

**No. 45285\***

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**South Africa  
and  
Spain**

**Convention between the Republic of South Africa and the Kingdom of Spain for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital (with protocol). Madrid, 23 June 2006**

**Entry into force:** *28 December 2007 by notification, in accordance with article 27*

**Authentic texts:** *English and Spanish*

**Registration with the Secretariat of the United Nations:** *South Africa, 15 September 2008*

*\*The texts reproduced below are the original texts of the agreement as submitted. For ease of reference, they were sequentially paginated. The relevant Treaty Series volume will be published in due course.*

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**Afrique du Sud  
et  
Espagne**

**Convention entre la République sud-africaine et le Royaume d'Espagne tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur la fortune (avec protocole). Madrid, 23 juin 2006**

**Entrée en vigueur :** *28 décembre 2007 par notification, conformément à l'article 27*

**Textes authentiques :** *anglais et espagnol*

**Enregistrement auprès du Secrétariat des Nations Unies :** *Afrique du Sud, 15 septembre 2008*

*\*Les textes reproduit ci-dessous sont les textes authentiques de l'accord tel que soumises pour l'enregistrement. Pour référence, ils ont été présentés 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 REPUBLIC OF SOUTH AFRICA**

**AND**

**THE KINGDOM OF SPAIN**

**FOR THE AVOIDANCE OF DOUBLE TAXATION**

**AND THE PREVENTION OF FISCAL EVASION**

**WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**

## **PREAMBLE**

The Republic of South Africa and the Kingdom of Spain 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 in order 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 and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.
3. The existing taxes to which the Convention shall apply are in particular:
  - a) in Spain:
    - i) the income tax on individuals,
    - ii) the corporation tax,
    - iii) the income tax on non-residents,
    - iv) the capital tax, and
    - v) the local taxes on income and on capital;(hereinafter referred to as "Spanish 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 respective taxation laws.

### **Article 3**

#### ***General Definitions***

1. For the purposes of this Convention, unless the context otherwise requires:
- a) the term “Spain” means the Spanish State, and when used in a geographical sense, means the territory of the Spanish State including any area outside the territorial sea upon which, in accordance with international law and on application of its domestic legislation, the Spanish State exercises or may exercise jurisdiction or sovereign rights with respect to the seabed, its subsoil and superjacent waters, and their natural resources;
  - 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 Spain 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 “person” includes an individual, a company and any other body of persons that is treated as an entity for tax purposes;
  - f) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;
  - 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 “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;
  - j) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
  - k) the term “competent authority” means:
    - i) in Spain, the Minister of Finance or an authorised representative of this Ministry;
    - ii) in South Africa, the Commissioner for the South African Revenue Service or an authorised representative.
2. As regards the application 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 from sources in that State or capital situated therein.