

**No. 53956\***

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**South Africa  
and  
Lesotho**

**Agreement between the Government of the Republic of South Africa and the Government of the Kingdom of Lesotho on mutual assistance and co-operation and the prevention of fiscal evasion with respect to value-added tax (with exchange of notes). Maseru, 6 March 2014**

**Entry into force:** *29 October 2014 by notification, in accordance with article 8*

**Authentic text:** *English*

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**Afrique du Sud  
et  
Lesotho**

**Accord entre le Gouvernement de la République sud-africaine et le Gouvernement du Royaume du Lesotho concernant l'assistance mutuelle et la collaboration et la prévention de l'évasion fiscale relative à la taxe sur la valeur ajoutée (avec échange de notes). Maseru, 6 mars 2014**

**Entrée en vigueur :** *29 octobre 2014 par notification, conformément à l'article 8*

**Texte authentique :** *anglais*

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[ ENGLISH TEXT – TEXTE ANGLAIS ]

**AGREEMENT**

**BETWEEN**

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

**AND**

**THE GOVERNMENT OF THE  
KINGDOM OF LESOTHO**

**ON MUTUAL ASSISTANCE**

**AND**

**CO-OPERATION**

**AND**

**THE PREVENTION OF FISCAL EVASION WITH  
RESPECT TO VALUE-ADDED TAX**

**PREAMBLE**

The Government of the Republic of South Africa and the Government of the Kingdom of Lesotho (hereinafter jointly referred to as the “Contracting States” and in the singular as the “Contracting State”) –

**HAVING** regard to their tax legislation;

**WISHING** to enter into an agreement to make provision for and regulate various matters relating to tax;

**CONSCIOUS** that practices of tax evasion and tax avoidance extending across the frontiers of the Contracting States lead to budget losses and are liable to bring about distortion of business practices and conditions of competition;

**CONSCIOUS** that the international nature of the problem renders national measures insufficient because their effect does not extend beyond national frontiers;

**DESIROUS** to exchange any information which appears relevant for the correct assessment or refund of tax or where such tax has been or may be evaded or avoided so as to obtain an undue tax benefit;

**RECOGNISING** that collaboration between the tax authorities is necessary for the continuous study of co-operation procedures and the pooling of experience in the field of tax with the aim of improving those procedures and of preparing appropriate rules;

**DESIROUS** that the Agreement should provide for mutual assistance and co-operation between the Contracting States and should be construed as complementary to, and not curtailing, mutual assistance between the Contracting States under any other agreements or arrangements;

**HEREBY AGREE** as follows:

## ARTICLE 1

### DEFINITIONS

In this Agreement, any word or expression to which a meaning has been assigned in the tax legislation shall have the meaning so assigned, unless the context otherwise indicates and –

- (a) “assessment” means any assessment made by a tax authority in respect of tax;
- (b) “Claims and Refund Manager” means the person that may be appointed from time to time, being responsible for managing, administering or rendering any advice, service or assistance regarding the operation of a refund system in accordance with the tax legislation of Lesotho and South Africa, as the case may be;
- (c) “export State” means the Contracting State from which goods or services are exported to the other Contracting State;
- (d) “from outside the Contracting States” means from any country other than Lesotho or South Africa;
- (e) “import State” means the Contracting State to which goods or services are imported from the other Contracting State;
- (f) “Lesotho” means the sovereign Kingdom of Lesotho comprising all the areas that immediately before 4 October 1966 were comprised in the former colony of Basutoland together with such other areas that may, in accordance with international law, be declared by an Act of the Lesotho Parliament to form part of Lesotho;
- (g) “person” includes any public authority, any local authority, any company, any body of persons (corporate or unincorporate), the estate of any deceased or insolvent person and any trust fund which is treated as an entity for tax purposes;
- (h) “requested authority” means the tax authority of the Contracting State from which assistance is requested;
- (i) “requesting authority” means the tax authority of the Contracting State which requests assistance;
- (j) “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;
- (k) “tax” means value-added tax in Lesotho and South Africa, as the case may be;

- (l) "tax authority" means -
  - (i) in Lesotho, the Commissioner General of the Lesotho Revenue Authority or an authorised representative of the Commissioner General; and
  - (ii) in South Africa, the Commissioner for the South African Revenue Service or an authorised representative of the Commissioner;
- (m) "tax legislation" means the legislation which provides for the levy and payment of value-added tax in Lesotho and South Africa, as the case may be.

## **ARTICLE 2**

### **TAXES COVERED**

1. This Agreement shall apply in respect of tax levied in terms of the applicable tax legislation of each of the Contracting States.
2. The tax authorities of the Contracting States shall notify each other of any significant changes in their respective tax legislation.

## **ARTICLE 3**

### **REFUND SYSTEM**

1. Under the powers vested in the Governments of the Contracting States by the relevant provisions of the tax legislation, a refund system to administer the refund and assessment of tax as provided for in this Agreement shall be established.
2. Each Contracting State may appoint a Claims and Refund Manager and shall inform the other Contracting State of any such appointment.
3. Refunds in respect of tax shall be administered by each Contracting State or by the Claims and Refund Manager subject to tax legislation and in accordance with the provisions of this Agreement.
4. The tax authorities of the Contracting States shall, subject to tax legislation and in accordance with the provisions of the Agreement, develop a Memorandum of Understanding setting out operational procedures regarding -
  - (a) any matter relating to the refund of tax in respect of exports from an export State to an import State;
  - (b) the determining and monitoring of the amounts refundable in terms of the Agreement;
  - (c) the intervals at which refunds are to be made in terms of the Agreement;
  - (d) the responsibilities of a Claims and Refund Manager; and