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CONTENTS**INHOUD**

No.	Page No.	Gazette No.	No.	Bladsy No.	Koerant No.
GOVERNMENT NOTICE					
South African Revenue Service					
<i>Government Notice</i>					
52 Income Tax Act (58/1962): Protocol between the Government of the Republic of South Africa and the Government of the United Kingdom of Great Britain and Northern Ireland to amend the convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital gains, signed at London on 4 July 2002.....	2	34971	52 Inkomstebelastingwet (58/1962): Protokol tussen die Regering van die Republiek van Suid-Afrika en die Regering van die Verenigde Koninkryk van Groot-Brittannie en Noord-Ierland tot wysiging van die konvensie vir die vermyding van dubbele belasting en die voorkoming van fiskale onduiking met betrekking tot belastings op inkomste en op kapitaal-winstes, onderteken te London op 4 Julie 2002	3	34971

GOVERNMENT NOTICE

GOEWERMENTSKENNISGEWING

SOUTH AFRICAN REVENUE SERVICE

SUID-AFRIKAANSE INKOMSTEDIENS

No. 52**2 February 2012**

INCOME TAX ACT, 1962

PROTOCOL BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND TO AMEND THE CONVENTION FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL GAINS, SIGNED AT LONDON ON 4 JULY 2002

In terms of section 108(2) of the Income Tax Act, 1962 (Act No 58 of 1962), read in conjunction with section 231(4) of the Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996), it is hereby notified that the Protocol for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital gains set out in the Schedule to this Notice has been entered into with the United Kingdom of Great Britain and Northern Ireland 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 VI of the Protocol that the date of entry into force is 13 October 2011.

No. 52

2 February 2012

INKOMSTEBELASTINGWET, 1962

**PROTOKOL TUSSEN DIE REGERING VAN DIE REPUBLIEK VAN SUID-AFRIKA EN DIE
REGERING VAN DIE VERENIGDE KONINKRYK VAN GROOT-BRITTANJE EN NOORD-
IERLAND TOT WYSIGING VAN DIE KONVENTSIE VIR DIE VERMYDING VAN DUBBELE
BELASTING EN DIE VOORKOMING VAN FISKALE ONTDUIKING MET BETREKKING TOT
BELASTINGS OP INKOMSTE EN OP KAPITAALWINSTE, ONDERTEKEN TE LONDEN OP
4 JULIE 2002**

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

Daar word verder bekendgemaak dat ingevolge paragraaf 1 van Artikel VI van die Protokol, die datum van inwerkingtreding 13 Oktober 2011 is.

**PROTOCOL BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA AND
THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN
IRELAND TO AMEND THE CONVENTION FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME
AND ON CAPITAL GAINS, SIGNED AT LONDON ON 4 JULY 2002**

The Government of the Republic of South Africa and the Government of the United Kingdom of Great Britain and Northern Ireland;

Desiring to conclude a Protocol to amend the Convention between the Contracting Governments for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital Gains, signed at London on 4 July 2002 (hereinafter referred to as "the Convention");

Have agreed as follows:

ARTICLE I

Paragraph 1 of Article 3 shall be amended by:

- (a) deleting the full stop at the end of sub-paragraph (k) and substituting a semicolon; and
- (b) adding immediately after sub-paragraph (k) the following new sub-paragraphs:
 - "(l) the term "property investment company" means:
 - (i) in South Africa, a company that may be agreed between the competent authorities as corresponding to a real estate investment trust;
 - (ii) in the United Kingdom, a real estate investment trust within the meaning of section 103 of Finance Act 2006;
 - (m) the term "qualifying dividend" means:
 - (i) in South Africa, a dividend that may be agreed between the competent authorities as being paid out of tax-exempt property income; and
 - (ii) in the United Kingdom, a dividend from tax-exempt income within the meaning of section 107(8) of Finance Act 2006."

**PROTOKOL TUSSEN DIE REGERING VAN DIE REPUBLIEK VAN SUID-AFRIKA EN DIE
REGERING VAN DIE VERENIGDE KONINKRYK VAN GROOT-BRITTANJE EN NOORD-
IERLAND TOT WYSIGING VAN DIE KONVENTSIE VIR DIE VERMYDING VAN DUBBELE
BELASTING EN DIE VOORKOMING VAN FISKALE ONTDUIKING MET BETREKKING TOT
BELASTINGS OP INKOMSTE EN OP KAPITAALWINSTE, ONDERTEKEN TE LONDEN OP
4 JULIE 2002**

Die Regering van die Republiek van Suid-Afrika en die Regering van die Verenigde Koninkryk van Groot-Brittanie en Noord-Ierland,

Het uit 'n begeerte om 'n Protokol te sluit tot wysiging van die Konvensie tussen die Kontrakterende Regerings vir die Vermyding van Dubbelbelasting en die Voorkoming van Fiskale Ontduiking met betrekking tot Belastings op Inkomste en op Kapitaalwinste, onderteken te Londen op 4 Julie 2002 (hierna "die Konvensie" genoem),

Soos volg ooreengekom:

ARTIKEL I

Paragraaf 1 van Artikel 3 van die Konvensie word gewysig deur—

- (a) die punt aan die einde van subparagraaf (k) te skrap en dit deur 'n kommapunt te vervang; en
- (b) die volgende nuwe subparagrawe onmiddellik ná subparagraaf (k) by te voeg:
 - "(l) beteken die uitdrukking "eiendomsbeleggingsmaatskappy"—
 - (i) in Suid-Afrika, 'n maatskappy wat, volgens ooreenkoms tussen die bevoegde owerhede, ooreenstem met 'n eiendomsbeleggingstrust; en
 - (ii) in die Verenigde Koninkryk, 'n eiendomsbeleggingstrust in die betekenis van "real estate investment trust" soos bedoel in artikel 103 van die "Finance Act, 2006";
 - (m) beteken die uitdrukking "kwalifiserende dividend"—
 - (i) in Suid-Afrika, 'n dividend wat, volgens ooreenkoms tussen die bevoegde owerhede, betaal word uit inkomste uit eiendom wat van belasting vrygestel is; en
 - (ii) in die Verenigde Koninkryk, 'n dividend betaal uit inkomste wat van belasting vrygestel is soos bedoel in artikel 107(8) van die "Finance Act, 2006".

ARTICLE II

Article 10 of the Convention shall be deleted and replaced by the following:

"Article 10

Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:

- (a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which holds at least 10 per cent of the capital of the company paying the dividends; or
- (b) 15 per cent of the gross amount of the dividends in the case of qualifying dividends paid by a property investment company which is a resident of a Contracting State; or
- (c) 10 per cent of the gross amount of the dividends in all other cases.

3. The term "dividends" as used in this Article means income from shares, or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the Contracting State of which the company making the distribution is a resident and also includes any other item which, under the laws of the Contracting State of which the company paying the dividend is a resident, is treated as a dividend or distribution of a company.

4. The provisions of paragraphs 1 and 2 of this Article 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, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case, the provisions of Article 7 of this Convention 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 situated in that other State, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

6. The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the shares or other rights in respect of which the dividend is paid to take advantage of this Article by means of that creation or assignment."

ARTIKEL II

Artikel 10 van die Konvensie word geskrap en deur die volgende Artikel vervang:

"Artikel 10

Dividende

1. Dividende wat deur 'n maatskappy wat 'n inwoner van 'n Kontrakterende Staat is, betaal word aan 'n inwoner van die ander Kontrakterende Staat, kan deur daardie ander Staat belas word.

2. Sodanige dividende mag egter ook in die Kontrakterende Staat waarvan die dividendbetalende maatskappy 'n inwoner is, belas word ooreenkomsdig die wette van daardie Staat, maar as die voordeleige eienaar van die dividende 'n inwoner van die ander Kontrakterende Staat is, oorskry die belasting aldus gehef—

- (a) nie 5 persent van die bruto bedrag van die dividende nie, indien die voordeleige eienaar 'n maatskappy is wat minstens 10 persent van die kapitaal van die dividendbetalende maatskappy hou; of
- (b) nie 15 persent van die bruto bedrag van die dividende nie in die geval van kwalifiserende dividende betaal deur 'n eiendomsbeleggingsmaatskappy wat 'n inwoner van 'n Kontrakterende Staat is; of
- (c) nie 10 persent van die bruto bedrag van die dividende in alle ander gevalle nie.

3. Die uitdrukking "dividende" soos in hierdie Artikel gebruik, beteken inkomste uit aandele, of ander regte, wat nie skuldeise, winsdeling, of inkomste uit ander korporatiewe regte is nie wat onderhewig is aan dieselfde belastinghantering as inkomste uit aandele ooreenkomsdig die wette van die Kontrakterende Staat waarvan die maatskappy wat die uitkering doen, 'n inwoner is, en ook enige ander item wat, ingevolge die wette van die Kontrakterende Staat waarvan die dividendbetalende maatskappy 'n inwoner is, gehanteer word as 'n dividend of uitkering deur 'n maatskappy.

4. Die bepalings van paragrawe 1 en 2 van hierdie Artikel is nie van toepassing nie indien die voordeleige eienaar van die dividende wat 'n inwoner van 'n Kontrakterende Staat is, in die ander Kontrakterende Staat waarvan die dividendbetalende maatskappy 'n inwoner is, besigheid dryf deur middel van 'n permanente saak daarin geleë, en die besit ten opsigte waarvan die dividende betaal word, effektief verbonde is met sodanige permanente saak. In sodanige geval is die bepalings van Artikel 7 van hierdie Konvensie van toepassing.

5. Indien 'n maatskappy wat 'n inwoner van 'n Kontrakterende Staat is, winste of inkomste van die ander Kontrakterende Staat verkry, mag daardie ander Staat nie enige belasting hef op die dividende wat deur die maatskappy betaal word nie, behalwe in soverre sodanige dividende betaal word aan 'n inwoner van daardie ander Staat of in soverre die besit ten opsigte waarvan die dividende betaal word, effektief verbonde is met 'n permanente saak geleë in daardie ander Staat, en mag hy nie die maatskappy se onuitgekeerde winste onderwerp aan 'n belasting op onuitgekeerde winste nie, selfs al bestaan die dividende wat betaal word of die onuitgekeerde winste heeltemal of gedeeltelik uit winste of inkomste wat in sodanige ander Staat ontstaan.

6. Die bepalings van hierdie Artikel is nie van toepassing nie indien die hoofdoelwit of een van die hoofdoelwitte van enige persoon betrokke by die skepping of toedeling van die aandele of ander regte ten opsigte waarvan die dividend betaal word, was om hierdie Artikel uit te buit deur middel van daardie skepping of toedeling."

ARTICLE III

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

"Article 25

Exchange of Information

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

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

3. In no case shall the provisions of paragraphs 1 and 2 of this Article 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.

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

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

ARTIKEL III

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

"Artikel 25

Uitruil van Inligting

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

2. Enige inligting ingevolge paragraaf 1 van hierdie Artikel deur 'n Kontrakterende Staat ontvang, word as geheim gehanteer op dieselfde wyse as inligting wat ingevolge die landsreg van daardie Staat verkry word, en word slegs bekendgemaak aan persone of owerhede (met inbegrip van howe en administratiewe liggeme) wat gemoeid is met die aanslag of invordering van, die afdwinging van of vervolging in verband met, of die beslissing van appèlle rakende die belastings in paragraaf 1 bedoel, of met toesig oor voornoemde. Sodanige persone of owerhede mag die inligting slegs vir sodanige doeleindes gebruik. Hulle mag die inligting in openbare hofverrigtinge of in regterlike beslissings openbaar maak.

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

- (a) administratiewe maatreëls toe te pas wat in stryd is met die wette en administratiewe praktyk van daardie of die ander Kontrakterende Staat;
- (b) inligting te verskaf wat nie kragtens die wette of in die gewone loop van die administrasie van daardie of die ander Kontrakterende Staat bekombaar is nie;
- (c) inligting te verskaf wat enige handels-, sake-, nywerheids-, kommersiële of beroepsgeheim of handelsproses sou openbaar maak, of inligting te verskaf waarvan die openbaarmaking strydig met openbare beleid sou wees.

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

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

ARTICLE IV

The following new Article shall be inserted immediately after Article 25 of the Convention:

"Article 25A

Assistance in the Collection of Taxes

1. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2 of this Convention. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article.

2. The term "revenue claim" as used in this Article means an amount owed in respect of taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount.

3. When a revenue claim of a Contracting State is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of collection by the competent authority of the other Contracting State. That revenue claim shall be collected by that other State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other State.

4. When a revenue claim of a Contracting State is a claim in respect of which that State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other State even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned State or is owed by a person who has a right to prevent its collection.

5. Notwithstanding the provisions of paragraphs 3 and 4 of this Article, a revenue claim accepted by a Contracting State for purposes of paragraph 3 or 4 shall not, in that State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that State by reason of its nature as such. In addition, a revenue claim accepted by a Contracting State for the purposes of paragraph 3 or 4 shall not, in that State, have any priority applicable to that revenue claim under the laws of the other Contracting State.

6. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall not be brought before the courts or administrative bodies of the other Contracting State.

ARTIKEL IV

Die volgende nuwe Artikel word onmiddellik ná Artikel 25 van die Konvensie ingevoeg:

"Artikel 25A

Bystand met die Invordering van Belastings

1. Die Kontrakterende State verleen aan mekaar bystand met die invordering van inkomste-eise. Hierdie bystand word nie deur Artikels 1 en 2 van hierdie Konvensie beperk nie. Die bevoegde owerhede van die Kontrakterende State kan by onderlinge ooreenkoms die wyse van toepassing van hierdie Artikel bepaal.

2. Die uitdrukking "inkomste-eis" soos in hierdie Artikel gebruik, beteken 'n bedrag wat verskuldig is ten opsigte van belastings van elke soort en beskrywing wat namens die Kontrakterende State of hulle staatkundige onderverdelings of plaaslike owerhede gehef is, in soverre die belasting daarkragtens nie strydig is nie met die Konvensie of enige ander instrument waarby die Kontrakterende State partye is, asook rente, administratiewe boetes en die koste van invordering of bewaring rakende sodanige bedrag.

3. Wanneer 'n inkomste-eis van 'n Kontrakterende Staat in daardie Staat regtens afdwingbaar is en verskuldig is deur 'n persoon wat op daardie tyd nie ingevolge die reg van daardie Staat die invordering kan verhoed nie, moet daardie inkomste-eis op versoek van die bevoegde owerheid van daardie Staat aanvaar word vir doeleindes van invordering deur die bevoegde owerheid van die ander Kontrakterende Staat. Daardie inkomste-eis word deur daardie ander Kontrakterende Staat ingevorder ooreenkomstig die bepalings van sy wette betreffende die afdwining en invordering van sy eie belastings asof die inkomste-eis 'n inkomste-eis van daardie ander Staat was.

4. Wanneer 'n inkomste-eis van 'n Kontrakterende Staat 'n eis is ten opsigte waarvan daardie Staat kragtens sy reg bewaringsmaatreëls kan tref ten einde die invordering daarvan te verseker, moet daardie inkomste-eis op versoek van die bevoegde owerheid van daardie Staat aanvaar word vir doeleindes van die tref van bewaringsmaatreëls deur die bevoegde owerheid van die ander Kontrakterende Staat. Daardie ander Staat tref bewaringsmaatreëls betreffende daardie inkomste-eis ooreenkomstig die bepalings van sy wette asof die inkomste-eis 'n inkomste-eis van daardie ander Staat was, selfs al is die inkomste-eis ten tyde van die toepassing van die maatreëls nie in eersgenoemde Staat afdwingbaar nie of verskuldig deur 'n persoon wat 'n reg het om die invordering daarvan te verhoed.

5. Ondanks die bepalings van paragrawe 3 en 4 van hierdie Artikel, is 'n inkomste-eis aanvaar deur 'n Kontrakterende Staat vir doeleindes van paragrawe 3 en 4, nie in daardie Staat onderworpe aan dieselfde tydsbeperkings of voorrang van toepassing op 'n inkomste-eis kragtens die wette van daardie Staat vanweé die aard daarvan as sodanig nie. Daarbenewens geniet 'n inkomste-eis wat vir doeleindes van paragrawe 3 en 4 deur 'n Kontrakterende Staat aanvaar is, nie in daardie Staat enige voorrang wat ingevolge die wette van die ander Kontrakterende Staat op daardie inkomste-eis van toepassing is nie.

6. Verrigtinge met betrekking tot die bestaan, geldigheid of bedrag van 'n inkomste-eis van 'n Kontrakterende Staat word nie in die howe of administratiewe liggame van die ander Kontrakterende Staat ingestel nie.

7. Where, at any time after a request has been made by a Contracting State under paragraph 3 or 4 of this Article and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned State, the relevant revenue claim ceases to be:

- (a) in the case of a request under paragraph 3, a revenue claim of the first-mentioned State that is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, or
- (b) in the case of a request under paragraph 4, a revenue claim of the first-mentioned State in respect of which that State may, under its laws, take measures of conservancy with a view to ensure its collection

the competent authority of the first-mentioned State shall promptly notify the competent authority of the other State of that fact and, at the option of the other State, the first-mentioned State shall either suspend or withdraw its request.

8. In no case shall the provisions of this Article 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 carry out measures which would be contrary to public policy;
- (c) to provide assistance if the other Contracting State has not pursued all reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice;
- (d) to provide assistance in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the other Contracting State;
- (e) to provide assistance if that State considers that the taxes with respect to which assistance is requested are imposed contrary to generally accepted taxation principles."

ARTICLE V

If, in a convention for the avoidance of double taxation that may subsequently be concluded between South Africa and a third State, the rates for taxation of dividends in the source State are lower than those specified in sub-paragraphs 2 (a) and (c) of Article 10 as amended by Article II of this Protocol, South Africa shall immediately inform the Government of the United Kingdom of Great Britain and Northern Ireland in writing through the diplomatic channel and shall enter into negotiations with the Government of the United Kingdom and Northern Ireland with a view to providing comparable treatment as may be provided for the third State.

7. Indien die betrokke inkomste-eis, te eniger tyd nadat 'n versoek kragtens paragraaf 3 of 4 van hierdie Artikel deur 'n Kontrakterende Staat gerig is en voordat die ander Kontrakterende Staat die inkomste-eis ingevorder en aan eersgenoemde Staat geremitteer het, ophou om—

- (a) in die geval van 'n versoek kragtens paragraaf 3, 'n inkomste-eis van eersgenoemde Staat te wees wat regtens in daardie Staat afdwingbaar is en verskuldig is deur 'n persoon wat op daardie tyd nie ingevolge die reg van daardie Staat die invordering kan verhoed nie; of
- (b) in die geval van 'n versoek kragtens paragraaf 4, 'n inkomste-eis van eersgenoemde Staat te wees ten opsigte waarvan daardie Staat kragtens sy reg bewaringsmaatreëls kan tref ten einde die invordering daarvan te verseker,

moet die bevoegde owerheid van eersgenoemde Staat onverwyld die bevoegde owerheid van die ander Staat van daardie feit in kennis stel en, volgens die keuse van die ander Staat, moet eersgenoemde Staat sy versoek óf opskort óf terugtrek.

8. In geen geval word die bepalings van hierdie Artikel so uitgelê nie dat dit 'n Kontrakterende Staat die verpligting ople om—

- (a) administratiewe maatsreëls toe te pas wat strydig is met die wette en administratiewe praktyk van daardie of die ander Kontrakterende Staat;
- (b) maatreëls toe te pas wat strydig met openbare beleid sal wees;
- (c) bystand te verleen as die ander Kontrakterende Staat nie alle redelike maatreëls vir invordering of bewaring, na gelang van die geval, wat kragtens sy wette of administratiewe praktyk beskikbaar is, aangewend getref het nie;
- (d) bystand te verleen in die gevalle waar die administratiewe las vir daardie Staat klaarblyklik buite verhouding is tot die voordeel wat die ander Kontrakterende Staat daaruit kan kry;
- (e) bystand te verleen indien daardie Staat oortuig is dat die belastings met betrekking waartoe bystand versoek word, opgelê word in stryd met algemeen aanvaarde belastingbeginsels."

ARTIKEL V

Indien die koerse vir die belasting van dividende, in 'n konvensie vir die vermyding van dubbele belasting wat hierna tussen Suid-Afrika en 'n derde Staat gesluit word, laer is as dié gespesifiseer in subparagraphe 2(a) en (c) van Artikel 10, soos gewysig by Artikel II van hierdie Protokol, moet Suid-Afrika die Regering van die Verenigde Koninkryk van Groot-Brittanje en Noord-Ierland onverwyld skriftelik langs die diplomatieke kanaal in kennis stel en met die Regering van die Verenigde Koninkryk van Groot-Brittanje en Noord-Ierland onderhandelinge aanknoop oor die verlening van sodanige vergelykbare behandeling as wat aan die derde Staat verleen word.

ARTICLE VI

Each of the Contracting States shall notify to the other, through the diplomatic channel, the completion of the procedures required by its law for the bringing into force of this Protocol. This Protocol shall enter into force on the date of the later of these notifications and shall thereupon have effect in both Contracting States:

- (a) in relation to Article II of this Protocol, in respect of amounts paid or credited on or after the date of the introduction in South Africa of the system of taxation at shareholder level of dividends declared;
- (b) in relation to the information referred to in Article III of this Protocol, in respect of such information that is requested or exchanged on or after the date of entry into force of this Protocol;
- (c) in relation to revenue claims referred to in Article IV of this Protocol, in respect of requests for assistance made on or after the date of entry into force of this Protocol.

ARTICLE VII

This Protocol shall remain in force as long as the Convention remains in force.

IN WITNESS WHEREOF the undersigned, duly authorised thereto by their respective Governments, have signed this Protocol in two originals in the English language, both texts being equally authentic.

DONE at Pretoria this 8th day of November 2010.

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

**FOR THE GOVERNMENT OF
THE UNITED KINGDOM OF
GREAT BRITAIN AND
NORTHERN IRELAND**

ARTIKEL VI

Elk van die Kontrakterende State moet die ander langs die diplomatieke kanaal kennis gee van die afhandeling van die procedures wat sy reg vereis om hierdie Protokol in werking te stel. Hierdie Protokol tree in werking op die datum van die laaste van daardie kennisgewings en is daarna van krag in albei Kontrakterende State—

- (a) met betrekking tot Artikel II van hierdie Protokol, ten opsigte van bedrae betaal of gekrediteer op of ná die datum van die instelling in Suid-Afrika van die stelsel van belasting op aandeelhouersvlak van dividende verklaar;
- (b) met betrekking tot die inligting beoog in Artikel III van hierdie Protokol, ten opsigte van sodanige inligting as wat aangevra of uitgeruil word op of ná die datum van inwerkingtreding van hierdie Protokol;
- (c) met betrekking tot inkomste-eise bedoel in Artikel IV van hierdie Protokol, ten opsigte van versoeke om bystand gerig op of ná die datum van inwerkingtreding van hierdie Protokol.

ARTIKEL VII

Hierdie Protokol bly van krag so lank as wat die Konvensie van krag bly.

TEN BEWYSE WAARVAN die ondergetekendes, behoorlik daartoe gemagtig deur hulle onderskeie Regerings, hierdie Protokol in twee oorspronklike eksemplare in die Engelse taal onderteken het, waarvan albei tekste ewe outentiek is.

GEDOEEN te Pretoria op hede die 8ste dag van November 2010.

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

**VIR DIE REGERING VAN
DIE VERENIGDE KONINKRYK
VAN GROOT-BRITTANJE EN
NOORD-IERLAND**
