

**No. 45763**

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**South Africa  
and  
Indonesia**

**Agreement between the Government of the Republic of South Africa and the Government of the Republic of Indonesia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with protocol). Jakarta, 15 July 1997**

**Entry into force:** *23 November 1998 by notification, in accordance with article 27*

**Authentic text:** *English*

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

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**Afrique du Sud  
et  
Indonésie**

**Accord entre le Gouvernement de la République sud-africaine et le Gouvernement de la République d'Indonésie tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôt sur le revenu (avec protocole). Jakarta, 15 juillet 1997**

**Entrée en vigueur :** *23 novembre 1998 par notification, conformément à l'article 27*

**Texte authentique :** *anglais*

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

[ ENGLISH TEXT – TEXTE ANGLAIS ]

**A G R E E M E N T**

**BETWEEN**

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

**AND**

**THE GOVERNMENT OF THE REPUBLIC OF INDONESIA**

**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 Indonesia desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and 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 a 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 this Agreement shall apply are:
  - (a) in Indonesia:
    - (i) the income tax imposed under the Undang-undang Pajak Penghasilan 1984 (Law Number 7 of 1983, as amended);  
(hereinafter referred to as "Indonesian tax"); and

- (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 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 "Indonesia" means the territory of the Republic of Indonesia as defined in its laws, and parts of the continental shelf and adjacent seas over which the Republic of Indonesia has sovereignty, sovereign rights or jurisdiction in accordance with international law; 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 Indonesia 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 Indonesia, the Minister of Finance or his 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 "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;
  - (h) the term "national" means:
    - (i) any individual possessing the nationality of a Contracting State;
    - (ii) any legal person or association deriving its status as such from the laws in force in a Contracting State; and
  - (i) the term "person" includes an individual, a company and any other body of persons which is treated as an entity for tax purposes.
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 Indonesia, any person who, under the laws of Indonesia, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, but this term does not include any person who is liable to tax in Indonesia in respect only of income from sources in Indonesia;
  - (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.