

No. 48240

**Mexico
and
South Africa**

Agreement between the United Mexican States and the Republic of South Africa for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with protocol). Cape Town, 19 February 2009

Entry into force: *22 July 2010 by notification, in accordance with article 28*

Authentic texts: *English and Spanish*

Registration with the Secretariat of the United Nations: *Mexico, 6 January 2011*

**Mexique
et
Afrique du Sud**

Accord entre les États-Unis du Mexique et la République sud-africaine tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu (avec protocole). Le Cap, 19 février 2009

Entrée en vigueur : *22 juillet 2010 par notification, conformément à l'article 28*

Textes authentiques : *anglais et espagnol*

Enregistrement auprès du Secrétariat des Nations Unies : *Mexique, 6 janvier 2011*

[ENGLISH TEXT – TEXTE ANGLAIS]

**AGREEMENT BETWEEN THE UNITED MEXICAN STATES AND THE REPUBLIC OF
SOUTH AFRICA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE
PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME**

Preamble

The United Mexican States and Republic of South Africa

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
Persons Covered

This Agreement shall apply to persons who are residents of one or both of
the Contracting States, except as otherwise provided in the Agreement.

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 the Agreement shall apply are in particular:

(a) in Mexico:

- (i) the federal income tax; and
- (ii) the business flat rate tax;

(hereinafter referred to as "Mexican tax");

(b) in South Africa:

- (i) the normal tax;
- (ii) the secondary tax on companies;
- (iii) the withholding tax on royalties; and
- (iv) the tax on foreign entertainers and sportspersons;

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

4. The Agreement shall apply also to any identical or substantially similar taxes that 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 that have been made in their taxation laws.

Article 3

General Definitions

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

- (a) the term "Mexico" means the United Mexican States, when used in a geographical sense it includes the territory of the United Mexican States, as well as the integrated parts of the Federation, the islands, including the reefs and cays in the adjacent waters, the islands of Guadalupe and Revillagigedo,

the continental shelf and the seabed and sub-soil of the islands, cays and reefs, the waters of the territorial seas and the inland waters and beyond them the areas over which, in accordance with the international law, Mexico may exercise its sovereign rights of exploration and exploitation of the natural resources of the seabed, sub-soil and the supra-jacent waters, and the air space of the national territory to the extent and under conditions established by international law;

- (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 Mexico or South Africa, as the context requires;
- (d) the term "business" includes the performance of professional services and of other activities of an independent character;
- (e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
- (f) the term "competent authority" means:
 - (i) in Mexico, the Ministry of Finance and Public Credit; and
 - (ii) in South Africa, the Commissioner for the South African Revenue Service or an authorised representative of the Commissioner;
- (g) the term "enterprise" applies to the carrying on of any business;
- (h) 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;

- (i) the term "international traffic" means any transport by a ship or aircraft operated by a resident of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (j) the term "national", in relation to a Contracting State, means:
 - (i) any individual possessing the nationality or citizenship of that Contracting State; and
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State; and
- (k) the term "person" includes an individual, a company and any other body of persons that 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 that 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 any person who, under the laws of that State, is liable to tax therein by reason of that person's domicile, residence, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.