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GOVERNMENT NOTICE

SOUTH AFRICAN REVENUE SERVICE

No. 2694

2 November 1998

INCOME TAX ACT, 1962

CONVENTION BETWEEN THE REPUBLIC OF SOUTH AFRICA AND THE KINGDOM OF BELGIUM FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

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

It is further notified in terms of paragraph 1 of Article 28 of the Convention, that the date of entry into force is 9 October 1998.

GOEWERMENTSKENNISGEWING

SUID-AFRIKAANSE INKOMSTEDIENS

No. 2694

2 November 1998

INKOMSTEBELASTINGWET, 1962

KONVENSIE TUSSEN DIE REPUBLIEK VAN SUID-AFRIKA EN DIE KONINKRYK VAN BELGIË VIR DIE VERMYDING VAN DUBBELE BELASTING EN DIE VOORKOMING VAN FISKALE ONTDUIKING MET BETREKKING TOT BELASTINGS OP INKOMSTE

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 Konvensie 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 Koninkryk van België en deur die Parlement goedgekeur is ingevolge artikel 231 (2) van die Grondwet.

Daar word verder bekendgemaak dat ingevolge paragraaf 1 van Artikel 28 van die Konvensie, die datum van inwerkingtreding 9 Oktober 1998 is.

CONVENTION BETWEEN THE REPUBLIC OF SOUTH AFRICA AND THE KINGDOM OF BELGIUM FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the Republic of South Africa and the Government of the Kingdom of Belgium,

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows :

Article 1

Personal Scope

This Convention shall apply to persons who are residents of one or both of the Contracting States.

Article 2

Taxes Covered

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.
3. The existing taxes to which the Convention shall apply are in particular:
 - a) in the case of Belgium:
 - (i) the individual income tax;
 - (ii) the corporate income tax;
 - (iii) the income tax on legal entities;
 - (iv) the income tax on non-residents;
 - (v) the special levy assimilated to the individual income tax;
 - (vi) the supplementary crisis contribution;

including the prepayments, the surcharges on these taxes and prepayments, and the supplements to the individual income tax;

(hereinafter referred to as "Belgian tax");

KONVENSIË TUSSEN DIE REPUBLIEK VAN SUID-AFRIKA EN DIE KONINKRYK VAN BELGIË VIR DIE VERMYDING VAN DUBBELE BELASTING EN DIE VOORKOMING VAN FISKALE ONTDUIKING MET BETREKKING TOT BELASTINGS OP INKOMSTE

Die Regering van die Republiek van Suid-Afrika en die Regering van die Koninkryk van België het,

Uit 'n begeerte om 'n Konvensie te sluit vir die vermyding van dubbele belasting en die voorkoming van fiskale ontduiking met betrekking tot belasting op inkomste, soos volg ooreengekom:

Artikel 1

Persoonlike Omvang

Hierdie Konvensie is van toepassing op persone wat inwoners van een of van albei die Kontrakterende State is.

Artikel 2

Belastings Gedek

1. Hierdie Konvensie is van toepassing op belasting op inkomste, opgelê namens 'n Kontrakterende Staat of van sy staatkundige onderverdelings, ongeag die wyse waarop dit gehef word.

2. As belasting op inkomste word geag alle belasting gehef op totale inkomste of op bestanddele van inkomste, met inbegrip van belasting op winste verkry uit die vervreemding van roerende of onroerende eiendom, asook belasting op kapitaalappresiasie.

3. Die bestaande belasting waarop die Konvensie van toepassing is, is in die besonder:

a) in die geval van België:

- (i) die inkomstebelasting op individue;
- (ii) die maatskappy-inkomstebelasting;
- (iii) die inkomstebelasting op regspersone;
- (iv) die inkomstebelasting op nie-inwoners;
- (v) die spesiale heffing wat in die inkomstebelasting op individue opgeneem is;
- (vi) die aanvullende krisisbydrae;

insluitende die vooruitbetalings, die toeslag op hierdie belasting en vooruitbetalings, en die aanvullings tot die inkomstebelasting op individue;

(hierna "Belgiese belasting" genoem);

- b) in the case of South Africa:
 - (i) the normal tax;
 - (ii) the non-resident shareholders' tax;
 - (iii) the secondary tax on companies;

(hereinafter referred to as "South African tax").

4. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant change which has been made in their respective taxation laws.

Article 3

General Definitions

1. For the purposes of this Convention, unless the context otherwise requires:

- a)
 - (i) the term "Belgium" means the Kingdom of Belgium and, when used in a geographical sense, means the territory of the Kingdom of Belgium, including the territorial sea and any other area in the sea and in the air within which the Kingdom of Belgium, in accordance with international law, exercises sovereign rights or jurisdiction;
 - (ii) the term "South Africa" means the Republic of South Africa and, when used in a geographical sense, includes the territorial sea thereof as well as any area outside the territorial sea, including the continental shelf, which has been or may hereafter be designated, under the laws of South Africa and in accordance with international law, as an area within which South Africa may exercise sovereign rights or jurisdiction;
- b) the terms "a Contracting State" and "the other Contracting State" mean Belgium or South Africa as the context requires;
- c) the term "person" includes an individual, a company and any other body of persons;
- d) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- e) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- f) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- g) the term "competent authority" means:
 - (i) in the case of Belgium, the Director General of direct taxes or his authorised representative, and
 - (ii) in the case of South Africa, the Commissioner for Inland Revenue or his authorised representative;
- h) the term "nationals" means:
 - (i) all individuals possessing the nationality of a Contracting State;
 - (ii) all legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State.

- b) in die geval van Suid-Afrika:
- (i) die normale belasting;
 - (ii) die belasting op buitelandse aandeelhouders;
 - (iii) die sekondêre belasting op maatskappye;

(hierna "Suid-Afrikaanse belasting" genoem).

4. Die Konvensie is ook van toepassing op enige identiese of wesenlik soortgelyke belasting wat bykomend by, of in plaas van, die bestaande belasting opgelê word na die datum van ondertekening van die Konvensie. Die bevoegde owerhede van die Kontrakterende State moet mekaar in kennis stel van enige wesenlike verandering wat aan hul onderskeie belastingwette aangebring is.

Artikel 3

Algemene Woordomsrywings

1. By die toepassing van hierdie Konvensie, tensy die samehang anders vereis:

- a)
 - (i) beteken die uitdrukking "België" die Koninkryk van België en, wanneer in geografiese verband gebruik, dui dit aan die gebied van die Koninkryk van België, met inbegrip van sy territoriale waters en enige ander deel in die waters en in die lug waarbinne die Koninkryk van België ooreenkomstig die volkereg soewereine regte of jurisdiksie uitoefen;
 - (ii) beteken die uitdrukking "Suid-Afrika" die Republiek van Suid-Afrika en, wanneer in geografiese verband gebruik, ook die territoriale waters daarvan asook enige deel buite die territoriale waters, met inbegrip van die kontinentale plat, wat ingevolge die reg van Suid-Afrika en ooreenkomstig die volkereg aangewys is of aangewys mag word as 'n deel waarbinne Suid-Afrika soewereine regte of jurisdiksie mag uitoefen;
- b) beteken die uitdrukking " 'n Kontrakterende Staat" en "die ander Kontrakterende Staat" België of Suid-Afrika, na gelang die samehang vereis;
- c) beteken die uitdrukking "persoon" ook 'n individu, 'n maatskappy en enige ander liggaam van persone;
- d) beteken die uitdrukking "maatskappy" enige regspersoon of enige entiteit wat vir belastingdoeleindes as 'n regspersoon behandel word;
- e) beteken die uitdrukking "onderneming van 'n Kontrakterende Staat" en "onderneming van die ander Kontrakterende Staat" onderskeidelik 'n onderneming bedryf deur 'n inwoner van 'n Kontrakterende Staat en 'n onderneming bedryf deur 'n inwoner van die ander Kontrakterende Staat;
- f) beteken die uitdrukking "internasionale verkeer" enige vervoer per skip of vliegtuig bedryf deur 'n onderneming wie se plek van effektiewe bestuur in 'n Kontrakterende Staat geleë is, behalwe wanneer die skip of vliegtuig slegs tussen plekke in die ander Kontrakterende Staat bedryf word;
- g) beteken die uitdrukking "bevoegde owerheid":
 - (i) in die geval van België, die Direkteur-Generaal van direkte belasting of sy gemagtigde verteenwoordiger, en
 - (ii) in die geval van Suid-Afrika, die Kommissaris van Binnelandse Inkomste of sy gemagtigde verteenwoordiger;
- h) beteken die uitdrukking "burgers":
 - (i) alle individue wat burgerskap van 'n Kontrakterende Staat besit;
 - (ii) alle regspersone, vennootskappe en verenigings wat hulle status as sodanig verkry van die wette wat in 'n Kontrakterende Staat van krag is.

2. As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.

Article 4

Resident

1. For the purposes of this Convention, the term "resident of a Contracting State" means:
 - a) in the case of Belgium, any person who, under the laws of Belgium, is liable to tax in Belgium by reason of his domicile, residence, place of management or any other criterion of a similar nature;
 - b) in the case of South Africa, any individual who is ordinarily resident in South Africa and any other person which has its place of effective management in South Africa.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:
 - a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
 - b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
 - c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;
 - d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

Article 5

Permanent Establishment

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially:
 - a) a place of management;
 - b) a branch;
 - c) an office;
 - d) a factory;
 - e) a workshop, and
 - f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

2. By die toepassing van die Konvensie deur 'n Kontrakterende Staat, het 'n uitdrukking wat nie daarin omskryf is nie, tensy die samehang anders vereis, die betekenis wat daaraan geheg word volgens daardie Staat se wet betreffende die belastinge waaroor die Konvensie handel.

Artikel 4

Inwoner

1. By die toepassing van hierdie Konvensie beteken die uitdrukking "inwoner van 'n Kontrakterende Staat":

- a) in die geval van België, enige persoon wat kragtens die wette van België in België belastingpligtig is uit hoofde van sy domisilie, verblyf, plek van bestuur of enige ander maatstaf van 'n soortgelyke aard;
- b) in die geval van Suid-Afrika, enige individu wat gewoonlik in Suid-Afrika woonagtig is en enige ander persoon wie se plek van effektiewe bestuur in Suid-Afrika geleë is.

2. Waar 'n individu uit hoofde van die bepalings van paragraaf 1 'n inwoner van beide Kontrakterende State is, word sy status soos volg bepaal:

- a) hy word geag 'n inwoner te wees van die Staat waarin hy 'n permanente tuiste tot sy beskikking het; indien hy in beide State 'n permanente tuiste tot sy beskikking het, word hy geag 'n inwoner te wees van die Staat waarmee sy persoonlike en ekonomiese betrekkinge die nouste is (tuiste van lewensbelange);
- b) indien daar nie bepaal kan word in watter Staat hy sy tuiste van lewensbelange het nie, of indien hy nie 'n permanente tuiste in enigiens van die State tot sy beskikking het nie, word hy geag 'n inwoner te wees van die Staat waarin hy 'n gebruikelike verblyfplek het;
- c) indien hy 'n gebruikelike verblyfplek in beide State het, of in geeneen van hulle nie, word hy geag 'n inwoner te wees van die Staat waarvan hy 'n burger is;
- d) indien hy 'n burger van beide State is, of van geeneen van hulle nie, besleg die bevoegde owerhede van die Kontrakterende State die saak deur middel van onderlinge ooreenkoms.

3. Waar uit hoofde van die bepalings van paragraaf 1 'n ander persoon as 'n individu 'n inwoner van beide Kontrakterende State is, word hy geag 'n inwoner te wees van die Staat waarin sy plek van effektiewe bestuur geleë is.

Artikel 5

Permanente Saak

1. By die toepassing van hierdie Konvensie beteken die uitdrukking "permanente saak" 'n vaste besigheidsplek waardeur die besigheid van 'n onderneming geheel en al of gedeeltelik gedryf word.

2. Die uitdrukking "permanente saak" sluit veral in:

- a) 'n plek van bestuur;
- b) 'n tak;
- c) 'n kantoor;
- d) 'n fabriek;
- e) 'n werkwinkel, en
- f) 'n myn, 'n olie- of gasbron, 'n steengroef of enige ander plek van ontginning van natuurlike hulpbronne.

3. A building site, a construction, assembly or installation project or any supervisory activity in connection therewith constitutes a permanent establishment only if it lasts more than twelve months.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

- a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6

Income from Immovable Property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources. Ships, boats and aircraft shall not be regarded as immovable property.

3. 'n Bouterrein, 'n konstruksie-, monteer- of installasieprojek, of enige toesighoudende bedrywigheid in verband daarmee, maak 'n permanente saak uit slegs indien dit langer as twaalf maande duur.

4. Ondanks die voorgaande bepalings van hierdie Artikel word die uitdrukking "permanente saak" geag nie in te sluit nie:

- a) die gebruik van fasiliteite slegs met die doel om goedere of handelsware wat aan die onderneming behoort op te berg, te vertoon of af te lewer;
- b) die instandhouding van 'n voorraad goedere of handelsware wat aan die onderneming behoort, slegs met die doel om dit op te berg, te vertoon of af te lewer;
- c) die instandhouding van 'n voorraad goedere of handelsware wat aan die onderneming behoort, slegs vir die doel van verwerking deur 'n ander onderneming;
- d) die instandhouding van 'n vaste besigheidsplek slegs met die doel om vir die onderneming goedere of handelsware aan te koop of inligting in te win;
- e) die instandhouding van 'n vaste besigheidsplek slegs met die doel om vir die onderneming enige ander bedrywigheid wat van 'n voorlopige of bykomstige aard is, te beoefen;
- f) die instandhouding van 'n vaste besigheidsplek slegs vir 'n kombinasie van die bedrywighede in subparagraawe a) tot e) genoem, met dien verstande dat die algehele bedrywigheid van die vaste besigheidsplek voortspuitend uit hierdie kombinasie van 'n voorlopige of bykomstige aard is.

5. Ondanks die bepalings van paragraawe 1 en 2, waar 'n persoon - uitgesonderd 'n agent met onafhanklike status op wie paragraaf 6 van toepassing is - namens 'n onderneming optree en magtiging het, en dit gewoonlik uitoefen, om in 'n Kontrakterende Staat kontrakte in die naam van die onderneming te sluit, word daardie onderneming geag 'n permanente saak in daardie Staat te hê ten opsigte van enige bedrywighede wat daardie persoon vir die onderneming onderneem, tensy die bedrywighede van sodanige persoon beperk is tot dié in paragraaf 4 genoem wat, indien dit deur middel van 'n vaste besigheidsplek uitgeoefen sou word, hierdie vaste besigheidsplek nie ingevolge die bepalings van daardie paragraaf 'n permanente saak sou maak nie.

6. 'n Onderneming word nie geag 'n permanente saak in 'n Kontrakterende Staat te hê nie bloot omdat hy in daardie Staat besigheid dryf deur middel van 'n makelaar, algemene kommissie-agent of enige ander agent met onafhanklike status, mits sodanige persone in die gewone loop van hul besigheid optree.

7. Die feit dat 'n maatskappy wat 'n inwoner van 'n Kontrakterende Staat is, beheer het oor of beheer word deur 'n maatskappy wat 'n inwoner van die ander Kontrakterende Staat is, of wat in daardie ander Staat besigheid dryf (hetsy deur middel van 'n permanente saak of andersins), beteken nie op sigself dat enigeen van die maatskappye 'n permanente saak van die ander is nie.

Artikel 6

Inkomste uit Onroerende Eiendom

1. Inkomste verkry deur 'n inwoner van 'n Kontrakterende Staat uit onroerende eiendom (met inbegrip van inkomste uit landbou of bosbou) wat in die ander Kontrakterende Staat geleë is, kan in daardie ander Staat belas word.

2. Die uitdrukking "onroerende eiendom" het die betekenis wat daaraan geheg is ingevolge die reg van die Kontrakterende Staat waarin die betrokke eiendom geleë is. Die uitdrukking sluit in ieder geval in eiendom wat bykomend by onroerende eiendom is, lewende hawe en toerusting wat in landbou en bosbou gebruik word, regte waarop die bepalings van die algemene reg betreffende vaste eiendom van toepassing is, vruggebruik van onroerende eiendom en regte op wisselende of vaste betalings as vergoeding vir die ontginning, of die reg op ontginning, van mineraalafsettings, bronne en ander natuurlike hulpbronne. Skepe, bote en vliegtuie word nie geag onroerende eiendom te wees nie.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7

Business Profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently.
3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.
4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary. The method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

Shipping and Air Transport

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

3. Die bepalings van paragraaf 1 is van toepassing op inkomste verkry uit die regstreekse gebruik, verhuring of gebruik in enige ander vorm, van onroerende eiendom.

4. Die bepalings van paragrawe 1 en 3 is ook van toepassing op die inkomste uit onroerende eiendom van 'n onderneming en op inkomste uit onroerende eiendom wat by die verrigting van onafhanklike persoonlike dienste gebruik word.

Artikel 7

Besigheidswinste

1. Die winste van 'n onderneming van 'n Kontrakterende Staat is slegs in daardie Staat belasbaar, tensy die onderneming besigheid dryf in die ander Kontrakterende Staat deur middel van 'n permanente saak wat daarin geleë is. Indien die onderneming besigheid dryf soos gemeld, kan die winste van die onderneming in die ander Staat belas word, maar slegs soveel daarvan as wat aan daardie permanente saak toeskryfbaar is.

2. Behoudens die bepalings van paragraaf 3, waar 'n onderneming van 'n Kontrakterende Staat in die ander Kontrakterende Staat besigheid dryf deur middel van 'n permanente saak wat daarin geleë is, word daar in elke Kontrakterende Staat aan daardie permanente saak die winste toegeskryf wat hy na verwagting sou kon behaal as hy 'n afsonderlike en aparte onderneming was wat met dieselfde of soortgelyke bedrywighede onder dieselfde of soortgelyke omstandighede besig is en geheel en al onafhanklik sake doen.

3. By die vasstelling van die winste van 'n permanente saak word daar as aftrekkings toegelaat uitgawes wat vir doeleindes van die permanente saak aangegaan word, met inbegrip van bestuurs- en algemene administrasiekoste aldus aangegaan, hetsy in die Staat waarin die permanente saak geleë is of elders.

4. Vir sover dit in 'n Kontrakterende Staat gebruiklik was om die winste wat aan 'n permanente saak toegeskryf moet word, vas te stel volgens die grondslag van 'n toedeling van die totale winste van die onderneming aan sy onderskeie onderdele, belet niks in paragraaf 2 daardie Kontrakterende Staat om die winste wat belas moet word deur sodanige toedeling as wat gebruiklik mag wees, vas te stel nie. Die metode van toedeling wat gebruik word, moet egter sodanig wees dat die resultaat in ooreenstemming is met die beginsels in hierdie Artikel vervat.

5. Geen winste word aan 'n permanente saak toegeskryf uit hoofde van die blote aankoop deur daardie permanente saak van goedere of handelsware vir die onderneming nie.

6. By die toepassing van die voorgaande paragrawe, tensy daar goeie en afdoende rede tot die teendeel is, word die winste wat aan 'n permanente saak toegeskryf moet word, jaar na jaar volgens dieselfde metode vasgestel.

7. Waar winste inkomste-items insluit wat afsonderlik in ander Artikels van hierdie Konvensie behandel word, word die bepalings van daardie Artikels nie deur die bepalings van hierdie Artikel geraak nie.

Artikel 8

Skeepvaart en Lugvervoer

1. Winste uit die bedryf van skepe of vliegtuie in internasionale verkeer is slegs in die Kontrakterende Staat waarin die plek van effektiewe bestuur van die onderneming geleë is, belasbaar.

2. For the purpose of this Article, profits from the operation of ships or aircraft in international traffic shall include:

- a) profits derived from the rental on a bare boat basis of ships or aircraft used in international traffic,
- b) profits derived from the use or rental of containers,

if such profits are incidental to the profits to which the provisions of paragraph 1 apply.

3. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

4. The provisions of paragraphs 1 and 2 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9

Associated Enterprises

1. Where:

- a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
- b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State may make such an adjustment as it considers appropriate to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

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. By die toepassing van hierdie Artikel, sluit winste verkry uit die bedryf van skepe of vliegtuie in internasionale verkeer in:
- a) winste verkry uit die verhuring op 'n "sonder-bemanning" basis van skepe of vliegtuie wat in internasionale verkeer gebruik word,
 - b) winste verkry uit die gebruik of verhuring van houters,
- indien sodanige winste bykomstig is by die winste waarop die bepaling van paragraaf 1 van toepassing is.
3. Indien die plek van effektiewe bestuur van 'n skeepvaartonderneming aan boord van 'n skip is, word dit geag geleë te wees in die Kontrakterende Staat waarin die tuishawe van die skip geleë is, of, indien daar geen sodanige tuishawe is nie, in die Kontrakterende Staat waarvan die operateur van die skip 'n inwoner is.
4. Die bepaling van paragrawe 1 en 2 is ook van toepassing op winste ten opsigte van die deelname aan 'n winsdeling, 'n gesamentlike besigheid of 'n internasionale bedryfsagentskap.

Artikel 9

Verwante Ondernemings

1. Waar:
- a) 'n onderneming van 'n Kontrakterende Staat regstreeks of onregstreeks in die bestuur van, beheer oor of kapitaal van 'n onderneming van die ander Kontrakterende Staat deel het, of
 - b) dieselfde persone regstreeks of onregstreeks in die bestuur van, beheer oor of kapitaal van 'n onderneming van 'n Kontrakterende Staat en 'n onderneming van die ander Kontrakterende Staat deel het,

en in enigeen van die gevalle voorwaardes tussen die twee ondernemings met betrekking tot hul handels- of finansiële betrekkinge gestel of opgelê word wat verskil van die wat tussen onafhanklike ondernemings gestel sou word, kan enige winste wat by ontstentenis van daardie voorwaardes aan een van die ondernemings sou toegeval het, maar as gevolg van daardie voorwaardes nie aldus toegeval het nie, by die winste van daardie onderneming ingesluit word en dienoreenkomstig belas word.

2. Waar 'n Kontrakterende Staat by die winste van 'n onderneming van daardie Staat winste insluit - en dit dienoreenkomstig belas - waarop 'n onderneming van die ander Kontrakterende Staat in daardie ander Staat belas is en die winste aldus ingesluit winste is wat aan die onderneming van eersgenoemde Staat sou toegeval het indien die voorwaardes tussen die twee ondernemings ooreengekom dieselfde sou gewees het as dié wat tussen onafhanklike ondernemings ooreengekom sou gewees het, kan daardie ander Staat sodanige aanpassing as wat hy toepaslik ag, maak aan die bedrag van die belasting daarin gehef op daardie winste. By die bepaling van sodanige aanpassing word die ander bepaling van hierdie Konvensie behoorlik in ag geneem en die bevoegde owerhede van die Kontrakterende State raadpleeg mekaar indien nodig.

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. 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 directly or indirectly at least 25 per cent of the capital of the company paying the dividends;
- b) 15 per cent of the gross amount of the dividends in all other cases.

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, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income - even paid in the form of interest - which is treated as income from shares by the internal tax legislation of the State of which the paying company 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 insofar as such dividends are paid to a resident of that other State or insofar 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 the company's 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 11

Interest

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest shall be exempted from tax in the Contracting State in which it arises if it is:

- a) interest on commercial debt-claims - including debt-claims represented by commercial paper - resulting from deferred payments for goods, merchandise or services supplied by an enterprise;
- b) interest paid in respect of a loan made, guaranteed or insured, or a credit extended, guaranteed or insured by a public financial institution or a public entity under a scheme for the promotion of exports;
- c) interest on loans of any nature - not represented by bearer instruments - granted by a banking enterprise;

2. Sodanige dividende kan egter ook in die Kontrakterende Staat waarvan die maatskappy wat die dividende betaal 'n inwoner is, en ooreenkomstig die wette van daardie Staat, belas word, maar indien die bevoordeelde eienaar van die dividende 'n inwoner van die ander Kontrakterende Staat is, is die belasting aldus opgelê nie meer nie as:

- a) 5 persent van die bruto bedrag van die dividende indien die bevoordeelde eienaar 'n maatskappy is wat regstreeks of onregstreeks minstens 25 persent hou van die kapitaal van die maatskappy wat die dividende betaal;
- b) 15 persent van die bruto bedrag van die dividende in alle ander gevalle.

Hierdie paragraaf raak nie die belasting van die maatskappy ten opsigte van die winste waaruit die dividende betaal word nie.

3. Die uitdrukking "dividende" soos in hierdie Artikel gebesig, beteken inkomste uit aandele, "jouissance"-aandele of "jouissance"-regte, mynaandele, stigtersaandele of ander regte, wat nie skuldeise is nie, wat aan winste deelneem, asook inkomste - selfs in die vorm van rente betaal - wat behandel word as inkomste uit aandele deur die interne belastingwette van die Staat waarvan die maatskappy wat die uitkering doen 'n inwoner is.

4. Die bepalinge van paragrafe 1 en 2 is nie van toepassing nie indien die bevoordeelde eienaar van die dividende synde 'n inwoner van 'n Kontrakterende Staat, besigheid dryf in die ander Kontrakterende Staat waarvan die maatskappy wat die dividende betaal 'n inwoner is, deur middel van 'n permanente saak daarin geleë, of in daardie ander Staat onafhanklike persoonlike dienste verrig vanaf 'n vaste basis daarin geleë en die aandelebesit ten opsigte waarvan die dividende betaal word, effektief verbonde is met sodanige permanente saak of vaste basis. In sodanige geval is die bepalinge 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 winste of inkomste uit die ander Kontrakterende Staat verkry, hef daardie ander Staat nie belasting op die dividende wat deur die maatskappy betaal word nie, behalwe vir sover sodanige dividende betaal word aan 'n inwoner van daardie ander Staat of vir sover die aandelebesit ten opsigte waarvan die dividende betaal word, effektief verbonde is met 'n permanente saak of vaste basis in daardie ander Staat geleë, en mag ook nie die maatskappy se onuitgekeerde winste aan belasting op die maatskappy se onuitgekeerde winste onderwerp nie, selfs al bestaan die betaalde dividende of onuitgekeerde winste geheel en al of gedeeltelik uit winste of inkomste wat in sodanige ander Staat ontstaan.

Artikel 11

Rente

1. Rente wat in 'n Kontrakterende Staat ontstaan en aan 'n inwoner van die ander Kontrakterende Staat betaal word, kan in daardie ander Staat belas word.

2. Sodanige rente kan egter ook in die Kontrakterende Staat waarin dit ontstaan en ooreenkomstig die wette van daardie Staat belas word, maar indien die bevoordeelde eienaar van die rente 'n inwoner van die ander Kontrakterende Staat is, gaan die belasting aldus heef nie 10 persent van die bruto bedrag van die rente te bowe nie.

3. Ondanks die bepalinge van paragraaf 2, is rente vrygestel van belasting in die Kontrakterende Staat waarin dit ontstaan indien dit:

- a) rente op handelskuldeise is - met inbegrip van kuldeise deur handelspapier verteenwoordig - voortvloeiend uit uitgestelde betalings vir goedere, handelsware of dienste deur 'n onderneming gelewer;
- b) rente is wat betaal word ten opsigte van 'n lening aangegaan, gewaarborg of verseker, of 'n krediet verleen, gewaarborg of verseker deur 'n openbare finansiële instelling of 'n openbare entiteit ingevolge 'n skema vir die bevordering van uitvoere;
- c) rente is op lenings van enige aard - nie deur houerinstrumente verteenwoordig nie - toegestaan deur 'n bankonderneming;

- d) interest on deposits - not represented by bearer instruments - with a banking enterprise;
- e) interest paid to the other Contracting State.

4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. However, the term "interest" shall not include for the purpose of this Article penalty charges for late payment nor interest regarded as dividends under paragraph 3 of Article 10.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is 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.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable in the Contracting State in which the interest arises according to the laws of that State.

Article 12

Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State if such resident is the beneficial owner of the royalties.

2. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and films, tapes or discs for television or radio broadcasting, any software, patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties 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.

4. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

- d) rente op deposito's is - nie deur houerinstrumente verteenwoordig nie - by 'n bankonderneming;
- e) rente is wat aan die ander Kontrakterende Staat betaal word.

4. Die uitdrukking "rente" soos in hierdie Artikel gebesig, beteken inkomste uit alle soorte skuldeise hetsy gesekureer deur verband al dan nie en hetsy dit 'n reg inhou om in die skuldenaar se winste te deel al dan nie, en in die besonder inkomste uit staatseffekte en inkomste uit obligasies of skuldbriewe, insluitende premies en pryse aan sodanige effekte, obligasies of skuldbriewe verbonde. By die toepassing van hierdie Artikel sluit die uitdrukking "rente" egter nie boeteheffings vir laat betaling of rente wat ingevolge paragraaf 3 van Artikel 10 as dividende beskou word, in nie.

5. Die bepalinge van paragrawe 1, 2 en 3 is nie van toepassing nie indien die bevoordeelde eienaar van die rente, synde 'n inwoner van 'n Kontrakterende Staat, in die ander Kontrakterende Staat waarin die rente ontstaan besigheid dryf deur middel van 'n permanente saak daarin geleë, of in daardie ander Staat onafhanklike persoonlike dienste verrig vanaf 'n vaste basis daarin geleë, en die skuldeise ten opsigte waarvan die rente betaal word, effektief verbonde is met sodanige permanente saak of vaste basis. In sodanige geval is die bepalinge van Artikel 7 of Artikel 14, na gelang van die geval, van toepassing.

6. Rente word geag in 'n Kontrakterende Staat te ontstaan wanneer die betaler daardie Staat self, 'n staatkundige ondervinding, 'n plaaslike owerheid of 'n inwoner van daardie Staat is. Waar die persoon wat die rente betaal, hetsy hy 'n inwoner van 'n Kontrakterende Staat is al dan nie, egter in 'n Kontrakterende Staat 'n permanente saak of 'n vaste basis het in verband waarmee die skuld waarop die rente betaal word, aangegaan is, en sodanige rente deur sodanige permanente saak of vaste basis gedra word, word sodanige rente geag te ontstaan in die Staat waarin die permanente saak of vaste basis geleë is.

7. Waar, as gevolg van 'n besondere verband tussen die betaler en die bevoordeelde eienaar of tussen albei van hulle en 'n ander persoon, die bedrag van die rente, met inagneming van die skuldeise ten opsigte waarvan dit betaal word, die bedrag te bowe gaan waarvoor die betaler en die bevoordeelde eienaar by ontstentenis van sodanige verband sou ooreengekom het, is die bepalinge van hierdie Artikel slegs op laasgenoemde bedrag van toepassing. In sodanige geval bly die oormatige deel van die betalings belasbaar in die Kontrakterende Staat waarin die rente ontstaan ooreenkomstig die wette van daardie Staat.

Artikel 12

Tantièmes

1. Tantièmes wat in 'n Kontrakterende Staat ontstaan en aan 'n inwoner van die ander Kontrakterende Staat betaal word, is slegs in daardie ander Staat belasbaar indien sodanige inwoner die bevoordeelde eienaar van die tantièmes is.

2. Die uitdrukking "tantièmes" soos in hierdie Artikel gebesig, beteken betalings van enige aard ontvang as vergoeding vir die gebruik van, of die reg op die gebruik van, enige kopiereg van 'n letterkundige, kuns- of wetenskaplike werk, met inbegrip van kinematograaffilms en films, bande of skywe vir televisie- of radio-uitsending, enige rekenaarprogram, patent, handelsmerk, ontwerp of model, plan, geheime formule of prosesse, of vir inligting aangaande industriële, handels- of wetenskaplike ondervinding.

3. Die bepalinge van paragraaf 1 is nie van toepassing nie indien die bevoordeelde eienaar van die tantièmes, synde 'n inwoner van 'n Kontrakterende Staat, in die ander Kontrakterende Staat waarin die tantièmes ontstaan besigheid dryf deur middel van 'n permanente saak daarin geleë, of in daardie ander Staat onafhanklike persoonlike dienste verrig vanaf 'n vaste basis daarin geleë, en die reg of eiendom ten opsigte waarvan die tantièmes betaal word, effektief verbonde is met sodanige permanente saak of vaste basis. In sodanige geval is die bepalinge van Artikel 7 of Artikel 14, na gelang van die geval, van toepassing.

4. Tantièmes word geag in 'n Kontrakterende Staat te ontstaan wanneer die betaler daardie Staat self, 'n staatkundige ondervinding, 'n plaaslike owerheid of 'n inwoner van daardie Staat is. Waar die persoon wat die tantièmes betaal, hetsy hy 'n inwoner van 'n Kontrakterende Staat is al dan nie, egter in 'n Kontrakterende Staat 'n permanente saak of 'n vaste basis het in verband waarmee die verpligting om die tantièmes te betaal aangegaan is, en sodanige tantièmes deur sodanige permanente saak of vaste basis gedra word, word sodanige tantièmes geag te ontstaan in die Staat waarin die permanente saak of vaste basis geleë is.

5. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable in the Contracting State in which the royalties arise, according to the laws of that State.

Article 13

Capital Gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

Independent Personal Services

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15

Dependent Personal Services

1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

5. Waar, as gevolg van 'n besondere verband tussen die betaler en die bevoordeelde eienaar of tussen albei van hulle en 'n ander persoon, die bedrag van die tantièmes betaal, met inagneming van die gebruik, reg of inligting waarvoor dit betaal word, die bedrag te bowe gaan waarvoor die betaler en die bevoordeelde eienaar sou ooreengkom het by ontstentenis van sodanige verband, is die bepaling van hierdie Artikel slegs op laasgenoemde bedrag van toepassing. In sodanige geval, bly die oormatige deel van die betalings belasbaar in die Kontrakterende Staat waarin die tantièmes ontstaan ooreenkomstig die wette van daardie Staat.

Artikel 13

Kapitaalwinste

1. Winste deur 'n inwoner van 'n Kontrakterende Staat verkry uit die vervreemding van onroerende eiendom in Artikel 6 bedoel wat in die ander Kontrakterende Staat geleë is, kan in daardie ander Staat belas word.
2. Winste uit die vervreemding van roerende eiendom wat deel uitmaak van die besigheidseiendom van 'n permanente saak wat 'n onderneming van 'n Kontrakterende Staat in die ander Kontrakterende Staat het, of van roerende eiendom wat betrekking het op 'n vaste basis wat vir 'n inwoner van 'n Kontrakterende Staat in die ander Kontrakterende Staat beskikbaar is met die doel om onafhanklike persoonlike dienste te verrig, met inbegrip van sodanige winste uit die vervreemding van sodanige permanente saak (alleen of tesame met die onderneming in sy geheel) of van sodanige vaste basis, kan in daardie ander Staat belas word.
3. Winste uit die vervreemding van skepe of vliegtuie wat in internasionale verkeer bedryf word, of roerende eiendom wat betrekking het op die bedryf van sodanige skepe of vliegtuie, is slegs in die Kontrakterende Staat waarin die plek van effektiewe bestuur van die onderneming geleë is, belasbaar.
4. Winste uit die vervreemding van enige eiendom, behalwe dié in paragrawe 1, 2 en 3 bedoel, is slegs in die Kontrakterende Staat waarvan die vervreemder 'n inwoner is, belasbaar.

Artikel 14

Onafhanklike Persoonlike Dienste

1. Inkomste verkry deur 'n inwoner van 'n Kontrakterende Staat ten opsigte van professionele dienste of ander bedrywighede van 'n onafhanklike aard is slegs in daardie Staat belasbaar, tensy hy 'n vaste basis in die ander Kontrakterende Staat gereeld tot sy beskikking het vir doeleindes van die verrigting van sy bedrywighede. Indien hy sodanige vaste basis het, kan die inkomste in die ander Staat belas word, maar slegs soveel daarvan as wat aan daardie vaste basis toeskryfbaar is.
2. Die uitdrukking "professionele dienste" sluit veral in onafhanklike wetenskaplike, letterkundige, kuns-, opvoedkundige of onderwysbedrywighede, sowel as die onafhanklike bedrywighede van geneeskundiges, regsgeleerdes, ingenieurs, argitekte, tandartse en rekenmeesters.

Artikel 15

Afhanklike Persoonlike Dienste

1. Behoudens die bepalinge van Artikels 16, 18 en 19, is salarisse, lone en soortgelyke besoldiging wat deur 'n inwoner van 'n Kontrakterende Staat ten opsigte van 'n diensbetrekking verkry word, slegs in daardie Staat belasbaar, tensy die diensbetrekking in die ander Kontrakterende Staat beoefen word. Indien die diensbetrekking aldus beoefen word, kan sodanige besoldiging wat daaruit verkry word in daardie ander Staat belas word.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

- a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period, and
- b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
- c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16

Directors' Fees

1. Directors' fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or a similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

2. The provisions of paragraph 1 shall also apply to payments derived in respect of the discharge of functions which, under the laws of the Contracting State of which the company is a resident, are regarded as functions of a similar nature to those exercised by a person referred to therein.

3. Remuneration derived by a person referred to in paragraph 1 from the company in respect of the discharge of day-to-day functions of a managerial or technical nature may be taxed in accordance with the provisions of Article 15, as if such remuneration were remuneration derived by an employee in respect of an employment and as if references to the "employer" were references to the company.

4. The provisions of paragraph 3 shall also apply, in the case of Belgium, to remuneration received by a resident of South Africa in respect of his personal activity as a partner of a company, other than a company with share capital, which is a resident of Belgium.

Article 17

Entertainers and Sportsmen

Notwithstanding the provisions of Articles 7, 14 and 15:

- a) income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State;
- b) where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

2. Ondanks die bepalinge van paragraaf 1, is besoldiging wat deur 'n inwoner van 'n Kontrakterende Staat verkry word ten opsigte van 'n diensbetrekking wat in die ander Kontrakterende Staat beoefen word, slegs in eersgenoemde Staat belasbaar indien:

- a) die ontvanger teenwoordig is in die ander Staat vir 'n tydperk of tydperke wat altesaam nie 183 dae gedurende enige twaalfmaande-tydperk te bowe gaan nie, en
- b) die besoldiging betaal word deur of namens 'n werkgewer wat nie 'n inwoner van die ander Staat is nie, en
- c) die besoldiging nie gedra word deur 'n permanente saak of 'n vaste basis wat die werkgewer in die ander Staat het nie.

3. Ondanks die voorgaande bepalinge van hierdie Artikel kan besoldiging wat verkry word ten opsigte van 'n diensbetrekking wat beoefen word aan boord van 'n skip of vliegtuig wat in internasionale verkeer bedryf word, in die Kontrakterende Staat waarin die plek van effektiewe bestuur van die onderneming geleë is, belas word.

Artikel 16

Direkteursgelde

1. Direkteursgelde en soortgelyke betalings ontvang deur 'n inwoner van 'n Kontrakterende Staat in sy hoedanigheid van lid van die direksie of 'n soortgelyke instelling van 'n maatskappy wat 'n inwoner van die ander Kontrakterende Staat is, kan in daardie ander Staat belas word.

2. Die bepalinge van paragraaf 1 is ook van toepassing op betalings verkry ten opsigte van die uitoefening van funksies wat, ingevolge die wette van die Kontrakterende Staat waarvan die maatskappy 'n inwoner is, geag word funksies van 'n soortgelyke aard te wees as dié wat beoefen word deur 'n persoon daarin genoem.

3. Besoldiging verkry deur 'n persoon op wie paragraaf 1 van toepassing is vanaf die maatskappy ten opsigte van die uitoefening van daaglikse funksies van 'n bestuurs- of tegniese aard, kan ooreenkomstig die bepalinge van Artikel 15 belas word asof sodanige besoldiging, besoldiging is wat verkry is deur 'n werknemer ten opsigte van 'n diensbetrekking, en asof verwysings na die "werkgewer" verwysings na die maatskappy is.

4. Die bepalinge van paragraaf 3 is, in die geval van België, ook van toepassing op besoldiging ontvang deur 'n inwoner van Suid-Afrika ten opsigte van sy persoonlike bedrywighede as 'n vennoot van 'n maatskappy, uitgesonderd 'n maatskappy met aandeelkapitaal, wat 'n inwoner van België is.

Artikel 17

Verhoogkunstenaars en Sportlui

Ondanks die bepalinge van Artikels 7, 14 en 15:

- a) kan inkomste wat verkry word deur 'n inwoner van 'n Kontrakterende Staat as 'n verhoogkunstenaar, soos 'n teater-, rolprent-, radio- of televisie-arties, of 'n musikant, of as 'n sportman, uit sy persoonlike bedrywighede as sodanig wat in die ander Kontrakterende Staat beoefen word, in daardie ander Staat belas word;
- b) waar inkomste ten opsigte van persoonlike bedrywighede wat deur 'n verhoogkunstenaar of 'n sportman in dié hoedanigheid beoefen word nie aan die verhoogkunstenaar of sportman self toeval nie maar aan 'n ander persoon, kan daardie inkomste belas word in die Kontrakterende Staat waarin die bedrywighede van die verhoogkunstenaar of sportman beoefen word.

Article 18***Pensions***

1. Subject to the provisions of paragraph 2 of Article 19, pensions and similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

2. However, pensions and other allowances, periodic or non-periodic, paid under the social security legislation of a Contracting State shall be taxable only in that State. This provision also applies to pensions and allowances paid under a public scheme organised by a Contracting State in order to supplement the benefits of that legislation.

Article 19***Government Service***

1. a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

- (i) is a national of that State; or
- (ii) did not become a resident of that State solely for the purpose of rendering the services.

2. a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20***Students and Business Apprentices***

A student or business apprentice who is temporarily present in a Contracting State solely for the purpose of his education or training and who is, or immediately before being so present was, a resident of the other Contracting State, shall be exempt from tax in the first-mentioned State on payments received from outside that first-mentioned State for the purposes of his maintenance, education or training.

Artikel 18***Pensioene***

1. Behoudens die bepalings van paragraaf 2 van Artikel 19, kan pensioene en soortgelyke besoldiging wat aan 'n inwoner van 'n Kontrakterende Staat betaal word as vergoeding vir eertydse diens, slegs in daardie Staat belas word.
2. Pensioene en ander toelaes, periodiek of nie-periodiek, betaal ingevolge die bestaansbeveiligingwetgewing van 'n Kontrakterende Staat, is egter slegs in daardie Staat belasbaar. Hierdie bepaling is ook van toepassing op pensioene en toelaes betaal ingevolge 'n openbare skema deur 'n Kontrakterende Staat georganiseer ten einde die voordele van daardie wetgewing aan te vul.

Artikel 19***Regeringsdiens***

1.
 - a) Besoldiging, uitgesonderd 'n pensioen, betaal deur 'n Kontrakterende Staat of 'n staatkundige onderverdeling of 'n plaaslike owerheid daarvan aan 'n individu ten opsigte van dienste gelewer aan daardie Staat of onderverdeling of owerheid, is slegs in daardie Staat belasbaar.
 - b) Sodanige besoldiging is egter slegs in die ander Kontrakterende Staat belasbaar indien die dienste in daardie Staat gelewer word en die individu 'n inwoner van daardie Staat is wat:
 - (i) 'n burger van daardie Staat is; of
 - (ii) nie 'n inwoner van daardie Staat geword het met die uitsluitlike doel om die dienste te lewer nie.
2.
 - a) Enige pensioen betaal deur, of uit fondse geskep deur 'n Kontrakterende Staat of 'n staatkundige onderverdeling of 'n plaaslike owerheid daarvan aan 'n individu ten opsigte van dienste gelewer aan daardie Staat of onderverdeling of owerheid, is slegs in daardie Staat belasbaar.
 - b) Sodanige pensioen is egter slegs in die ander Kontrakterende Staat belasbaar indien die individu 'n inwoner van en 'n burger van daardie Staat is.
3. Die bepalings van Artikels 15, 16 en 18 is van toepassing op besoldiging en pensioene ten opsigte van dienste gelewer in verband met 'n besigheid wat deur 'n Kontrakterende Staat of 'n staatkundige onderverdeling of 'n plaaslike owerheid daarvan bedryf word.

Artikel 20***Studente en Besigheidsvakleerlinge***

'n Student of besigheidsvakleerling wat tydelik in 'n Kontrakterende Staat teenwoordig is uitsluitlik vir die doel van sy onderrig of opleiding en wat 'n inwoner is, of onmiddellik voor sodanige teenwoordigheid 'n inwoner was, van die ander Kontrakterende Staat, is in eersgenoemde Staat vrygestel van belasting op betalings ontvang van buite daardie eersgenoemde Staat vir die doel van sy onderhoud, onderrig of opleiding.

Article 21***Other Income***

A resident of a Contracting State shall be exempt from tax in the other Contracting State in respect of items of income which are not dealt with in the foregoing Articles of this Convention if he is taxable in the first-mentioned State in respect of such items of income.

Article 22***Elimination of Double Taxation*****1. In the case of Belgium:**

- a) Where a resident of Belgium derives income which may be taxed in South Africa in accordance with the provisions of this Convention, other than those of paragraph 2 of Article 10, of paragraphs 2 and 7 of Article 11 and of paragraph 5 of Article 12, Belgium shall exempt such income from tax but may, in calculating the amount of tax on the remaining income of that resident, apply the rate of tax which would have been applicable if such income had not been exempted.
- b) Subject to the provisions of Belgian law regarding the deduction from Belgian tax of taxes paid abroad, where a resident of Belgium derives items of his aggregate income for Belgian tax purposes which are dividends taxable in accordance with paragraph 2 of Article 10, and not exempt from Belgian tax according to subparagraph c) hereinafter, interest taxable in accordance with paragraph 2 or 7 of Article 11, or royalties taxable in accordance with paragraph 5 of Article 12, the South African tax levied on that income shall be allowed as a credit against Belgian tax relating to such income.
- c) Dividends within the meaning of paragraph 3 of Article 10, derived by a company which is a resident of Belgium, from a company which is a resident of South Africa shall be exempt from the corporate income tax in Belgium under the conditions and within the limits provided for in Belgian law.
- d) Where, in accordance with Belgian law, losses incurred by an enterprise carried on by a resident of Belgium in a permanent establishment situated in South Africa, have been effectively deducted from the profits of that enterprise for its taxation in Belgium, the exemption provided for in subparagraph a) shall not apply in Belgium to the profits of other taxable periods attributable to that establishment to the extent that those profits have not been subjected to tax in South Africa by reason of compensation for the said losses.

2. In the case of South Africa:

- a) Belgian taxes paid by residents of South Africa in respect of income taxable in Belgium, in accordance with the provisions of the Convention, shall be deducted from the taxes due according to South African fiscal law. Such deduction shall not, however, exceed that part of the South African tax, as computed before the deduction is given, which is attributable to the income which may be taxed in Belgium.

Artikel 21***Ander Inkomste***

'n Inwoner van 'n Kontrakterende Staat is in die ander Kontrakterende Staat van belasting vrygestel ten opsigte van inkomste-items wat nie in die voorgaande Artikels van hierdie Konvensie behandel is nie indien hy in eersgenoemde Staat ten opsigte van sodanige inkomste-items belasbaar is.

Artikel 22***Uitskakeling van Dubbele Belasting*****1. In die geval van België:**

- a) Waar 'n inwoner van België inkomste verkry wat ooreenkomstig die bepalings van hierdie Konvensie in Suid-Afrika belas kan word, uitgesonderd die bepalings van paragraaf 2 van Artikel 10, van paragrafe 2 en 7 van Artikel 11 en van paragraaf 5 van Artikel 12, stel België sodanige inkomste van belasting vry, maar kan by die berekening van die belastingbedrag op die oorblywende inkomste van daardie inwoner die belastingkoers toepas wat van toepassing sou gewees het indien sodanige inkomste nie vrygestel was nie.
- b) Behoudens die bepalings van die Belgiese reg aangaande die aftrekking van Belgiese belasting van belastings in die buiteland betaal, waar 'n inwoner van België items van sy gesamentlike inkomste vir die doel van Belgiese belasting verkry wat dividende is wat ooreenkomstig paragraaf 2 van Artikel 10 belasbaar is en nie ooreenkomstig subparagraaf c) van hierdie Artikel van Belgiese belasting vrygestel is nie, rente is wat ooreenkomstig paragrafe 2 of 7 van Artikel 11 belasbaar is, of tantièmes is wat ooreenkomstig paragraaf 5 van Artikel 12 belasbaar is, word die Suid-Afrikaanse belasting op daardie inkomste gehef as 'n krediet toegestaan teen Belgiese belasting met betrekking tot sodanige inkomste.
- c) Dividende binne die betekenis van paragraaf 3 van Artikel 10, verkry deur 'n maatskappy wat 'n inwoner van België is, vanaf 'n maatskappy wat 'n inwoner van Suid-Afrika is, is in België van maatskappy-inkomstebelasting vrygestel onder die voorwaardes en binne die perke deur die Belgiese wet bepaal.
- d) Waar, ooreenkomstig Belgiese reg, verliese gelyk deur 'n onderneming wat deur 'n inwoner van België bedryf word in 'n permanente saak in Suid-Afrika geleë, effektief afgetrek is van die winste van daardie onderneming vir belastingdoeleindes in België, is die vrystelling waarvoor in subparagraaf a) voorsiening gemaak word in België nie van toepassing nie op die winste van ander belasbare tydperke toeskryfbaar aan daardie saak in die mate dat daardie winste nie in Suid-Afrika aan belasting onderwerp is nie uit hoofde van vergoeding vir gemelde verliese.

2. In die geval van Suid-Afrika:

- a) Belgiese belastings betaal deur inwoners van Suid-Afrika ten opsigte van inkomste wat in België belasbaar is, ooreenkomstig die bepalings van die Konvensie, word afgetrek van die belastings wat ingevolge Suid-Afrikaanse fiskale reg betaalbaar is. Sodanige aftrekking gaan egter nie dié gedeelte van die Suid-Afrikaanse belasting, soos bereken voor die aftrekking toegestaan word, wat toeskryfbaar is aan die inkomste wat in België belas kan word, te bowe nie.

- b) As regards the application of the provisions of subparagraph a), it is understood that the amount of the South African tax which is attributable to such income which has been subjected to tax in Belgium shall be:
- (i) where the tax on such income is computed by applying a proportional rate, the amount of the net income concerned multiplied by that rate; and
 - (ii) where the tax on such income is computed by applying a progressive scale, an amount which bears to the net income concerned the same ratio as the total tax payable bears to the total net income which is subject to tax in accordance with South African fiscal law.

Article 23

Non-discrimination

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 5 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.
4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.
5. Nothing contained in this Article shall be construed as preventing Belgium:
 - a) from taxing the profits attributable to a permanent establishment in Belgium of a company which is a resident of South Africa at the rate of tax provided by the Belgian law, provided that this rate does not exceed the normal rate applicable to the profits of companies which are residents of Belgium;
 - b) from imposing the movable property prepayment on dividends derived from a holding which is effectively connected with a permanent establishment maintained in Belgium by a company which is a resident of South Africa.
6. In this Article the term "taxation" means taxes which are the subject of this Convention.

- b) Wat die toepassing van die bepalings van subparagraaf a) betref, word verstaan dat die bedrag van die Suid-Afrikaanse belasting wat toeskryfbaar is aan sodanige inkomste wat in België aan belasting onderwerp is, sal wees:
- (i) waar die belasting op sodanige inkomste deur die toepassing van 'n proporsionele koers bereken word, die bedrag van die betrokke netto inkomste vermenigvuldig met daardie koers; en
 - (ii) waar die belasting op sodanige inkomste deur die toepassing van 'n progressiewe skaal bereken word, 'n bedrag wat in dieselfde verhouding tot die betrokke netto inkomste staan as die verhouding waarin die totale belasting werklik betaalbaar tot die totale netto inkomste wat ooreenkomstig die fiskale reg van Suid-Afrika aan belasting onderworpe is, staan.

Artikel 23

Nie-diskriminasie

1. Burgers van 'n Kontrakterende Staat mag nie in die ander Kontrakterende Staat onderwerp word aan enige belasting of enige vereiste in verband daarmee wat anders is of swaarder druk as die belasting en die daarmee verbonde vereistes waaraan burgers van daardie ander Staat onder dieselfde omstandighede, veral met betrekking tot inwoning, onderworpe is of onderwerp kan word nie. Hierdie bepaling is, ondanks die bepalings van Artikel 1, ook van toepassing op persone wat nie inwoners van een van of van albei die Kontrakterende State is nie.

2. Die belasting op 'n permanente saak wat 'n onderneming van 'n Kontrakterende Staat in die ander Kontrakterende Staat het, mag nie in daardie ander Staat op 'n minder gunstige wyse gehef word as die belasting wat gehef word op ondernemings van daardie ander Staat wat dieselfde bedrywighede beoefen nie. Hierdie bepaling word nie uitgelê as sou dit 'n Kontrakterende Staat verplig om aan inwoners van die ander Kontrakterende Staat enige persoonlike toelatings, verligtings en verminderings vir belastingdoeleindes uit hoofde van burgerlike status of gesinsverantwoordelikhede toe te staan wat hy aan sy eie inwoners toestaan nie.

3. Behalwe waar die bepalings van paragraaf 1 van Artikel 9, paragraaf 7 van Artikel 11, of paragraaf 5 van Artikel 12 van toepassing is, is rente, tantièmes en ander uitbetalings betaal deur 'n onderneming van 'n Kontrakterende Staat aan 'n inwoner van die ander Kontrakterende Staat by die vasstelling van die belasbare winste van sodanige onderneming, onder dieselfde omstandighede aftrekbaar asof dit aan 'n inwoner van eersgenoemde Staat betaal was.

4. Ondernemings van 'n Kontrakterende Staat waarvan die kapitaal geheel en al of gedeeltelik besit of beheer word, regstreeks of onregstreeks, deur een of meer inwoners van die ander Kontrakterende Staat, mag nie in eersgenoemde Staat onderwerp word aan enige belasting of enige vereiste in verband daarmee wat anders is of swaarder druk as die belasting en die daarmee verbonde vereistes waaraan ander soortgelyke ondernemings van eersgenoemde Staat onderworpe is of onderwerp kan word nie.

5. Niks in hierdie Artikel vervat, word uitgelê nie as sou dit België verhoed:

- a) om die winste te belas wat toeskryfbaar is aan 'n permanente saak in België van 'n maatskappy wat 'n inwoner is van Suid-Afrika teen die belastingkoers deur die Belgiese reg neergelê, met dien verstande dat hierdie koers nie die normale koers van toepassing op die winste van maatskappye wat inwoners van België is, te bowe gaan nie;
- b) om die roerende-eiendomvooruitbetaling te hef op dividende verkry van 'n aandeelbesit wat effektief verbonde is met 'n permanente saak wat in België in stand gehou word deur 'n maatskappy wat 'n inwoner van Suid-Afrika is.

6. In hierdie Artikel beteken die uitdrukking "belasting" die belastingen waarvoor hierdie Konvensie handel.

Article 24

Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident, or if his case comes under paragraph 1 of Article 23, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention.

4. The competent authorities of the Contracting States shall agree on administrative measures necessary to carry out the provisions of the Convention and particularly on the proof to be furnished by residents of either Contracting State in order to benefit in the other State from the exemptions or reductions in tax provided for in the Convention.

5. The competent authorities of the Contracting States shall communicate directly with each other for the application of the Convention.

Article 25

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received 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) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. 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.

2. In no case shall the provisions of paragraph 1 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.

Artikel 24***Prosedure vir Onderlinge Ooreenkoms***

1. Waar 'n persoon van mening is dat die optrede van een van of van albei die Kontrakterende State tot gevolg het of tot gevolg sal hê dat hy nie ooreenkomstig die bepalings van hierdie Konvensie belas word nie, kan hy, ondanks die regsmiddels waarvoor die landsreg van daardie State voorsiening maak, sy saak stel aan die bevoegde owerheid van die Kontrakterende Staat waarvan hy 'n inwoner is of, indien sy saak onder paragraaf 1 van Artikel 23 val, aan dié van die Kontrakterende Staat waarvan hy 'n burger is. Die saak moet gestel word binne drie jaar vanaf die eerste kennisgewing van die handeling wat lei tot belasting wat nie in ooreenstemming met die bepalings van die Konvensie gehef is nie.

2. Die bevoegde owerheid moet, indien die beswaar vir hom geregverdig voorkom en hy nie self 'n geskikte oplossing kan vind nie, probeer om die saak deur onderlinge ooreenkoms met die bevoegde owerheid van die ander Kontrakterende Staat te besleg ten einde belasting te vermy wat nie in ooreenstemming met die Konvensie is nie.

3. Die bevoegde owerhede van die Kontrakterende State moet probeer om enige probleme of twyfel wat in verband met die uitleg of toepassing van die Konvensie ontstaan, deur onderlinge ooreenkoms uit die weg te ruim.

4. Die bevoegde owerhede van die Kontrakterende State moet ooreenkom oor die administratiewe maatreëls wat nodig is vir die uitvoer van die bepalings van die Konvensie en in die besonder oor die bewys wat deur inwoners van beide Kontrakterende State gelewer moet word ten einde in die ander Staat voordeel te trek uit die belastingvrytellings of -verminderings waarvoor in die Konvensie voorsiening gemaak word.

5. Die bevoegde owerhede van die Kontrakterende State moet regstreeks met mekaar in verbinding tree met die oog op die toepassing van die Konvensie.

Artikel 25***Uitruil van Inligting***

1. Die bevoegde owerhede van die Kontrakterende State ruil sodanige inligting uit as wat nodig is vir die uitvoering van die bepalings van hierdie Konvensie of van die landsreg van die Kontrakterende State aangaande belastings deur die Konvensie gedek vir sover die belasting daarkragtens nie strydig met die Konvensie is nie. Die uitruil van inligting word nie deur Artikel 1 beperk nie. Enige inligting wat 'n Kontrakterende Staat ontvang, word as geheim behandel op dieselfde wyse as inligting wat ingevolge die landsreg van daardie Staat verkry word, en word slegs openbaar gemaak aan persone of owerhede (met inbegrip van howe en administratiewe liggame) betrokke by die aanslaan of invordering van, die afdwing of vervolging met betrekking tot, of die beslissing van appêlle in verband met die belastings deur hierdie Konvensie gedek. Sodanige persone of owerhede mag die inligting net vir sodanige doeleindes gebruik. Hulle kan die inligting by openbare hofverrigtinge of by regterlike beslissings openbaar maak.

2. Die bepalings van paragraaf 1 word nie uitgelê nie as sou dit 'n Kontrakterende Staat die verpligting opleë om:

- a) administratiewe maatreëls uit te voer wat strydig is met die wette en administratiewe praktyk van daardie of van die ander Kontrakterende Staat;
- b) inligting te verstrek wat nie kragtens die wette of in die normale loop van die administrasie van daardie of van die ander Kontrakterende Staat verkrygbaar is nie;
- c) inligting te verstrek wat enige handels-, besigheids-, nywerheids-, kommersiële of professionele geheim of handelsproses sou openbaar, of inligting te verstrek waarvan die openbaarmaking strydig met die openbare beleid sou wees.

Article 26

Aid in Recovery

1. The Contracting States shall lend aid and assistance to each other in order to notify and recover the taxes referred to in Article 2 as well as additions, interest and administrative penalties with respect to such taxes.
2. At the request of the competent authority of a Contracting State, the competent authority of the other Contracting State shall secure, in accordance with the legal provisions and regulations applicable to the notification and recovery of the said taxes of the other State, the notification and the recovery of tax claims referred to in paragraph 1 which are due in the first-mentioned State and are not subject to *bona fide* dispute on the date upon which recovery proceedings are taken by the other State. Such claims shall not have any priority in the above-mentioned other State and that State shall not be obliged to apply any means of enforcement which are not authorised by the legal provisions or regulations of the applicant State.
3. Requests referred to in paragraph 2 shall be supported by an official copy of the instrument permitting the execution, accompanied where appropriate, by an official copy of any final administrative or judicial decision.
4. The provisions of paragraph 1 of Article 25 shall also apply to any information which, by virtue of this Article, is supplied to the competent authority of a Contracting State.

Article 27

Members of Diplomatic Missions and Consular Posts

Nothing in this Convention shall affect the fiscal privileges of members of a diplomatic mission or consular post under the general rules of international law or under the provisions of special agreements.

Article 28

Entry into Force

1. Each Contracting State shall notify the other Contracting State of the completion of the procedures required by its laws for the bringing into force of this Convention. The Convention shall enter into force on the fifteenth day after the date of the later of these notifications.
2. The provisions of the Convention shall have effect:
 - a) with regard to taxes due at source, in respect of income credited or payable on or after 1 January,
 - b) with regard to other taxes, in respect of income for any taxable period ending on or after 31 December,in the calendar year next following that in which the Convention enters into force.
3. The Agreement between the Government of Belgium and the Government of the Union of South Africa for the avoidance of double taxation in respect of income derived from the business of sea and air transport, concluded by exchange of letters both dated at Cape Town on 11 June 1957, shall - as far as the relations between Belgium and the Republic of South Africa are concerned - terminate and cease to be effective with respect to any tax to which the Convention has effect in accordance with paragraph 2.

Artikel 26

Bystand met Invordering

1. Die Kontrakterende State verleen hulp en bystand aan mekaar ten einde die belastinge in Artikel 2 genoem asook toevoegings, rente en administratiewe boetes met betrekking tot sodanige belastinge aan te meld en te verhaal.
2. Op versoek van die bevoegde owerheid van 'n Kontrakterende Staat moet die bevoegde owerheid van die ander Kontrakterende Staat, ooreenkomstig die regsbepalings en regulasies van toepassing op die aanmelding en verhaling van gemelde belastinge van die ander Staat, die aanmelding en die verhaling verseker van belastingeise in paragraaf 1 vermeld wat verskuldig is in eersgenoemde Staat en nie onderworpe is aan 'n *bona fide*-dispuut op die datum waarop verhalingsstappe deur die ander Staat gedoen word nie. Sodanige eise geniet geen voorkeur in bogenoemde ander Staat nie en daardie Staat is nie verplig om enige toepassingsmiddele wat nie deur die regsbepalings of regulasies van die Aansoekerstaat gemagtig is nie, toe te pas nie.
3. Versoeke in paragraaf 2 gemeld, moet deur 'n amptelike afskrif van die uitvoeringsinstrument gesteun word, vergesel, waar toepaslik, van 'n amptelike afskrif van enige finale administratiewe of regterlike beslissing.
4. Die bepalings van paragraaf 1 van Artikel 25 is ook van toepassing op enige inligting wat, op grond van hierdie Artikel, aan die bevoegde owerheid van 'n Kontrakterende Staat verskaf word.

Artikel 27

Lede van Diplomatieke Sendings en Konsulêre Poste

Niks in hierdie Konvensie raak die fiskale voorregte van lede van 'n diplomatieke sending of 'n konsulêre pos ingevolge die algemene reëls van die volkereg of ingevolge die bepalings van spesiale ooreenkomste nie.

Artikel 28

Inwerkingtreëding

1. Elke Kontrakterende Staat stel die ander Kontrakterende Staat in kennis van die afhandeling van die prosedures wat ingevolge sy reg benodig word om hierdie Konvensie in werking te laat tree. Die Konvensie tree in werking op die vyftiende dag na die datum van die laaste van hierdie kennisgewings.
2. Die bepalings van die Konvensie is van toepassing:
 - a) met betrekking tot belastinge wat by die bron betaalbaar is, ten opsigte van inkomste gekrediteer of betaalbaar op of na 1 Januarie,
 - b) met betrekking tot ander belastinge, ten opsigte van inkomste vir enige belasbare tydperk eindigende op of na 31 Desember,in die kalenderjaar eersvolgende op dié waarin die Konvensie in werking tree.
3. Die Ooreenkoms tussen die Regering van België en die Regering van die Unie van Suid-Afrika met die oog op die vermyding van dubbele belasting ten opsigte van inkomste verkry uit die besigheid van see- en lugvervoer, aangegaan deur uitruiling van briewe beide gedateer te Kaapstad op 11 Junie 1957, word - vir sover die betrekkinge tussen België en die Republiek van Suid-Afrika betrokke is - opgesê en is nie meer van krag nie ten opsigte van enige belasting waarop die Konvensie ooreenkomstig paragraaf 2 betrekking het.

Article 29***Termination***

This Convention shall remain in force until terminated by a Contracting State but either Contracting State may terminate the Convention, through diplomatic channels, by giving to the other Contracting State, written notice of termination not later than 30 June of any calendar year from the fifth year following that in which the Convention entered into force. In the event of termination before 1 July of such year, the Convention shall cease to have effect:

- a) with regard to taxes due at source, in respect of income credited or payable on or after 1 January,
- b) with regard to other taxes, in respect of income for any taxable period ending on or after 31 December,

in the calendar year next following that in which the notice of termination is given.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Convention.

DONE in duplicate at Pretoria, this 1st day of February 1995, in the English language.

(Signed) C.F.LIEBENBERG
FOR THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA

(Signed) R.URBAIN
FOR THE GOVERNMENT OF
THE KINGDOM OF BELGIUM

Artikel 29***Opsegging***

Hierdie Konvensie bly van krag totdat dit deur 'n Kontrakterende Staat opgesê word, maar enigeen van die Kontrakterende State kan die Konvensie langs diplomatieke kanale opseê deur aan die ander Kontrakterende Staat skriftelik kennis van opsegging te gee nie later nie as 30 Junie van enige kalenderjaar vanaf die vyfde jaar na die jaar waarin die Konvensie van krag geword het. In die geval van opsegging voor 1 Julie van sodanige jaar is die Konvensie nie meer van krag nie:

- a) met betrekking tot belastinge wat by die bron betaalbaar is, ten opsigte van inkomste gekrediteer of betaalbaar op of na 1 Januarie;
- b) met betrekking tot ander belastinge, ten opsigte van inkomste vir enige belasbare tydperk eindigende op of na 31 Desember,

in die kalenderjaar eersvolgende op dié waarin die kennis van opsegging gegee is.

TEN BEWYSE WAARVAN die ondergetekendes, wat behoorlik daartoe gemagtig is deur hulle onderskeie Regerings, hierdie Konvensie onderteken het.

GEDOEN, in tweevoud, te Pretoria op hede die 1ste dag van Februarie 1995, in die Engelse taal.

(Geteken) C.F.LIEBENBERG
NAMENS DIE REGERING VAN DIE
REPUBLIEK VAN SUID-AFRIKA

(Geteken) R.URBAIN
NAMENS DIE REGERING VAN
DIE KONINKRYK VAN BELGIË



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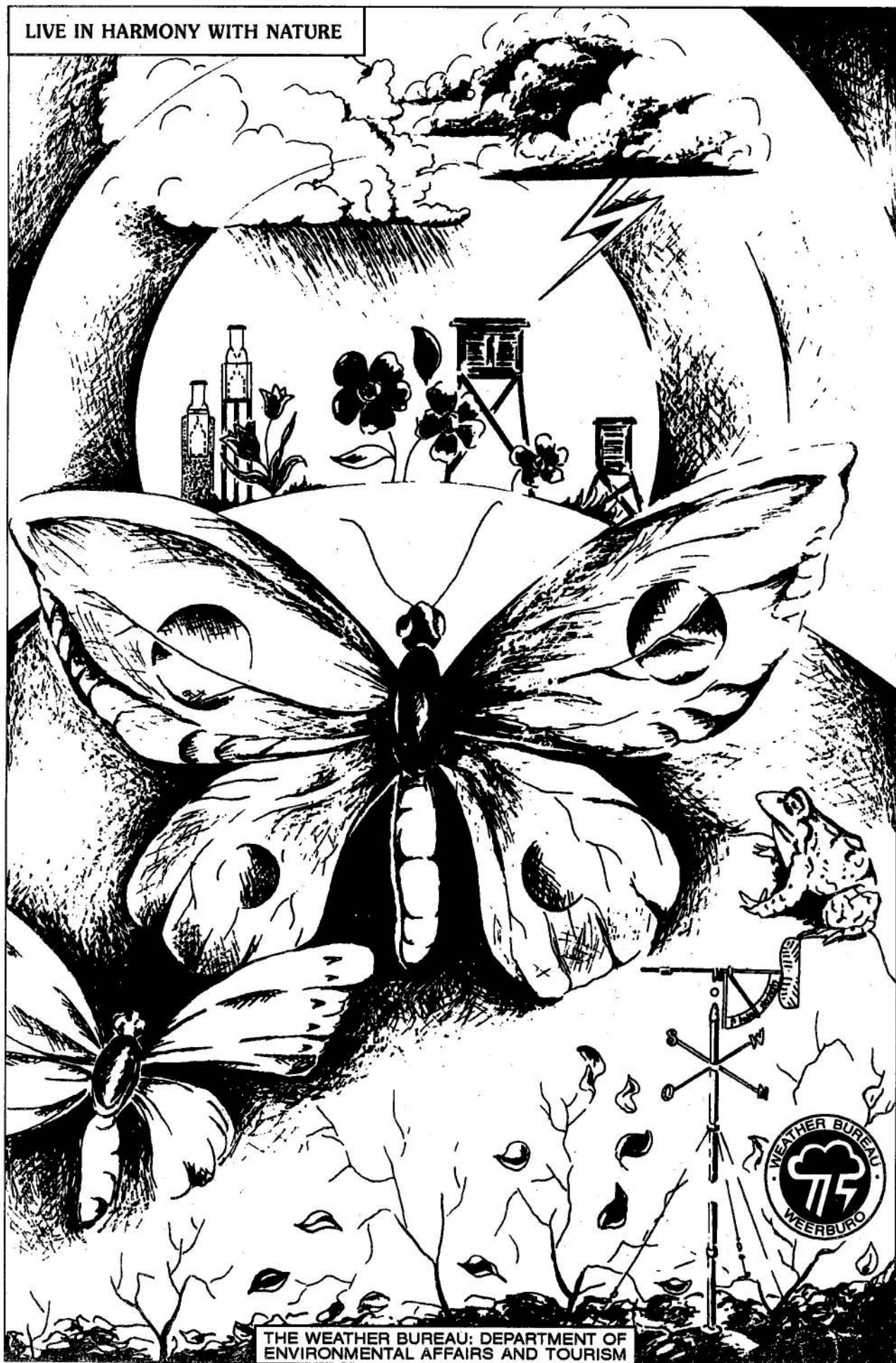
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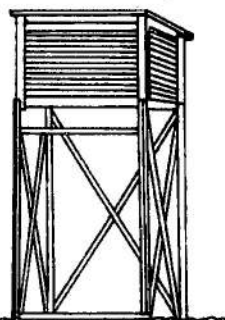
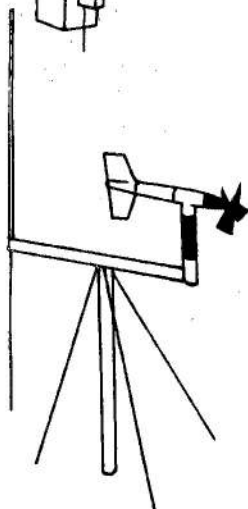
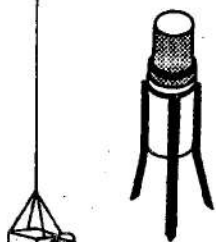


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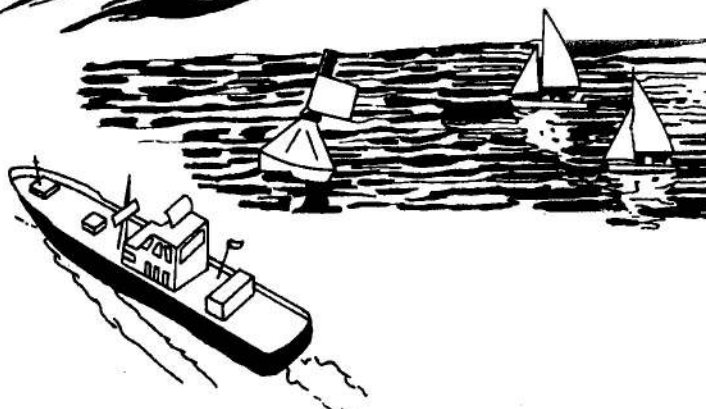
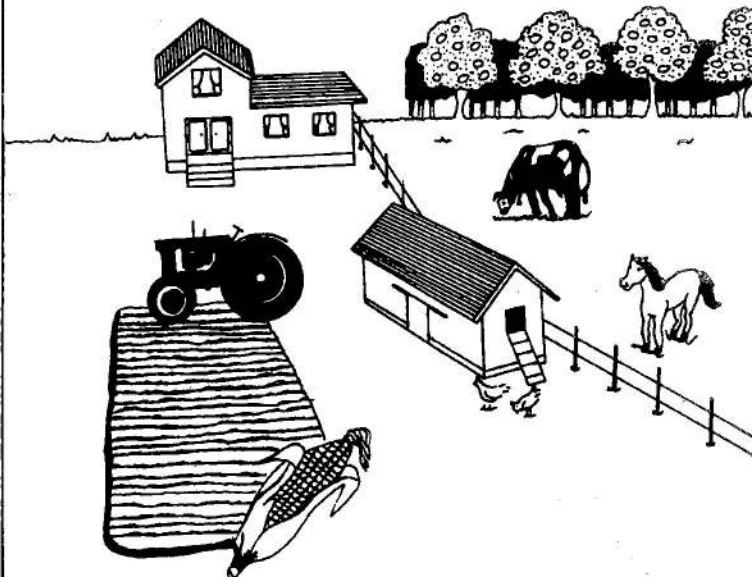
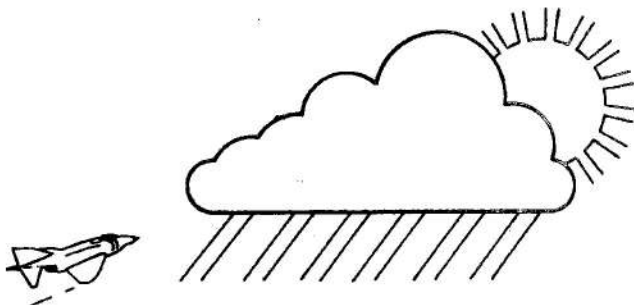


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