

**No. 53970\***

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**South Africa  
and  
Cook Islands**

**Agreement between the Government of the Republic of South Africa and the Government of the Cook Islands for the exchange of information relating to tax matters. Avarua, 25 October 2013**

**Entry into force:** *8 January 2015, in accordance with article 10*

**Authentic text:** *English*

**Registration with the Secretariat of the United Nations:** *South Africa, 20 October 2016*

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**Afrique du Sud  
et  
Îles Cook**

**Accord entre le Gouvernement de la République sud-africaine et le Gouvernement des Îles Cook relatif à l'échange d'informations en matière fiscale. Avarua, 25 octobre 2013**

**Entrée en vigueur :** *8 janvier 2015, conformément à l'article 10*

**Texte authentique :** *anglais*

**Enregistrement auprès du Secrétariat des Nations Unies :** *Afrique du Sud, 20 octobre 2016*

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**AGREEMENT**

**BETWEEN**

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

**AND**

**THE GOVERNMENT OF THE  
COOK ISLANDS**

**FOR THE EXCHANGE OF INFORMATION**

**RELATING TO TAX MATTERS**

**PREAMBLE**

**WHEREAS** the Government of the Republic of South Africa and the Government of the Cook Islands (“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**

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. 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. 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.

## **ARTICLE 2**

### **TAXES COVERED**

1. This Agreement shall apply to the following taxes imposed by the Parties:
  - (a) in the case of the Cook Islands:
    - (i) the personal income tax;
    - (ii) the company income tax;
    - (iii) the withholding tax on dividends, interest and royalties; and
    - (iv) the value-added tax.
  - (b) in the case of South Africa:
    - (i) the normal tax;
    - (ii) the withholding tax on royalties;
    - (iii) the dividend tax;
    - (iv) the withholding tax on interest;
    - (v) the tax on foreign entertainers and sportspersons; and
    - (vi) the value-added tax.
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 "Cook Islands" means the territory of the Cook Islands; 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 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 the Cook Islands, the Collector of Inland 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;