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**South Africa
and
Samoa**

Agreement between the Government of the Republic of South Africa and the Government of Samoa for the exchange of information relating to tax matters. Apia, 26 July 2012

Entry into force: *28 May 2017, in accordance with article 11*

Authentic text: *English*

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**Afrique du Sud
et
Samoa**

Accord entre le Gouvernement de la République sud-africaine et le Gouvernement du Samoa relatif à l'échange de renseignements en matière fiscale. Apia, 26 juillet 2012

Entrée en vigueur : *28 mai 2017, conformément à l'article 11*

Texte authentique : *anglais*

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AGREEMENT
BETWEEN
THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA
AND
THE GOVERNMENT OF
SAMOA
FOR THE EXCHANGE OF INFORMATION
RELATING TO TAX MATTERS

PREAMBLE

WHEREAS the Government of the Republic of South Africa and the Government of Samoa ("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

1. 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. 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.
2. 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.

ARTICLE 2

TAXES COVERED

1. The taxes which are the subject of this Agreement are taxes of every kind and description imposed by the Parties at the date of signature of the Agreement.
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 "Samoa" means the Independent State of Samoa and the territorial waters thereof;
- (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 Samoa, the Minister of Revenue or an authorised representative of the Minister of Revenue; 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" includes an individual, 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.

ARTICLE 4

EXCHANGE OF INFORMATION UPON REQUEST

1. The competent authority of the requested Party shall provide upon request by the requesting Party information for the purposes referred to in Article 1. Such information shall be exchanged without regard to whether the requested Party needs such information for its own tax purposes or the conduct being investigated would constitute a crime under the laws of the requested Party if it had occurred in the territory of the requested Party. The competent authority of the requesting Party shall only make a request for information pursuant to this Article when it is unable to obtain the requested information by other means, except where recourse to such means would give rise to disproportionate difficulty.
2. If the information in the possession of the competent authority of the requested Party is not sufficient to enable it to comply with the request for information, the requested Party shall use the information gathering measures it considers relevant to provide the requesting Party with the information requested, notwithstanding that the requested Party may not need such information for its own tax purposes.