

GOVERNMENT NOTICE

SOUTH AFRICAN REVENUE SERVICE

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.

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."

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**