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GOVERNMENT NOTICE GOEWERMENSKENNISGEWING

SOUTH AFRICAN REVENUE SERVICES SUID-AFRIKAANSE INKOMSTEDIENS

No. 319

23 April 2012

INCOME TAX ACT, 1962

PROTOCOL AMENDING THE CONVENTION BETWEEN THE REPUBLIC OF SOUTH AFRICA AND THE KINGDOM OF SWEDEN 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 Protocol 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 Kingdom of Sweden 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 III of the Protocol, that the date of entry into force is 18 March 2012.

INKOMSTEBELASTINGWET, 1962**PROTOKOL TER WYSIGING VAN DIE KONVENSIE TUSSEN DIE REPUBLIEK VAN SUID-AFRIKA EN DIE KONINKRYK VAN SWEDE 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 Protokol 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 Koninkryk van Swede en deur die Parlement goedgekeur is ingevolge artikel 231(2) van die Grondwet.

Daar word verder bekendgemaak dat ingevolge paragraaf 1 van Artikel III van die Protokol, die datum van inwerkingtreding 18 Maart 2012 is.

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

Preamble

The Government of the Republic of South Africa and the Government of the Kingdom of Sweden, desiring to amend the Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed at Stockholm, on 24 May 1995 (in this Protocol referred to as "the Convention"),

HAVE AGREED AS FOLLOWS:

Article I

Paragraph 2 of Article 10 of the Convention shall be deleted and replaced by the following:

"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 (other than a partnership) 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 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."

Article II

The following new paragraph shall be inserted immediately after paragraph 5 of Article 10 of the Convention:

"6 If any agreement or convention between South Africa and a third state provides that South Africa shall exempt from tax dividends (either generally or in respect of specific categories of dividends) arising in South Africa, or limit the tax charged in South Africa on such dividends (either generally or in respect of specific categories of dividends) to a rate lower than that provided for in subparagraph (a) of paragraph 2, such exemption or lower rate shall automatically apply to dividends (either generally or in respect of those specific categories of dividends) arising in South Africa and beneficially owned by a resident of Sweden and dividends (either generally or in respect of those specific categories of dividends) arising in Sweden and beneficially owned by a resident of South Africa, under the same conditions as if such exemption or lower rate had been specified in that subparagraph."

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

Aanhef

Die Regering van die Republiek van Suid-Afrika en die Regering van die Koninkryk van Swede het, uit 'n begeerte om die Konvensie vir die vermyding van dubbele belasting en die voorkoming van fiskale ontduiking met betrekking tot belasting op inkomste, geteken op 24 Mei 1995 te Stockholm (in hierdie Protokol "die Konvensie" genoem), te wysig,

SOOS VOLG OOREENGEKOM:

Artikel I

Paragraaf 2 van Artikel 10 van die Konvensie word geskrap en deur die volgende vervang:

"2. Daardie 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 voordelige eienaar van die dividende 'n inwoner van die ander Kontrakterende Staat is, moet die belasting aldus gehef nie die volgende oorskry nie:

- (a) 5 persent van die bruto bedrag van die dividende indien die voordelige eienaar 'n maatskappy (buiten 'n vennootskap) is wat minstens 10 persent hou van die kapitaal van die maatskappy wat die dividende betaal; of
- (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 winste waaruit die dividende betaal word nie."

Artikel II

Die volgende nuwe paragraaf word onmiddellik na paragraaf 5 van Artikel 10 van die Konvensie ingevoeg:

"6. Indien 'n ooreenkoms of konvensie tussen Suid-Afrika en 'n derde Staat bepaal dat Suid-Afrika vrygestel word van belastingdividende (hetsy deurgaans of ten opsigte van spesifieke kategorieë dividende) wat in Suid-Afrika ontstaan, of die belasting gehef in Suid-Afrika op daardie dividende (hetsy deurgaans of ten opsigte van spesifieke kategorieë dividende) beperk tot 'n koers laer as daardie waarvoor in subparagraaf (a) van paragraaf 2 voorsiening gemaak word, is sodanige vrystelling of laer koers outomaties van toepassing op die dividende (hetsy deurgaans of ten opsigte van daardie spesifieke kategorieë dividende) wat in Suid-Afrika ontstaan en voordelig besit word deur 'n inwoner van Swede, en die dividende (hetsy deurgaans of ten opsigte van daardie spesifieke kategorieë dividende) wat in Swede ontstaan en voordelig besit word deur 'n inwoner van Suid-Afrika, kragtens dieselfde voorwaardes asof daardie vrystelling of laer koers in daardie subparagraaf gespesifiseer is."

Article III

1. Each of the Contracting States shall notify the other in writing, through diplomatic channels, of the completion of the procedures required by its law for the bringing into force of this Protocol. South Africa shall also notify Sweden in writing, through diplomatic channels, of the completion of the procedures required by its law for the bringing into force of the South African system of taxation at shareholder level of dividends declared, as well as the date of entry into force of this system. The Protocol shall enter into force on the thirtieth day after the receipt of the last of these notifications.

2. The provisions of the Protocol shall apply for amounts paid or credited on or after the date of entry into force of the South African system of taxation at shareholder level of dividends declared, however, the earliest date being the first day of the month next following the date on which the Protocol enters into force.

Article IV

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

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

DONE at Pretoria, this 7 day of July 2010, in two originals in the English language.

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

**FOR THE GOVERNMENT OF THE
KINGDOM OF SWEDEN**

Artikel III

1. Elk van die Kontrakterende State stel die ander skriftelik deur die diplomatieke kanaal in kennis van die afhandeling van die prosedures wat ingevolge sy reg vereis word vir die inwerkingstelling van hierdie Protokol. Suid-Afrika stel Swede ook skriftelik deur die diplomatieke kanaal in kennis van die afhandeling van die prosedures wat ingevolge sy reg vereis word vir die inwerkingstelling van die Suid-Afrikaanse stelsel van belasting op aandeelhouervlak van dividende verklaar, asook die datum van inwerkingtreding van hierdie stelsel. Die Protokol tree in werking op die dertigste dag na ontvangs van die laaste van hierdie kennisgewings.

2. Die bepalinge van die Protokol is van toepassing op bedrae betaal of gekrediteer op of na die datum van inwerkingtreding van die Suid-Afrikaanse stelsel van belasting op aandeelhouervlak van dividende verklaar, die vroegste datum is egter die eerste dag van die maand wat volg op die datum waarop die Protokol van krag word.

Artikel IV

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

TEN BEWYSE WAARVAN die ondergetekendes, synde behoorlik daartoe gemagtig deur hulle onderskeie Regerings, hierdie Protokol onderteken het.

GEDOEN te Pretoria, op hede die 7 de dag van Julie 2010, in tweevoud in Engels.

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

**NAMENS DIE REGERING VAN DIE
KONINKRYK VAN SWEDE**