

No. 50308

**South Africa
and
San Marino**

Agreement between the Government of the Republic of South Africa and the Government of the Republic of San Marino for the exchange of information relating to tax matters (with exchange of notes, 29 December 2011 and 4 January 2012). Pretoria, 10 March 2011

Entry into force: *28 January 2012, in accordance with article 10*

Authentic texts: *English and Italian*

Notes I and II: *English*

Registration with the Secretariat of the United Nations: *South Africa, 11 December 2012*

**Afrique du Sud
et
Saint-Marin**

Accord entre le Gouvernement de la République sud-africaine et le Gouvernement de la République de Saint-Marin relatif à l'échange de renseignements en matière fiscale (avec échange de notes, 29 décembre 2011 et 4 janvier 2012). Pretoria, 10 mars 2011

Entrée en vigueur : *28 janvier 2012, conformément à l'article 10*

Textes authentiques : *anglais et italien*

Notes I et II : *anglais*

Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies : *Afrique du Sud, 11 décembre 2012*

[ENGLISH TEXT – TEXTE ANGLAIS]

AGREEMENT

BETWEEN

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

AND

**THE GOVERNMENT OF THE
REPUBLIC OF SAN MARINO**

**FOR THE EXCHANGE OF INFORMATION
RELATING TO TAX MATTERS**

PREAMBLE

WHEREAS the Government of the Republic of South Africa and the Government of the Republic of San Marino (“the Parties”) have long been active in international efforts in the fight against financial and other crimes, including the targeting of terrorist financing;

WHEREAS the Parties wish to enhance and facilitate the terms and conditions governing the exchange of information relating to taxes;

DESIRING THEREFORE the Parties in concluding the following Agreement which contains obligations on the part of the Parties only;

HAVE AGREED AS FOLLOWS:

ARTICLE 1

SCOPE OF THE AGREEMENT

The Parties through their competent authorities shall provide assistance through exchange of information that is foreseeably relevant to the administration and enforcement of the domestic laws of the Parties concerning the taxes covered by this Agreement, including information that is foreseeably relevant to the determination, assessment, enforcement or collection of tax with respect to persons subject to such taxes, or to the investigation of tax matters or the prosecution of criminal tax matters in relation to such persons. A requested Party is not obliged to provide information which is neither held by its authorities nor in the possession of or obtainable by persons who are within its territorial jurisdiction. The rights and safeguards secured to persons by the laws or administrative practice of the requested Party remain applicable. The requested Party shall use its best endeavours to ensure that the effective exchange of information is not unduly prevented or delayed.

ARTICLE 2

TAXES COVERED

1. This Agreement shall apply to the following taxes imposed by the Parties:
 - (a) in the case of the Republic of San Marino:
 - (i) the General Income Tax which is levied (Imposta Generale sui Redditi):
 - on individuals;
 - on bodies corporate and proprietorship;
 - (ii) Indirect Import Tax, (Imposta Monofase sulle Importazioni); and

- (b) in the case of South Africa:
 - (i) the normal tax;
 - (ii) the secondary tax on companies;
 - (iii) the withholding tax on royalties;
 - (iv) the tax on foreign entertainers and sportspersons;
 - (v) the value added tax.
- 2. This Agreement shall apply also to any identical taxes imposed after the date of signature of the Agreement in addition to or in place of the existing taxes, or any substantially similar taxes if the Parties so agree. The competent authority of each Party shall notify the other of substantial changes in laws which may affect the obligations of that Party pursuant to this Agreement.

ARTICLE 3

GENERAL DEFINITIONS

- 1. In this Agreement:
 - (a) the term "Republic of San Marino", when used in a geographical sense, means the territory of the Republic of San Marino, including any other area within which the Republic of San Marino, in accordance with international law, exercises sovereign rights or jurisdiction; 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 of jurisdiction;
 - (c) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - (d) the term "competent authority" means:
 - (i) in the case of the Republic of San Marino, the Ministry of Finance or an authorised representative of the Minister; and
 - (ii) in the case of South Africa, the Commissioner of the South African Revenue Service or an authorised representative of the Commissioner;
 - (e) the term "criminal laws" means all criminal laws designated as such under domestic law, irrespective of whether such are contained in the tax laws, the criminal code or other statutes;

- (f) the term "criminal tax matters" means tax matters involving intentional conduct whether before or after the entry into force of this Agreement which is liable to prosecution under the criminal laws of the requesting Party;
 - (g) the term "information" means any fact, statement, document or record in whatever form;
 - (h) the term "information gathering measures" means laws and administrative or judicial procedures enabling a requested Party to obtain and provide the information requested;
 - (i) the term "person" means a natural person, a company or any other body or group of persons;
 - (j) the term "publicly traded company" means any company whose principal class of shares is listed on a recognised stock exchange provided its listed shares can be readily purchased or sold by the public. Shares can be purchased or sold "by the public" if the purchase or sale of shares is not implicitly or explicitly restricted to a limited group of investors;
 - (k) the term "principal class of shares" means the class or classes of shares representing a majority of the voting power and value of the company;
 - (l) the term "recognised stock exchange" means any stock exchange agreed upon by the competent authorities of the Parties;
 - (m) the term "public collective investment scheme" means any scheme or fund, in which the purchase, sale or redemption of shares or other interests is not implicitly or explicitly restricted to a limited group of investors;
 - (n) the term "requested Party" means the Party to this Agreement which is requested to provide or has provided information in response to a request;
 - (o) the term "requesting Party" means the Party to this Agreement submitting a request for or having received information from the requested Party; and
 - (p) the term "tax" means any tax covered by this Agreement.
2. As regards the application of this Agreement at any time by a Party, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the laws of that Party, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.