

No. 45418*

**South Africa
and
Norway**

Convention between the Republic of South Africa and the Kingdom of Norway for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Cape Town, 12 February 1996

Entry into force: *12 September 1996 by notification, in accordance with article 30*

Authentic texts: *English*

Registration with the Secretariat of the United Nations: *South Africa, 3 November 2008*

**Afrique du Sud
et
Norvège**

Convention entre la République sud-africaine et le Royaume de Norvège tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu. Le Cap, 12 février 1996

Entrée en vigueur : *12 septembre 1996 par notification, conformément à l'article 30*

Textes authentiques : *anglais*

Enregistrement auprès du Secrétariat des Nations Unies : *Afrique du Sud, 3 novembre 2008*

** The texts reproduced below are the original texts of the agreement as submitted. For ease of reference, they were sequentially paginated. Their final UNTS version is not yet available.*

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. Leur version finale RTNU n'est pas encore disponible.

[ENGLISH TEXT – TEXTE ANGLAIS]

CONVENTION BETWEEN THE REPUBLIC OF SOUTH AFRICA AND THE
KINGDOM OF NORWAY FOR THE AVOIDANCE OF DOUBLE
TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RE-
SPECT TO TAXES ON INCOME

The Government of the Republic of South Africa and the Government of the King-
dom of Norway desiring to conclude a Convention for the Avoidance of Double Taxa-
tion and the Prevention of Fiscal Evasion with respect to Taxes on Income,

Have agreed as follows:

Article 1. Personal Scope

This Convention shall apply to persons who are residents of one or both of the Con-
tracting States.

Article 2. Taxes Covered

1. The existing taxes to which this Convention shall apply are:
 - a) in Norway:
 - i) the national tax on income (inntektsskatt til staten);
 - ii) the county municipal tax on income (inntektsskatt til fylkeskommunen);
 - iii) the municipal tax on income (inntektsskatt til kommunen);
 - iv) the national contributions to the Tax Equalisation Fund (fellesskatt til Skattefordelingsfondet);
 - v) the national tax relating to income from the exploration for and the exploitation of submarine petroleum resources and activities and work relating thereto, including pipeline transport of petroleum produced (skatt til staten vedrørende inntekt i forbindelse med undersøkelse etter og utnyttelse av undersjøiske petroleumforekomster og dertil knyttet virksomhet og arbeid, herunder rørledningstransport av utvunnet petroleum); and
 - vi) the national dues on remuneration to non-resident artistes (avgift til staten av honorarer som tilfaller kunstnere bosatt i utlandet);(hereinafter referred to as "Norwegian tax");
 - b) in South Africa:
 - i) the income tax (the normal tax); and
 - ii) the secondary tax on companies;

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

2. The Convention shall apply also to any identical or substantially similar taxes which are imposed by either Contracting State 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 which 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 "Norway" means the Kingdom of Norway, including any area outside the territorial waters of the Kingdom of Norway where the Kingdom of Norway, according to Norwegian legislation and in accordance with international law, may exercise her rights with respect to the seabed and subsoil and their natural resources; the term does not comprise Svalbard, Jan Mayen and the Norwegian dependencies ("biland");
 - 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 term "nationals" means:
 - i) all individuals possessing the nationality of a Contracting State;
 - ii) all legal persons and associations deriving their status as such from the laws in force in a Contracting State;
 - d) the term "person" includes an individual, a company and any other body of persons which is treated as an entity for tax purposes;
 - e) the term "company" means any body corporate or any entity which is treated as a company or body corporate for tax purposes;
 - f) the terms "a Contracting State" and "the other Contracting State" mean Norway or South Africa, as the context requires;
 - 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 "competent authority" means:
 - i) in Norway, the Minister of Finance and Customs or his authorised representative;

- ii) in South Africa, the Commissioner for Inland Revenue or his 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 which it has at that time under the law of that State concerning the taxes to which the Convention applies.

Article 4. Resident

1. For the purposes of this Convention, the term "resident of a Contracting State" means:

- a) in Norway, any person who, under the laws of Norway, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, but this term does not include any person who is liable to tax in Norway in respect only of income from sources in Norway; and
- b) in South Africa, any individual who is ordinarily resident in South Africa and any other person which has its place of effective management in South Africa.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

- a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
- b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
- c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;
- d) if he 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.

3. Where by reason of the provisions of paragraph 1, a person other than an individual is a resident of both Contracting States, then the competent authorities of the Contracting States shall settle the question by mutual agreement.

Article 5. Permanent Establishment

For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

The term "permanent establishment" includes especially:

- a) a place of management;
- b) a branch;
- c) an office;

- d) a factory;
- e) a workshop; and
- f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

A building site, a construction, assembly or installation project or a supervisory or consultancy activity connected therewith constitutes a permanent establishment only if such site, project or activity lasts for a period of more than twelve months.

Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

- a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.