD” IN ARTIKEL 1 VAN DIE WET OP BELASTINGADMINISTRASIE, 2011 (WET NO. 28 VAN 2011), GEPROMULGEER KRAGTENS ARTIKEL 257 VAN DIE WET, WAT DIE VERANDERINGS AAN DIE “COUNTRY-BY-COUNTRY REPORTING STANDARD FOR MULTINATIONAL ENTERPRISES” AANDUI

Vir doeleindes van paragraaf (b) van die omskrywing van “**internasionale belastingstandaard**” in artikel 1 en kragtens artikel 257 van die Wet op Belastingadministrasie, 2011, dui ek, Pravin Jamnadas Gordhan, die Minister van Finansies, hierby in die Bylae hierby, die veranderings aan die “Country-by-Country Reporting Standard for Multinational Enterprises” aan.

P J GORDHAN

MINISTER VAN FINANSIES

BYLAE**REGULASIES WAT DIE “COUNTRY-BY-COUNTRY REPORTING STANDARD FOR MULTINATIONAL ENTERPRISES” AANDUI****AANHEF**

- A. Die Republiek van Suid-Afrika (“Suid-Afrika”) het ingestem om deel te neem aan die gesamentlike “Base Erosion and Profit Shifting Action Project” van die Groep van 20 (“G20”) en Organisasie vir Ekonomiese Samewerking en Ontwikkeling (“OESO”);
- B. Die “*OECD/G20 Base Erosion and Profit Shifting Project Transfer Pricing Documentation and Country-by-Country Reporting, Action 13 — 2015 Final Report*”, wat die “Country-by-Country Reporting Standard” insluit, is op 5 Oktober 2015 gepubliseer; en
- C. Die Bevoegde Gesag van Suid-Afrika het die “Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports” op 27 Januarie 2016 onderteken;

Hierdie regulasies dui aan die veranderings aan die “Country-by-Country Reporting Standard for Multinational Enterprises” wat vir Suid-Afrika se omstandighede vereis word.

Artikel 1**Woordomskrywing**

Vir doeleindes van hierdie Regulasies dra die volgende terme die volgende betekenis:

1. Die term “**Groep**” beteken ’n versameling ondernemings sodanig verwant deur eienaarskap of beheer dat dit ofwel verplig is om Gekonsolideerde Finansiële State vir doeleindes van finansiële verslaggewing volgens toepaslike rekeningkundige beginsels op te stel of aldus verplig sou wees indien ekwiteitsbelange in enige van die ondernemings op ’n openbare sekuriteitebeurs verhandel sou word.
2. Die term “**MNO-groep**” beteken enige Groep wat:

(i) twee of meer ondernemings insluit waarvan die belastinginwoning in verskillende jurisdiksies is, of 'n onderneming insluit wat vir belastingdoeleindes in een jurisdiksie 'n inwoner is en in 'n ander jurisdiksie aan belasting onderhewig is ten opsigte van die besigheid wat deur 'n permanente saak in 'n ander jurisdiksie onderneem word; en

(ii) nie 'n Uitgeslote MNO-groep is nie.

3. Die term “**Uitgeslote MNO-groep**” beteken, ten opsigte van enige Fiskale Jaar van die Groep, 'n Groep wat totale gekonsolideerde groepinkomste van minder as R10 biljoen (of indien paragraaf 2 van Artikel 2 van toepassing is, 750 miljoen Euro) het gedurende die Fiskale Jaar wat die Verslagdoenings- Fiskale Jaar onmiddellik voorafgaan, soos weerspieël in sy Gekonsolideerde Finansiële State vir sodanige voorafgaande Fiskale Jaar.

4. Die term “**Samestellende Entiteit**” beteken:

(i) enige aparte sake-eenheid van 'n MNO-groep wat by die Gekonsolideerde Finansiële State van die MNO-groep vir doeleindes van finansiële verslagdoening ingesluit is, of aldus ingesluit sou wees indien ekwiteitsbelange in sodanige sake-eenheid van 'n MNO-groep op 'n openbare sekuriteitebeurs verhandel sou word;

(ii) enige sodanige sake-eenheid wat bloot op grond van grootte of materialiteit van die MNO-groep se Gekonsolideerde Finansiële State uitgesluit word; en

(iii) enige permanente saak van enige aparte sake-eenheid van die MNO-groep by (i) of (ii) hierbo ingesluit op voorwaarde dat die sake-eenheid 'n aparte finansiële staat vir sodanige permanente saak vir finansiële verslagdoening-, regulatoriese, belastingverslagdoening-, of interne bestuursbeheerdoeleindes opstel.

5. Die term “**Verslagdoeningsentiteit**” beteken die Samestellende Entiteit wat verplig is om 'n land-vir-land verslag wat voldoen aan die vereistes in Artikel 4 in sy jurisdiksie van belastinginwoning ten behoeve van die MNO-groep in te dien. Die

Verlagdoeningsentiteit kan die Uiteindelijke Moederentiteit, die Surrogaat Moederentiteit, of enige entiteit beskryf in paragraaf 2 van Artikel 2 wees.

6. Die term “**Uiteindelijke Moederentiteit**” beteken ’n Samestellende Entiteit van ’n MNO-groep wat aan die volgende maatstawwe voldoen:

- (i) dit besit regstreeks of onregstreeks ’n voldoende belang in een of meer ander Samestellende Entiteite van sodanige MNO-groep sodanig dat dit verplig word om Gekonsolideerde Finansiële State volgens rekeningkundige beginsels algemeen toegepas in sy jurisdiksie van belastinginwoning op te stel, of aldus verplig sou wees indien sy ekwiteitsbelange op ’n openbare sekuriteitebeurs in sy jurisdiksie van belastinginwoning verhandel sou word; en
- (ii) daar is geen ander Samestellende Entiteit van sodanige MNO-groep wat regstreeks of onregstreeks ’n belang beskryf in subartikel (i) hierbo in die eersgenoemde Samestellende Entiteit besit nie.

7. Die term “**Surrogaat Moederentiteit**” beteken een Samestellende Entiteit van die MNO-groep wat deur sodanige MNO-groep aangestel is, as ’n enige plaasvervanger vir die Uiteindelijke Moederentiteit, om die Land-vir-Land Verslag in daardie Samestellende Entiteit se jurisdiksie van belastinginwoning ten behoeve van sodanige MNO-groep in te dien, wanneer een of meer van die voorwaardes uiteengesit in subartikel (ii) van paragraaf 2 van Artikel 2 van toepassing is.

8. Die term “**Fiskale Jaar**” beteken ’n jaarlikse rekenpligtige tydperk ten opsigte waarvan die Uiteindelijke Moederentiteit van die MNO-groep sy finansiële state opstel.

9. Die term “**Verlagdoenings- Fiskale Jaar**” beteken daardie Fiskale Jaar waarvan die finansiële en operasionele uitslae in die Land-vir-Land Verslag omskryf in Artikel 4 weerspieël word.

10. Die term “**Kwalifiserende Bevoegde Gesag Ooreenkoms**” beteken ’n ooreenkoms wat:

- (i) tussen gemagtigde verteenwoordigers is van daardie jurisdiksies wat partye by ’n Internasionale Ooreenkoms is; en

(ii) die outomatiese uitruil van Land-vir-Land Verslae tussen die partyjurisdiksies vereis.

11. Die term “**Internasionale Ooreenkoms**” beteken die “Multilateral Convention for Mutual Administrative Assistance in Tax Matters”, enige bilaterale of multilaterale Belastingkonvensie, of enige Ooreenkoms vir die Uitruil van Belastinginligting waarby Suid-Afrika ’n party is, en wat deur sy bedinge regsgesag vir die uitruil van belastinginligting tussen jurisdiksies, insluitend outomatiese uitruil van sodanige inligting, verleen.

12. Die term “**Gekonsolideerde Finansiële State**” beteken die finansiële state van ’n MNO-groep waarin die bates, laste, inkomste, uitgawes en kontantvloei van die Uiteindelijke Moederentiteit en die Samestellende Entiteite soos dié van ’n enkele ekonomiese entiteit voorgestel word.

13. Die term “**Sistemiese Versuim**” ten opsigte van ’n jurisdiksie beteken dat ’n jurisdiksie ’n Kwalifiserende Bevoegde Gesag Ooreenkoms met Suid-Afrika in plek het, maar outomatiese uitruiling opgeskort het (vir redes anders as dié wat ooreenkomstig die bedinge van daardie Ooreenkoms is) of andersins aanhoudend versuim het om outomaties aan Suid-Afrika Land-vir-Land Verslae in sy besit van MNO-groepe wat Samestellende Entiteite in Suid-Afrika het, te voorsien.

Artikel 2

Indieningsverpligting

1. Elke Uiteindelijke Moederentiteit van ’n MNO-groep wat vir belastingdoeleindes in Suid-Afrika ’n inwoner is, moet ’n Land-vir-Land Verslag wat voldoen aan die vereistes van Artikel 4 by die Suid-Afrikaanse Inkomstediens (“SAID”) indien ten opsigte van sy Verslagdoenings- Fiskale Jaar op of voor die datum in artikel 5 aangedui.

2. ’n Samestellende Entiteit wat nie die Uiteindelijke Moederentiteit van ’n MNO-groep is nie moet ’n Land-vir-Land Verslag wat voldoen aan die vereistes van Artikel 4 by SAID indien ten opsigte van die Verslagdoenings- Fiskale Jaar van ’n MNO-groep waarvan dit ’n Samestellende Entiteit is, op of voor die datum in Artikel 5 aangedui, indien aan die volgende maatstawwe voldoen word:

- (i) die entiteit is vir belastingdoeleindes in Suid-Afrika 'n inwoner; en
- (ii) een van die volgende voorwaardes is van toepassing:
 - (a) die Uiteindelijke Moederentiteit van die MNO-groep is nie verplig om 'n Land-vir-Land Verslag in sy jurisdiksie van belastinginwoning in te dien nie; of
 - (b) die jurisdiksie waarin die Uiteindelijke Moederentiteit vir belastingdoeleindes 'n inwoner is, het 'n geldende Internasionale Ooreenkoms waarby Suid-Afrika 'n party is, maar het nie 'n Kwalifiserende Bevoegde Gesag Ooreenkoms in plek waarby Suid-Afrika 'n party is teen die tyd in Artikel 5 vir die indiening van die Land-vir-Land Verslag vir die Verslagdoenings- Fiskale Jaar aangedui nie; of
 - (c) daar was 'n Sistemiese Versuim van die jurisdiksie van belastinginwoning van die Uiteindelijke Moederentiteit waarvan die Samestellende Entiteit wat vir belastingdoeleindes in Suid-Afrika 'n inwoner is deur SAID in kennis gestel is.

Waar daar meer as een Samestellende Entiteite van dieselfde MNO-groep is wat vir belastingdoeleindes in Suid-Afrika inwoners is en een of meer van die voorwaardes uiteengesit in subartikel (ii) hierbo van toepassing is, mag die MNO-groep een van sodanige Samestellende Entiteite aanwys om die Land-vir-Land Verslag wat voldoen aan die vereistes van Artikel 4 by SAID in te dien ten opsigte van enige Verslagdoenings- Fiskale Jaar op of voor die datum in artikel 5 aangedui en om SAID in kennis te stel dat die indiening bedoel is om die indieningsvereistes van al die Samestellende Entiteite van sodanige MNO-groep wat vir belastingdoeleindes in Suid-Afrika inwoners is, te bevredig.

3. Ondanks die bepaling van paragraaf 2 van Artikel 2, wanneer een of meer van die voorwaardes uiteengesit in subartikel (ii) van paragraaf 2 van Artikel 2 van toepassing is, word nie van 'n entiteit beskryf in paragraaf 2 van Artikel 2 vereis om 'n Land-vir-Land Verslag by SAID ten opsigte van enige Verslagdoenings- Fiskale Jaar in te dien nie indien:

- (i) die MNO-groep waarvan dit 'n Samestellende Entiteit is, 'n Land-vir-Land Verslag beskikbaar gestel het wat voldoen aan die vereistes van Artikel 4 ten

opsigte van sodanige Fiskale Jaar deur 'n Surrogaat Moederentiteit wat daardie Land-vir-Land Verslag indien by die belastingowerheid van sy jurisdiksie van belastinginwoning op of voor die datum in artikel 5 aangedui; en

- (ii) aan die volgende voorwaardes voldoen word:
- (a) die jurisdiksie van belastinginwoning van die Surrogaat Moederentiteit vereis indiening van Land-vir-Land Verslae wat aan die vereistes van Artikel 4 voldoen;
 - (b) die jurisdiksie van belastinginwoning van die Surrogaat Moederentiteit het 'n Kwalifiserende Bevoegde Gesag Ooreenkoms in plek waarby Suid-Afrika 'n party is teen die tyd in Artikel 5 vir indiening van die Land-vir-Land Verslag vir die Verslagdoenings- Fiskale Jaar aangedui;
 - (c) die jurisdiksie van belastinginwoning van die Surrogaat Moederentiteit het SAID nie van 'n Sistemiese Versuim in kennis gestel nie;
 - (d) die jurisdiksie van belastinginwoning van die Surrogaat Moederentiteit is ooreenkomstig paragraaf 1 van Artikel 3 deur die Samestellende Entiteit wat vir belastingdoeleindes in sy jurisdiksie 'n inwoner is in kennis gestel dat dit die Surrogaat Moederentiteit is; en
 - (e) 'n kennisgewing is ooreenkomstig paragraaf 2 van Artikel 3 aan SAID voorsien.

4. SAID moet 'n lys publiseer van jurisdiksies beoog in item (b) van subartikel (ii) van paragraaf 2 van Artikel 2 en mag sy verpligting kragtens item (c) van daardie subartikel nakom deur 'n lys van jurisdiksies wat in daardie item beoog word, te publiseer.

Artikel 3

Kennisgewing

1. Enige Samestellende Entiteit van 'n MNO-groep wat vir belastingdoeleindes in Suid-Afrika 'n inwoner is, moet SAID in kennis stel indien dit die Uiteindelijke

Moederentiteit of die Surrogaat Moederentiteit is, nie later nie as 12 maande na die laaste dag van die Verslagdoenings- Fiskale Jaar van sodanige MNO-groep.

2. Waar 'n Samestellende Entiteit van 'n MNO-groep wat vir belastingdoeleindes in Suid-Afrika 'n inwoner is nie die Uiteindelike Moederentiteit of die Surrogaat Moederentiteit is nie, moet dit SAID in kennis stel van die identiteit en belastinginwoning van die Verslagdoeningsentiteit, nie later nie as 12 maande na die laaste dag van die Verslagdoenings- Fiskale Jaar van sodanige MNO-groep.

Artikel 4

Land-vir-Land Verslag

1. Vir doeleindes van hierdie regulasies, is 'n Land-vir-Land Verslag ten opsigte van 'n MNO-groep 'n verslag wat die volgende bevat:

- (i) Saamgestelde inligting met betrekking tot die bedrag van ontvangste, wins (verlies) voor inkomstebelasting, inkomstebelasting betaal, inkomstebelasting toegeval, gestelde kapitaal, opgelope verdienste, aantal werknemers, en tasbare bates anders as kontant of kontantekwivalente met betrekking tot elke jurisdiksie waarin die MNO-groep in bedryf is;
- (ii) 'n Identifisering van elke Samestellende Entiteit van die MNO-groep wat uiteensit die jurisdiksie van belastinginwoning van sodanige Samestellende Entiteit, en waar dit verskil van sodanige jurisdiksie van belastinginwoning, die jurisdiksie kragtens wie se wette sodanige Samestellende Entiteit georganiseer word, en die aard van die hoofbesigheidsbedrywigheid of -bedrywighede van sodanige Samestellende Entiteit.

2. Die Land-vir-Land Verslag moet die inligting bevat wat uiteengesit is in, en die woordskrywing en instruksies toepas wat vervat is in, die standaard sjabloon uiteengesit in "Annex III to Chapter V" uiteengesit in die "*OECD/G20 Base Erosion and Profit Shifting Project Transfer Pricing Documentation and Country-by-Country Reporting, Action 13 – 2015 Final Report*".

Artikel 5**Tyd van indiening**

Die Land-vir-Land Verslag vereis deur hierdie Regulasies moet ingedien word nie later nie as 12 maande na die laaste dag van die Verslagdoenings- Fiskale Jaar van die MNO-groep.

Artikel 6**Gebruik en Vertroulikheid van Inligting in Land-vir-Land Verslag**

1. SAID moet die Land-vir-Land Verslag gebruik slegs vir doeleindes van die beoordeling van hoë vlak oordragprysbepalingsrisikos en ander risikos verbonde aan basiserodering en winsverskuiwing in Suid-Afrika, insluitend die beoordeling van die nienakomingsrisiko van toepaslike reëls vir oordragprysbepaling deur lede van die MNO-groep, en waar geskik vir ekonomiese en statistiese ontleding. Oordragprysbepalingsaanpassings deur SAID mag nie op die Land-vir-Land Verslag gebaseer word nie.
2. SAID moet die vertroulikheid van die inligting vervat in die Land-vir-Land Verslag bewaar minstens in dieselfde mate as wat van toepassing sou wees indien sodanige inligting kragtens die bepaling van die Multilaterale Konvensie oor Wedersydse Administratiewe Bystand in Belasting sake aan hom voorsien sou word.

Artikel 7**Inwerkingtreddingsdatum**

Hierdie Regulasies is van toepassing op Verslagdoenings- Fiskale Jare van MNO-groepe wat op of na 1 Januarie 2016 begin.