

No. 45768

**South Africa
and
Pakistan**

Convention between the Government of the Republic of South Africa and the Government of the Islamic Republic of Pakistan for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Pretoria, 26 January 1998

Entry into force: *9 March 1999 by notification, in accordance with article 27*

Authentic text: *English*

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

**Afrique du Sud
et
Pakistan**

Convention entre le Gouvernement de la République sud-africaine et le Gouvernement de la République islamique du Pakistan tendant à éviter les doubles impositions et à prévenir l'évasion fiscale en matière d'impôts sur le revenu. Pretoria, 26 janvier 1998

Entrée en vigueur : *9 mars 1999 par notification, conformément à l'article 27*

Texte authentique : *anglais*

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[ENGLISH TEXT – TEXTE ANGLAIS]

CONVENTION

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA

AND

THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN

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 Islamic Republic of Pakistan desiring to conclude a Convention 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 Convention shall apply to persons who are residents of one or both of the Contracting States.

Article 2

Taxes Covered

1. This Convention 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.
3. The existing taxes to which the Convention shall apply are:

(a) in Pakistan:

- (i) the income tax;
- (ii) the super tax; and
- (iii) the surcharge;

(hereinafter referred to as "Pakistan 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 Convention shall apply also to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of the Convention 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 Convention, unless the context otherwise requires:
 - (a) the term "Pakistan" when used in a geographical sense means Pakistan as defined in the Constitution of the Islamic Republic of Pakistan and includes any area outside the territorial waters of Pakistan which under the laws of Pakistan and international law is an area within which Pakistan exercises sovereign rights and exclusive jurisdiction with respect to the natural resources of the seabed, subsoil and superjacent waters; 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 Pakistan 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 Pakistan, the Central Board of Revenue or its authorised representative; and
 - (ii) in South Africa, the Commissioner for the South African Revenue Service 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 citizenship or 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;
 - (i) the term "person" includes an individual, a company and any other body of persons which is treated as an entity for tax purposes; and
 - (j) the term "tax" means Pakistan tax or South African tax, as the context requires.
2. As regards the application of the provisions of the Convention 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 Convention 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 Convention, the term "resident of a Contracting State" means:
- (a) in Pakistan, any person who, under the laws of Pakistan, 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 Pakistan 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 a resident only of the State with which his personal and economic relations are closer (centre of vital interests);