

No. 45758

**South Africa
and
India**

Agreement between the Government of the Republic of South Africa and the Government of the Republic of India for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with protocol). New Delhi, 4 December 1996

Entry into force: *28 November 1997 by notification, in accordance with article 28*

Authentic texts: *English and Hindi*

Registration with the Secretariat of the United Nations: *South Africa, 2 February 2009*

**Afrique du Sud
et
Inde**

Accord entre le Gouvernement de la République sud-africaine et le Gouvernement de la République de l'Inde tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu (avec protocole). New Delhi, 4 décembre 1996

Entrée en vigueur : *28 novembre 1997 par notification, conformément à l'article 28*

Textes authentiques : *anglais et hindi*

Enregistrement auprès du Secrétariat des Nations Unies : *Afrique du Sud, 2 février 2009*

[ENGLISH TEXT – TEXTE ANGLAIS]

AGREEMENT

BETWEEN THE

GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA

AND

THE GOVERNMENT OF THE REPUBLIC OF INDIA

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 India desiring to conclude an Agreement 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 Agreement shall apply to persons who are residents of one or both of the Contracting States.

Article 2

Taxes Covered

1. The existing taxes to which this Agreement shall apply are:
 - (a) in India, the income tax (including any surcharge thereon);
(hereinafter referred to as "Indian tax");

(b) in South Africa:

- (i) the income tax (the normal tax); and
- (ii) the secondary tax on companies;

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

2. The Agreement shall apply also to any identical or substantially similar taxes which are imposed by either Contracting State 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.

Article 3

General Definitions

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

- (a) the term "India" means the territory of the Republic of India and includes the territorial sea and airspace above it. For the purposes of this Agreement the term shall cover any other maritime zone in which the Republic of India has sovereign rights, other rights and jurisdictions, according to the Indian law and in accordance with international law in particular as laid down in the UN Convention of the Law of the Sea, 1982; and
- (b) 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;

- (c) the terms "a Contracting State" and "the other Contracting State" mean India or South Africa, as the context requires;
- (d) the term "company" means any body corporate or any entity which is treated as a company or body corporate for tax purposes;
- (e) the term "competent authority" means:
 - (i) in India, the Central Government in the Ministry of Finance (Department of Revenue) or their authorised representative; and
 - (ii) in South Africa, the Commissioner for Inland Revenue or his authorised representative;
- (f) 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;
- (g) the term "fiscal year" means:
 - (i) in India, the twelve-month period beginning on 1 April;
 - (ii) in South Africa, the "year of assessment" as defined in the Income Tax Act, 1962;
- (h) 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;