

No. 45149*

**South Africa
and
Seychelles**

Agreement between the Government of the Republic of South Africa and the Government of the Republic of Seychelles for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Cape Town, 26 August 1998

Entry into force: 29 July 2002 by notification, in accordance with article 28

Authentic texts: *English*

Registration with the Secretariat of the United Nations: *South Africa, 1 August 2008*

**Afrique du Sud
et
Seychelles**

Accord entre le Gouvernement de la République sud-africaine et le Gouvernement de la République des Seychelles tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu. Le Cap, 26 août 1998

Entrée en vigueur : 29 juillet 2002 par notification, conformément à l'article 28

Textes authentiques : *anglais*

Enregistrement auprès du Secrétariat des Nations Unies : *Afrique du Sud, 1er août 2008*

* The text reproduced below is the original text of the agreement as submitted. For ease of reference, it was sequentially paginated. The relevant Treaty Series volume will be published in due course.

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[ENGLISH TEXT – TEXTE ANGLAIS]

AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA

AND

THE GOVERNMENT OF THE REPUBLIC OF SEYCHELLES

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 Republic of Seychelles desiring to promote and strengthen the economic relations between the two countries,

HAVE AGREED AS FOLLOWS:

Article 1

Persons Covered

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

Article 2

Taxes Covered

1. This Agreement shall apply to taxes on income imposed on behalf of each 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.
3. The existing taxes to which the Agreement shall apply are in particular:
 - (a) in Seychelles, the business tax;
(hereinafter referred to as "Seychelles tax");
 - (b) in South Africa:
 - i) the normal tax; and
 - ii) the secondary tax on companies;
(hereinafter referred to as "South African tax").
4. The Agreement shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Agreement in addition to, or in place of the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their respective taxation laws or other laws or regulations affecting their obligations under the Agreement.

Article 3

General Definitions

1. For the purposes of this Agreement, unless the context otherwise requires:
 - (a)
 - i) the term "Seychelles" means the territory of the Republic of Seychelles including its exclusive economic zone and continental shelf where the Seychelles exercises exclusive jurisdiction with regard to fiscal laws and regulations in conformity with the provisions of the United Nations Convention on the Law of the Sea;
 - 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 term "person" includes an individual, a company and any other body of persons which is treated as an entity for tax purposes;
 - (c) the term "company" means any body corporate or any entity which is treated as a company or body corporate for tax purposes according to the laws of the Contracting State in which it is organised;
 - (d) 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;
 - (e) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
 - (f) the term "competent authority" means:
 - i) in Seychelles, the Minister of Finance or his authorised representative;
 - ii) in South Africa, the Commissioner for the South African Revenue Service or his authorised representative;

- (g) the term "national" means:
 - i) any individual possessing the nationality of a Contracting State;
 - ii) any legal person, association or other body of persons deriving its status as such from the laws in force in that Contracting State.
- 2. As regards the application of the provisions of the Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has at that time under the law of that State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4

Resident

- 1. For the purposes of this Agreement, the term "resident of a Contracting State" means:
 - (a) in Seychelles, any person who, under the laws of Seychelles, is liable to tax therein by reason of his domicile, residence, place of management or any other criteria of a similar nature, but this term does not include any person who is liable to tax in Seychelles in respect only of income from sources therein;
 - (b) in South Africa, any individual who is ordinarily resident in South Africa and any person other than an individual which has its place of effective management in South Africa;
 - (c) that State and any political subdivision or local authority thereof.
- 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 only 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 resident only 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 in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;