

**No. 45145\***

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**South Africa  
and  
Ghana**

**Convention between the Government of the Republic of South Africa and the Government of the Republic of Ghana for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital gains. Accra, 2 November 2004**

**Entry into force:** *23 April 2007 by notification, in accordance with article 30*

**Authentic texts:** *English*

**Registration with the Secretariat of the United Nations:** *South Africa, 1 August 2008*

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**Afrique du Sud  
et  
Ghana**

**Convention entre le Gouvernement de la République sud-africaine et le Gouvernement de la République du Ghana tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur les gains en capital. Accra, 2 novembre 2004**

**Entrée en vigueur :** *23 avril 2007 par notification, conformément à l'article 30*

**Textes authentiques :** *anglais*

**Enregistrement auprès du Secrétariat des Nations Unies :** *Afrique du Sud, 1er août 2008*

\* *The text reproduced below is the original text of the agreement as submitted. For ease of reference, it was sequentially paginated. The relevant Treaty Series volume will be published in due course.*

*Le texte reproduit ci-dessous est le texte authentique de l'accord tel que soumis pour l'enregistrement. Pour référence, il a été présenté sous forme de la pagination consécutive. Le volume correspondant du Recueil des Traités sera disponible en temps utile.*

[ ENGLISH TEXT – TEXTE ANGLAIS ]

CONVENTION  
BETWEEN  
THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA  
AND  
THE GOVERNMENT OF THE REPUBLIC OF GHANA  
FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE  
PREVENTION OF FISCAL EVASION WITH RESPECT TO  
TAXES ON INCOME AND ON CAPITAL GAINS

**Preamble**

The Government of the Republic of South Africa and the Government of the Republic of Ghana desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital gains,

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 and on capital gains 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 and on capital gains all taxes imposed on total income, and on total capital gains, or on elements of income or on elements of capital gains, including taxes on gains from the alienation of movable or immovable property and taxes on the total amounts of wages and salaries paid by enterprises.
3. The existing taxes to which the Convention shall apply are:
  - (a) in Ghana:
    - (i) the income tax; and
    - (ii) the capital gains tax;(hereinafter referred to as "Ghana tax"); and
  - (b) in South Africa:
    - (i) the normal tax;
    - (ii) the secondary tax on companies; and
    - (iii) the withholding tax on royalties;(hereinafter referred to as "South African tax").

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

### Article 3

#### *General Definitions*

1. For the purposes of this Convention, unless the context otherwise requires:
  - (a) the term "Ghana" means the territory of the Republic of Ghana including the territorial sea and any area outside the territorial sea within which, in accordance with international law, the Republic of Ghana has sovereign rights for the purpose of exploring and exploiting the natural resources of the seabed and its subsoil and the 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 Ghana or South Africa, as the context requires;
  - (d) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
  - (e) the term "competent authority" means:
    - (i) in Ghana, the Commissioner of Internal Revenue or an authorised representative; and
    - (ii) in South Africa, the Commissioner for the South African Revenue Service or an authorised representative;
  - (f) the term "enterprise" applies to the carrying on of any business;
  - (g) 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;
  - (h) 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;

- (i) 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
  - (j) 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 Convention 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 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 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 or capital gains from sources in that State.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then that individual's status shall be determined as follows:
  - (a) the individual shall be deemed to be a resident solely of the State in which a permanent home is available to the individual; if a permanent home is available to the individual in both States, the individual shall be deemed to be a resident solely of the State with which the individual's personal and economic relations are closer (centre of vital interests);
  - (b) if sole residence cannot be determined under the provisions of subparagraph (a), the individual shall be deemed to be a resident solely of the State in which the individual has an habitual abode;
  - (c) if the individual has an habitual abode in both States or in neither of them, the individual shall be deemed to be a resident solely of the State of which the individual is a national;
  - (d) if the individual is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.