

**No. 54491\***

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**South Africa  
and  
Costa Rica**

**Agreement between the Government of the Republic of South Africa and the Government of the Republic of Costa Rica for the exchange of information relating to tax matters. Cape Town, 27 October 2012**

**Entry into force:** *1 February 2017 by notification, in accordance with article 12*

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

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**Afrique du Sud  
et  
Costa Rica**

**Accord entre le Gouvernement de la République sud-africaine et le Gouvernement de la République du Costa Rica relatif à l'échange de renseignements en matière fiscale. Le Cap, 27 octobre 2012**

**Entrée en vigueur :** *1<sup>er</sup> février 2017 par notification, conformément à l'article 12*

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

**Enregistrement auprès du Secrétariat des Nations Unies :** *Afrique du Sud, 8 juin 2017*

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**AGREEMENT**

**BETWEEN**

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

**AND**

**THE GOVERNMENT OF THE  
REPUBLIC OF COSTA RICA**

**FOR THE EXCHANGE OF INFORMATION  
RELATING TO TAX MATTERS**

## **PREAMBLE**

The Government of the Republic of South Africa and the Government of the Republic of Costa Rica (hereinafter jointly referred to as “the Contracting Parties” and separately as “a Contracting Party”)desiring to facilitate the exchange of information with respect to taxes;

## **HAVE AGREEDAS FOLLOWS:**

### **ARTICLE 1**

#### **SCOPE OF THE AGREEMENT**

The competent authorities of the Contracting Parties shall provide assistance through exchange of information that is foreseeably relevant to the administration and enforcement of the domestic laws of the Contracting Parties concerning taxes covered by this Agreement. Such information shall include information that is foreseeably relevant to the determination, assessment and collection of such taxes, the recovery and enforcement of tax claims, or the investigation or prosecution of tax matters. Information shall be exchanged in accordance with the provisions of this Agreement and shall be treated as confidential in the manner provided in Article 8. The rights and safeguards secured to persons by the laws or administrative practice of the requested Party remain applicable to the extent that they do not unduly prevent or delay effective exchange of information.

### **ARTICLE 2**

#### **JURISDICTION**

A requested Party is not obligated to provide information which is neither held by its authorities nor in the possession or control of persons who are within its territorial jurisdiction.

### **ARTICLE 3**

#### **TAXES COVERED**

1. The taxes which are the subject of this Agreementare:
  - (a) in the Republic of Costa Rica: taxes of every type and description collected by the Ministry of Finance at the date of signature; and
  - (b) in the Republic of South Africa: taxes of every type and description imposed by the Government of the Republic of South Africaat the date of signature of this Agreement.

2. This Agreement shall also apply to any identical taxes imposed after the date of signature of the Agreement in addition to or in place of the existing taxes. This Agreement shall also apply to any substantially similar taxes imposed after the date of signature of the Agreement in addition to or in place of the existing taxes if the competent authorities of the Contracting Parties so agree. The competent authorities of the Contracting Parties shall notify each other of any substantial changes to the taxation and related information gathering measures covered by the Agreement.

## **ARTICLE 4**

### **DEFINITIONS**

1. In this Agreement:
  - (a) the term "Contracting Party" means Costa Rica or South Africa as the context requires;
  - (b) the term "Costa Rica" means the land, maritime, and air space under its sovereignty and the exclusive economic zone and the continental shelf within which it exercises sovereign rights and jurisdiction in accordance with international law and its domestic law;
  - (c) 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;
  - (d) the term "competent authority" means:
    - (i) in the case of Costa Rica, the, Director of the Tax Administration or an authorised representative of the Director; 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 "person" includes an individual, a company or any other body of persons;
  - (f) the term "company" means anybody corporate or any entity that is treated as a body corporate for tax purposes;
  - (g) the term "publicly traded company" means any company whose principal class of shares is listed on a recognised stock exchange provided its listed shares can be readily purchased or sold by the public. Shares can be purchased or sold "by the public" if the purchase or sale of shares is not implicitly or explicitly restricted to a limited group of investors;
  - (h) the term "principal class of shares" means the class or classes of shares representing a majority of the voting power and value of the company;

- (i) the term “recognised stock exchange” means any stock exchange agreed upon by the competent authorities of the Contracting Parties;
  - (j) the term “collective investment fund or scheme” means any pooled investment vehicle, irrespective of legal form. The term “public collective investment fund or scheme” means any collective investment fund or scheme provided the units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed by the public. Units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed “by the public” if the purchase, sale or redemption is not implicitly or explicitly restricted to a limited group of investors;
  - (k) the term “tax” means any tax to which the Agreement applies;
  - (l) the term “applicant Party” means the Contracting Party requesting information;
  - (m) the term “requested Party” means the Contracting Party requested to provide information;
  - (n) the term “information gathering measures” means laws and administrative or judicial procedures that enable a Contracting Party to obtain and provide the requested information;
  - (o) the term “information” means any fact, statement or record in any form whatever;
  - (p) the term “criminal tax matters” means tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the applicant Party;
  - (q) the term “criminal laws” means all criminal laws designated as such under domestic law irrespective of whether contained in the tax laws, the criminal code or other statutes.
2. As regards the application of this Agreement at any time by a Contracting Party, 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 Party, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

## ARTICLE 5

### EXCHANGE OF INFORMATION UPON REQUEST

1. The competent authority of the requested Party shall provide upon request information for the purposes referred to in Article 1. Such information shall be exchanged without regard to whether the conduct being investigated would constitute a crime under the laws of the requested Party if such conduct occurred in the requested Party.