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GOVERNMENT NOTICE

SOUTH AFRICAN REVENUE SERVICE

No. 1720

15 December 1997

INCOME TAX ACT, 1962

CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA AND THE GOVERNMENT OF IRELAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT OF TAXES ON INCOME AND CAPITAL GAINS

In terms of section 108 (2) of the Income Tax Act, 1962 (Act No. 58 of 1962), read in conjunction with section 231 (4) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), it is hereby notified that the Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains set out in the Schedule to this Notice has been entered into with the Government of Ireland and has been approved by Parliament in terms of section 231 (2) of the Constitution.

GOEWERMENTSKENNISGEWING

SUID-AFRIKAANSE INKOMSTEDIENS

No. 1720

15 Desember 1997

INKOMSTEBELASTINGWET, 1962

KONVENSIE TUSSEN DIE REGERING VAN DIE REPUBLIEK VAN SUID-AFRIKA EN DIE REGERING VAN IERLAND VIR DIE VERMYDING VAN DUBBELE BELASTING EN DIE VOORKOMING VAN FISKALE ONTDUIKING MET BETREKKING TOT BELASTINGS OP INKOMSTE EN KAPITAALWINSTE

Ingevolge artikel 108 (2) van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), saamgelees met artikel 231 (4) van die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996), word hiermee kennis gegee dat die Konvensie vir die vermyding van dubbele belasting en die voorkoming van fiskale ontduiking met betrekking tot belasting op inkomste en kapitaalwinste wat in die Bylae tot hierdie Kennisgewing vervat is, aangegaan is met die Regering van Ierland en deur die Parlement goedgekeur is ingevolge artikel 231 (2) van die Grondwet.

CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA AND THE GOVERNMENT OF IRELAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS

The Government of the Republic of South Africa and the Government of Ireland, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains and 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 capital gains imposed on behalf of a Contracting State or of its political subdivisions, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and capital gains all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property.

3. The existing taxes to which this Convention shall apply are:

(a) in Ireland:

- (i) the income tax;
- (ii) the corporation tax; and
- (iii) the capital gains tax;

(hereinafter referred to as "Irish tax"); and

(b) in South Africa:

- (i) the normal tax; and
- (ii) the secondary tax on companies;

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

4. 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.

KONVENSIË TUSSEN DIE REGERING VAN DIE REPUBLIEK VAN SUID-AFRIKA EN DIE REGERING VAN IERLAND VIR DIE VERMYDING VAN DUBBELE BELASTING EN DIE VOORKOMING VAN FISCALE ONTDUIKING MET BETREKKING TOT BELASTINGS OP INKOMSTE EN KAPITAALWINSTE

Die Regering van die Republiek van Suid-Afrika en die Regering van Ierland het, uit 'n begeerte om 'n Konvensie te sluit vir die vermyding van dubbele belasting en die voorkoming van fiskale ontduiking met betrekking tot belasting op inkomste en kapitaalwinste en om die ekonomiese bande tussen die twee lande te bevorder en te versterk,

Soos volg ooreengekom:

Artikel 1

Persone Gedek

Hierdie Konvensie is van toepassing op persone wat inwoners van een of van albei die Kontrakterende State is.

Artikel 2

Belastings Gedek

1. Hierdie Konvensie is van toepassing op belasting op inkomste en kapitaalwinste opgelê namens 'n Kontrakterende Staat of sy staatkundige onderverdelings, ongeag die wyse waarop dit gehef word.

2. As belasting op inkomste en kapitaalwinste word geag alle belasting gehef op totale inkomste, of op bestanddele van inkomste, met inbegrip van belasting op winste uit die vervreemding van roerende of onroerende eiendom.

3. Die bestaande belasting waarop hierdie Konvensie van toepassing is, is:

(a) in Ierland:

- (i) die inkomstebelasting;
- (ii) die maatskappybelasting; en
- (iii) die kapitaalwinstbelasting;

(hierna "Ierse belasting" genoem); en

(b) in Suid-Afrika:

- (i) die normale belasting; en
- (ii) die sekondêre belasting op maatskappye;

(hierna "Suid-Afrikaanse belasting" genoem).

4. Die Konvensie is ook van toepassing op enige identiese of wesenlik soortgelyke belasting wat bykomend by of in plaas van die bestaande belasting deur enige van die Kontrakterende State opgelê word na die datum van ondertekening van die Konvensie. Die bevoegde owerhede van die Kontrakterende State moet mekaar in kennis stel van enige wesenlike veranderinge wat aan hulle onderskeie belastingwette aangebring is.

Article 3**General Definitions**

1. For the purposes of this Convention, unless the context otherwise requires:

- (a) the term "Ireland" includes any area outside the territorial waters of Ireland which, in accordance with international law, has been or may hereafter be designated under the laws of Ireland concerning the Continental Shelf, as an area within which the rights of Ireland with respect to the sea bed and subsoil and their natural resources may be exercised;
- (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 Ireland or South Africa, as the context requires;
- (d) the term "company" means any body corporate or any entity which is treated as a company or body corporate for tax purposes;
- (e) the term "competent authority" means:
 - (i) in Ireland, the Revenue Commissioners or their authorised representative; and
 - (ii) in South Africa, the Commissioner for Inland Revenue or his authorised representative;
- (f) 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;
- (g) 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;
- (h) the term "national" means:
 - (i) any individual who is a citizen of a Contracting State;
 - (ii) any legal person, association or other entity deriving its status as such from the laws in force in a Contracting State; and
- (i) the term "person" includes an individual, a company, an estate, a trust and any other body of persons but does not include a partnership.

2. As regards the application of the provisions 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 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.

Artikel 3***Algemene Woordomsrywings***

1. By die toepassing van hierdie Konvensie, tensy die samehang anders vereis:

- (a) sluit die uitdrukking "Ierland" enige gebied buite die territoriale waters van Ierland in wat, ooreenkomstig die volkereg, aangewys is of hierna aangewys word ingevolge die reg van Ierland rakende die Kontinentale Plat, as 'n deel waarbinne die regte van Ierland ten opsigte van die seebodem en ondergrond en die natuurlike hulpbronne daarvan uitgeoefen mag word;
- (b) beteken die uitdrukking "Suid-Afrika" die Republiek van Suid-Afrika en, wanneer in geografiese verband gebruik, ook die territoriale waters daarvan asook enige deel buite die territoriale waters, met inbegrip van die kontinentale plat, wat ingevolge die reg van Suid-Afrika en ooreenkomstig die volkereg aangewys is of hierna aangewys word as 'n deel waarbinne Suid-Afrika soewereine regte of jurisdiksie mag uitoefen;
- (c) beteken die uitdrukking "'n Kontrakterende Staat" en "die ander Kontrakterende Staat" Ierland of Suid-Afrika, na gelang die samehang vereis;
- (d) beteken die uitdrukking "maatskappy" enige regspersoon of enige entiteit wat vir belastingdoeleindes as 'n maatskappy of regspersoon behandel word;
- (e) beteken die uitdrukking "bevoegde owerheid":
 - (i) in Ierland, die Inkomste Kommissaris of hul gemagtigde verteenwoordiger; en
 - (ii) in Suid-Afrika, die Kommissaris van Binnelandse Inkomste of sy gemagtigde verteenwoordiger;
- (f) beteken die uitdrukking "onderneming van 'n Kontrakterende Staat" en "onderneming van die ander Kontrakterende Staat" onderskeidelik 'n onderneming bedryf deur 'n inwoner van 'n Kontrakterende Staat en 'n onderneming bedryf deur 'n inwoner van die ander Kontrakterende Staat;
- (g) beteken die uitdrukking "internasionale verkeer" enige vervoer per skip of vliegtuig bedryf deur 'n onderneming van 'n Kontrakterende Staat, behalwe wanneer die skip of vliegtuig slegs tussen plekke in die ander Kontrakterende Staat bedryf word;
- (h) beteken die uitdrukking "burger":
 - (i) 'n individu wat 'n burger van 'n Kontrakterende Staat is;
 - (ii) 'n regspersoon, vereniging of ander entiteit wat sy status as sodanig verkry van die wette wat in 'n Kontrakterende Staat van krag is; en
- (i) beteken die uitdrukking "persoon" ook 'n individu, 'n maatskappy, 'n boedel, 'n trust en enige ander liggaam van persone, maar sluit nie 'n vennootskap in nie.

2. By die toepassing te eniger tyd van die bepalinge van die Konvensie deur 'n Kontrakterende Staat, het 'n uitdrukking wat nie daarin omskryf is nie, tensy die samehang anders vereis, die betekenis wat op daardie tydstip daaraan geheg word volgens daardie Staat se wette betreffende die belastinge waarop die Konvensie van toepassing is en geniet enige betekenis volgens die toepaslike belastingwette van daardie Staat voorrang bo die betekenis aan die uitdrukking gegee kragtens ander wette van daardie Staat.

Article 4

Resident

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

- (a) in Ireland, any person who, under the laws of Ireland, 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 Ireland in respect only of income from sources in Ireland;
- (b) in South Africa, any individual who under the laws of South Africa is ordinarily resident in South Africa and any other person which has its place of effective management in South Africa;
- (c) that State and any political subdivision or local authority thereof.

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 only 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 only 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 only 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 it shall be deemed to be a resident only of the State in which its place of effective management is situated.

Article 5

Permanent Establishment

1. 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.

2. 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.

3. A building site, a construction, assembly or installation project or any supervisory activity in connection with such site or project, constitutes a permanent establishment only if such site, project or activity lasts more than twelve months.

Artikel 4**Inwoner**

1. By die toepassing van hierdie Konvensie beteken die uitdrukking "inwoner van 'n Kontrakterende Staat":

- (a) in Ierland, 'n persoon wat, kragtens die wette van Ierland, daarin belastingpligtig is uit hoofde van sy domisilie, verblyf, plek van bestuur of enige ander soortgelyke maatstaf, maar hierdie uitdrukking sluit nie 'n persoon in wat in Ierland belastingpligtig is slegs ten opsigte van inkomste verkry uit bronne in Ierland nie;
- (b) in Suid-Afrika, 'n persoon wat kragtens die wette van Suid-Afrika gewoonlik in Suid-Afrika woonagtig is en enige ander persoon wat sy plek van effektiewe bestuur in Suid-Afrika het;
- (c) daardie Staat en 'n staatkundige onderverdeling of plaaslike owerheid daarvan.

2. Waar 'n individu uit hoofde van die bepalings van paragraaf 1 'n inwoner van beide Kontrakterende State is, word sy status soos volg bepaal:

- (a) hy word geag 'n inwoner te wees slegs van die Staat waarin hy 'n permanente tuiste tot sy beskikking het; indien hy in beide State 'n permanente tuiste tot sy beskikking het, word hy geag 'n inwoner te wees van die Staat waarmee sy persoonlike en ekonomiese betrekkinge die nouste is (tuiste van lewensbelange);
- (b) indien daar nie bepaal kan word in watter Staat hy sy tuiste van lewensbelange het nie, of indien hy nie 'n permanente tuiste in enigeen van die State tot sy beskikking het nie, word hy geag 'n inwoner te wees slegs van die Staat waarin hy 'n gebruikelike verblyfplek het;
- (c) indien hy 'n gebruikelike verblyfplek in beide State het, of in geeneen van hulle nie, word hy geag 'n inwoner te wees slegs van die Staat waarvan hy 'n burger is;
- (d) indien hy 'n burger van beide State is, of van geeneen van hulle nie, beslis die bevoegde owerhede van die Kontrakterende State die saak deur middel van onderlinge ooreenkoms.

3. Waar uit hoofde van die bepalings van paragraaf 1 'n ander persoon as 'n individu 'n inwoner van beide Kontrakterende State is, word hy geag 'n inwoner te wees slegs van die Staat waarin sy plek van effektiewe bestuur geleë is.

Artikel 5**Permanente Saak**

1. By die toepassing van hierdie Konvensie beteken die uitdrukking "permanente saak" 'n vaste besigheidsplek waardeur die besigheid van 'n onderneming geheel en al of gedeeltelik gedryf word.

2. Die uitdrukking "permanente saak" sluit veral in:

- (a) 'n plek van bestuur;
- (b) 'n tak;
- (c) 'n kantoor;
- (d) 'n fabriek;
- (e) 'n werkwinkel; en
- (f) 'n myn, 'n olie- of gasbron, 'n steengroef of enige ander plek van ontginning van natuurlike hulpbronne.

3. 'n Bouterrein, 'n konstruksie-, monteer- of installasieprojek of enige toesighoudende bedrywigheid in verband met sodanige terrein of projek, maak 'n permanente saak uit slegs indien sodanige terrein, projek of bedrywigheid langer as twaalf maande bestaan.

4. 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 for 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; and
- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (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.

5. 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.

6. 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.

7. 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.

Article 6

Income from Immovable Property

1. Income derived by a resident of a Contracting State from immovable property, including income from agriculture or forestry, situated in the other Contracting State may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources. Ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting or use in any other form of immovable property.

4. Ondanks die voorgaande bepalings van hierdie Artikel, word die uitdrukking "permanente saak" geag nie in te sluit nie:
- (a) die gebruik van fasiliteite slegs met die doel om goedere of handelsware wat aan die onderneming behoort, op te berg, te vertoon of af te lewer;
 - (b) die instandhouding van 'n voorraad goedere of handelsware wat aan die onderneming behoort, slegs met die doel om dit op te berg, te vertoon of af te lewer;
 - (c) die instandhouding van 'n voorraad goedere of handelsware wat aan die onderneming behoort, slegs vir die doel van verwerking deur 'n ander onderneming;
 - (d) die instandhouding van 'n vaste besigheidsplek slegs met die doel om vir die onderneming goedere of handelsware aan te koop of inligting in te win;
 - (e) die instandhouding van 'n vaste besigheidsplek slegs met die doel om enige ander bedrywigheid wat van 'n voorlopige of bykomstige aard is, vir die onderneming te beoefen; en
 - (f) die instandhouding van 'n vaste besigheidsplek slegs vir 'n kombinasie van die bedrywighede in subparagraawe (a) tot (e) genoem, mits die algehele bedrywigheid van die vaste besigheidsplek voortspruitend uit hierdie kombinasie van 'n voorlopige of bykomstige aard is.

5. Ondanks die bepalings van paragraawe 1 en 2, waar 'n persoon - uitgesonderd 'n agent met 'n onafhanklike status op wie paragraaf 6 van toepassing is - namens 'n onderneming optree en magtiging het, en dit gewoonlik uitoefen, om in 'n Kontrakterende Staat kontrakte in die naam van die onderneming te sluit, word daardie onderneming geag 'n permanente saak in daardie Staat te hê ten opsigte van enige bedrywighede wat daardie persoon vir die onderneming onderneem, tensy die bedrywighede van sodanige persoon beperk is tot dié in paragraaf 4 genoem wat, indien dit deur middel van 'n vaste besigheidsplek uitgeoefen sou word, hierdie vaste besigheidsplek nie ingevolge die bepalings van daardie paragraaf 'n permanente saak sou maak nie.

6. 'n Onderneming word nie geag 'n permanente saak in 'n Kontrakterende Staat te hê nie bloot omdat hy in daardie Staat besigheid dryf deur middel van 'n makelaar, algemene kommissie-agent of enige ander agent met 'n onafhanklike status, mits sodanige persone in die gewone loop van hul besigheid optree.

7. Die feit dat 'n maatskappy wat 'n inwoner van 'n Kontrakterende Staat is, beheer het oor of beheer word deur 'n maatskappy wat 'n inwoner van die ander Kontrakterende Staat is, of wat in daardie ander Staat besigheid dryf (hetsy deur middel van 'n permanente saak of andersins), beteken nie op sigself dat enigeen van die maatskappye 'n permanente saak van die ander is nie.

Artikel 6

Inkomste uit Onroerende eiendom

1. Inkomste verkry deur 'n inwoner van 'n Kontrakterende Staat uit onroerende eiendom, met inbegrip van inkomste uit landbou of bosbou, wat in die ander Kontrakterende Staat geleë is, kan in daardie ander Staat belas word.

2. Die uitdrukking "onroerende eiendom" het die betekenis wat daaraan geheg word ingevolge die reg van die Kontrakterende Staat waarin die betrokke eiendom geleë is. Die uitdrukking sluit in ieder geval in eiendom wat bykomend by onroerende eiendom is, lewende hawe en toerusting wat in landbou en bosbou gebruik word, regte waarop die bepalings van die algemene reg betreffende vaste eiendom van toepassing is, vruggebruik van onroerende eiendom en regte op wisselende of vaste betalings as vergoeding vir die ontginning of die reg op ontginning van mineraalafsettings, bronne en ander natuurlike hulpbronne. Skepe, bote en vliegtuie word nie geag onroerende eiendom te wees nie.

3. Die bepalings van paragraaf 1 is van toepassing op inkomste verkry uit die regstreekse gebruik, verhuring of gebruik in enige ander vorm van onroerende eiendom.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7

Business Profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the Contracting State in which the permanent establishment is situated or elsewhere.

4. In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary. The method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7. Where profits include items of income or gains which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

Shipping and Air Transport

1. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

4. Die bepalinge van paragrawe 1 en 3 is ook van toepassing op die inkomste uit onroerende eiendom van 'n onderneming en op inkomste uit onroerende eiendom gebruik by die verrigting van onafhanklike persoonlike dienste.

Artikel 7

Besigheidswinste

1. Die winste van 'n onderneming van 'n Kontrakterende Staat is slegs in daardie Staat belasbaar, tensy die onderneming besigheid dryf in die ander Kontrakterende Staat deur middel van 'n permanente saak wat daarin geleë is. Indien die onderneming besigheid dryf soos gemeld, kan die winste van die onderneming in die ander Staat belas word, maar slegs soveel daarvan as wat aan daardie permanente saak toeskryfbaar is.

2. Behoudens die bepalinge van paragraaf 3, waar 'n onderneming van 'n Kontrakterende Staat in die ander Kontrakterende Staat besigheid dryf deur middel van 'n permanente saak wat daarin geleë is, word daar in elke Kontrakterende Staat aan daardie permanente saak die winste toegeskryf wat hy na verwagting sou kon behaal as hy 'n afsonderlike en aparte onderneming was wat hom met dieselfde of soortgelyke bedrywighede onder dieselfde of soortgelyke omstandighede besig hou en geheel en al onafhanklik met die onderneming waarvan hy 'n permanente saak is, sake doen.

3. By die vasstelling van die winste van 'n permanente saak word daar as aftrekkings toegelaat uitgawes wat vir doeleindes van die permanente saak aangegaan word, met inbegrip van bestuurs- en algemene administrasiekoste aldus aangegaan, hetsy in die Kontrakterende Staat waarin die permanente saak geleë is of elders.

4. Vir sover dit in 'n Kontrakterende Staat gebruiklik is om die winste wat aan 'n permanente saak toegeskryf moet word, vas te stel volgens die grondslag van 'n toedeling van die totale winste van die onderneming aan sy onderskeie onderdele, belet niks in paragraaf 2 daardie Kontrakterende Staat om die winste wat belas moet word deur sodanige toedeling as wat gebruiklik mag wees, vas te stel nie. Die metode van toedeling wat aanvaar word, moet egter sodanig wees dat die resultaat in ooreenstemming is met die beginsels in hierdie Artikel vervat.

5. Geen winste word aan 'n permanente saak toegeskryf uit hoofde van die blote aankoop deur daardie permanente saak van goedere of handelsware vir die onderneming nie.

6. By die toepassing van die voorgaande paragrawe, tensy daar goeie en afdoende rede tot die teendeel is, word die winste wat aan die permanente saak toegeskryf moet word, jaar na jaar volgens dieselfde metode vasgestel.

7. Waar winste inkomste-items insluit wat afsonderlik in ander Artikels van hierdie Konvensie behandel word, word die bepalinge van daardie Artikels nie deur die bepalinge van hierdie Artikel geraak nie.

Artikel 8

Skeepvaart en Lugvervoer

1. Winste van 'n onderneming van 'n Kontrakterende Staat uit die bedryf van skepe of vliegtuie in internasionale verkeer is slegs in daardie Staat belasbaar.

2. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic shall include:
- (a) profits derived from the rental of ships or aircraft operated in international traffic or profits derived from the rental of ships or aircraft if such profits are incidental to the profits to which the provisions of paragraph 1 apply;
 - (b) profits from the use or rental of containers and related equipment used in international traffic.
3. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9

Associated Enterprises

1. Where:
- (a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State; or
 - (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits if that other State considers the adjustment justified. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10

Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State shall be taxable only in that other State, provided such resident is the beneficial owner of the dividends.

2. The term "dividends" as used in this Article means income from shares or other rights participating in profits (not being debt-claims), as well as income from other corporate rights and any income or distribution assimilated to income from shares by the laws of the Contracting State of which the company paying the income or making the distribution is a resident.

2. By die toepassing van hierdie Artikel sluit winste uit die bedryf van skepe of vliegtuie in internasionale verkeer in:

- (a) winste verkry uit die verhuring van skepe of vliegtuie wat in internasionale verkeer bedryf word of winste verkry uit die verhuring van skepe of vliegtuie indien sodanige winste bykomstig is by die winste waarop die bepaling van paragraaf 1 van toepassing is;
- (b) winste verkry uit die gebruik of verhuring van houters en verwante toerusting gebruik in internasionale verkeer.

3. Die bepaling van paragraaf 1 is ook van toepassing op winste ten opsigte van die deelname aan 'n winsdeling, 'n gesamentlike besigheid of 'n internasionale bedryfsagentskap.

Artikel 9

Verwante Ondernemings

1. Waar:

- (a) 'n onderneming van 'n Kontrakterende Staat regstreeks of onregstreeks in die bestuur van, beheer oor of kapitaal van 'n onderneming van die ander Kontrakterende Staat deel het; of
- (b) dieselfde persone regstreeks of onregstreeks in die bestuur van, beheer oor of kapitaal van 'n onderneming van 'n Kontrakterende Staat en 'n onderneming van die ander Kontrakterende Staat deel het,

en in enigeen van die gevalle voorwaardes tussen die twee ondernemings met betrekking tot hul handels- of finansiële betrekkinge gestel of opgelê word wat verskil van dié wat tussen onafhanklike ondernemings gestel sou word, kan enige winste wat by ontstentenis van daardie voorwaardes aan een van die ondernemings sou toegeval het, maar as gevolg van daardie voorwaardes nie aldus toegeval het nie, by die winste van daardie onderneming ingesluit en dienoreenkomstig belas word.

2. Waar 'n Kontrakterende Staat by die winste van 'n onderneming van daardie Staat winste insluit - en dit dienoreenkomstig belas - waarop 'n onderneming van die ander Kontrakterende Staat in daardie ander Staat belas is en die winste aldus ingesluit winste is wat aan die onderneming van eersgenoemde Staat sou toegeval het indien die voorwaardes tussen die twee ondernemings gestel dieselfde sou gewees het as dié wat tussen onafhanklike ondernemings gestel sou gewees het, maak daardie ander Staat 'n toepaslike aanpassing aan die bedrag van die belasting daarin gehef op daardie winste indien daardie ander Staat die aanpassing as geregverdig ag. By die bepaling van sodanige aanpassing word die ander bepaling van hierdie Konvensie behoorlik in ag geneem en die bevoegde owerhede van die Kontrakterende State raadpleeg mekaar indien nodig.

Artikel 10

Dividende

1. Dividende wat deur 'n maatskappy wat 'n inwoner van 'n Kontrakterende Staat is aan 'n inwoner van die ander Kontrakterende Staat betaal word, is slegs in daardie Staat belasbaar, mits sodanige inwoner die bevoordeelde eienaar van die dividende is.

2. Die uitdrukking "dividende" soos in hierdie Artikel gebesig, beteken inkomste uit aandele of ander regte wat aan winste (wat nie skuldeise is nie) deelneem, asook inkomste uit ander regspersoonsregte en enige inkomste of verdeling wat gelykgestel is aan inkomste uit aandele deur die wette van die Kontrakterende Staat waarvan die maatskappy wat die inkomste betaal of die uitkering doen, 'n inwoner is.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

4. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except in so far as such dividends are paid to a resident of that other State or in so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11

Interest

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State, provided such resident is the beneficial owner of the interest.

2. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, as well as all other income assimilated to income from money lent by the laws of the State in which the income arises but does not include any income which is treated as a dividend under Article 10. Penalty charges for late payment shall not be regarded as interest for the purposes of this Article.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

4. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

3. Die bepalinge van paragraaf 1 is nie van toepassing nie indien die bevoordeelde eienaar van die dividende, synde 'n inwoner van 'n Kontrakterende Staat, besigheid dryf in die ander Kontrakterende Staat waarvan die maatskappy wat die dividende betaal 'n inwoner is, deur middel van 'n permanente saak daarin geleë, of in daardie ander Staat onafhanklike persoonlike dienste verrig vanaf 'n vaste basis daarin geleë en die aandeelbesit ten opsigte waarvan die dividende betaal word, effektief verbonde is met sodanige permanente saak of vaste basis. In sodanige geval is die bepalinge van Artikel 7 of Artikel 14, na gelang van die geval, van toepassing.

4. Waar 'n maatskappy wat 'n inwoner van 'n Kontrakterende Staat is winste of inkomste uit die ander Kontrakterende Staat verkry, mag daardie ander Staat nie belasting hef op die dividende wat deur die maatskappy betaal word nie, behalwe vir sover sodanige dividende betaal word aan 'n inwoner van daardie ander Staat of vir sover die aandeelbesit ten opsigte waarvan die dividende betaal word, effektief verbonde is met 'n permanente saak of 'n vaste basis in daardie ander Staat geleë, en mag ook nie die maatskappy se onuitgekeerde winste onderwerp aan belasting op die maatskappy se onuitgekeerde winste nie, selfs al bestaan die betaalde dividende of die onuitgekeerde winste geheel en al of gedeeltelik uit winste of inkomste wat in sodanige ander Staat ontstaan.

Artikel 11

Rente

1. Rente wat in 'n Kontrakterende Staat ontstaan en aan 'n inwoner van die ander Kontrakterende Staat betaal word, is slegs in daardie ander Staat belasbaar, mits sodanige inwoner die bevoordeelde eienaar van die rente is.

2. Die uitdrukking "rente", soos in hierdie Artikel gebesig, beteken inkomste uit alle soorte skuldeise, hetsy gesekureer deur verband al dan nie en hetsy dit 'n reg inhou om in die skuldenaar se winste te deel al dan nie, en in die besonder inkomste uit staatseffekte en inkomste uit obligasies of skuldbriewe, met inbegrip van premies en pryse aan sodanige effekte, obligasies of skuldbriewe verbonde, asook alle ander inkomste gelyk gestel met inkomste uit gelde geleen deur die wette van die Staat waarin die inkomste ontstaan, maar sluit nie inkomste in wat as 'n dividend ingevolge Artikel 10 behandel word nie. Boeteheffings vir laat betaling word by die toepassing van hierdie Artikel nie as rente beskou nie.

3. Die bepalinge van paragraaf 1 is nie van toepassing nie indien die bevoordeelde eienaar van die rente, synde 'n inwoner van 'n Kontrakterende Staat, in die ander Kontrakterende Staat waarin die rente ontstaan, besigheid dryf deur middel van 'n permanente saak daarin geleë, of in daardie ander Staat onafhanklike persoonlike dienste verrig vanaf 'n vaste basis daarin geleë, en die skuldeise ten opsigte waarvan die rente betaal word, effektief verbonde is met sodanige permanente saak of vaste basis. In sodanige geval is die bepalinge van Artikel 7 of Artikel 14, na gelang van die geval, van toepassing.

4. Waar, vanweë 'n besondere verband tussen die betaler en die bevoordeelde eienaar of tussen albei van hulle en 'n ander persoon, die bedrag van die rente, met inagneming van die skuldeise ten opsigte waarvan dit betaal word, die bedrag te bowe gaan waaroor die betaler en die bevoordeelde eienaar by ontstentenis van sodanige verband sou ooreengekom het, is die bepalinge van hierdie Artikel slegs op laasgenoemde bedrag van toepassing. In sodanige geval bly die oormatige deel van die betalings belasbaar ooreenkomstig die wette van elk van die Kontrakterende State, met behoorlike inagneming van die ander bepalinge van hierdie Konvensie.

Article 12**Royalties**

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State, provided such resident is the beneficial owner of the royalties.
2. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematograph films and films, tapes or discs for radio or television broadcasting), any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.
3. The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.
4. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13**Capital Gains**

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.
2. For the purposes of paragraph 1, gains from the alienation of immovable property situated in the other Contracting State shall include gains from shares (including stock and any security), other than shares quoted on a stock exchange, deriving the greater part of their value directly or indirectly from immovable property situated in that other State.
3. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.
4. Gains of an enterprise of a Contracting State from the alienation of ships, aircraft or containers operated in international traffic or movable property pertaining to the operation of such ships, aircraft or containers, shall be taxable only in that State.

Artikel 12

Tantièmes

1. Tantièmes wat in 'n Kontrakterende Staat ontstaan en aan 'n inwoner van die ander Kontrakterende Staat betaal word, is slegs in daardie ander Staat belasbaar, met dien verstande dat sodanige inwoner die bevoordeelde eienaar van die tantièmes is.
2. Die uitdrukking "tantièmes" soos in hierdie Artikel gebesig, beteken betalings van enige aard ontvang as 'n vergoeding vir die gebruik van, of die reg op die gebruik van, enige kopiereg van letterkundige, kuns- of wetenskaplike werk (met inbegrip van kinematograaffilms en films, bande of skywe vir radio- of televisie-uitsending), enige patent, handelsmerk, ontwerp of model, plan, geheime formule of proses, of vir inligting aangaande industriële, handels- of wetenskaplike ondervinding.
3. Die bepalinge van paragraaf 1 is nie van toepassing nie indien die bevoordeelde eienaar van die tantièmes, synde 'n inwoner van 'n Kontrakterende Staat, in die ander Kontrakterende Staat waarin die tantièmes ontstaan, besigheid dryf deur middel van 'n permanente saak daarin geleë, of in daardie ander Staat onafhanklike persoonlike dienste verrig vanaf 'n vaste basis daarin geleë, en die reg of eiendom ten opsigte waarvan die tantièmes betaal word, effektief verbonde is met sodanige permanente saak of vaste basis. In sodanige geval is die bepalinge van Artikel 7 of Artikel 14, na gelang van die geval, van toepassing.
4. Waar, vanweë 'n besondere verband tussen die betaler en die bevoordeelde eienaar of tussen albei van hulle en 'n ander persoon, die bedrag van die tantièmes betaal, met inagneming van die gebruik, reg of inligting waarvoor dit betaal word, die bedrag te bowe gaan waarvoor die betaler en die bevoordeelde eienaar by ontstentenis van sodanige verband sou ooreengekom het, is die bepalinge van hierdie Artikel slegs op laasgenoemde bedrag van toepassing. In sodanige geval bly die oormatige deel van die betalings belasbaar ooreenkomstig die wette van elk van die Kontrakterende State met behoorlike inagneming van die ander bepalinge van hierdie Konvensie.

Artikel 13

Kapitaalwinste

1. Winste verkry deur 'n inwoner van 'n Kontrakterende Staat uit die vervreemding van onroerende eiendom in Artikel 6 bedoel en in die ander Kontrakterende Staat geleë, kan in daardie ander Staat belas word.
2. By die toepassing van paragraaf 1, sluit winste uit die vervreemding van onroerende eiendom wat in die ander Kontrakterende Staat geleë is in winste uit aandele (met inbegrip van voorraad en enige waarborg), behalwe aandele op 'n aandeelbeurs genoteer, wat die oorgrote merendeel van hul waarde regstreeks of onregstreeks uit onroerende eiendom verkry wat in die ander Staat geleë is.
3. Winste uit die vervreemding van roerende eiendom wat deel uitmaak van die besigheidseiendom van 'n permanente saak wat 'n onderneming van 'n Kontrakterende Staat in die ander Kontrakterende Staat het, of van roerende eiendom wat betrekking het op 'n vaste basis wat vir 'n inwoner van 'n Kontrakterende Staat in die ander Kontrakterende Staat beskikbaar is met die doel om onafhanklike persoonlike dienste te verrig, met inbegrip van sodanige winste uit die vervreemding van sodanige permanente saak (alleen of tesame met die onderneming in sy geheel) of van sodanige vaste basis, kan in daardie ander Staat belas word.
4. Winste van 'n onderneming van 'n Kontrakterende Staat uit die vervreemding van skepe, vliegtuie of houters wat in internasionale verkeer bedryf word, of roerende eiendom wat betrekking het op die bedryf van sodanige skepe, vliegtuie of houters, is slegs in daardie Staat belasbaar.

5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3 and 4, shall be taxable only in the Contracting State of which the alienator is a resident.

6. The provisions of paragraph 5 shall not affect the right of a Contracting State to levy, according to its law, a tax on gains from the alienation of any property derived by an individual who is a resident of the other Contracting State and has been a resident of the first-mentioned State at any time during the three years immediately preceding the alienation of the property if the property was held by the individual before he became a resident of that other State.

Article 14

Independent Personal Services

1. Income derived by an individual who is a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base. For the purposes of this Convention, where an individual who is a resident of a Contracting State is present in the other Contracting State for a period or periods exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, he shall be deemed to have a fixed base regularly available to him in that other State and the income that is derived from his activities that are performed in that other State shall be attributable to that fixed base.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15

Dependent Personal Services

1. Subject to the provisions of Articles 16, 18, and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned; and
- (b) the remuneration is paid by or on behalf of an employer who is not a resident of the other State; and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that State.

5. Winste uit die vervreemding van enige eiendom, behalwe dié bedoel in paragrawe 1, 2, 3 en 4, is slegs in die Kontrakterende Staat waarvan die vervreemder 'n inwoner is, belasbaar.

6. Die bepalinge van paragraaf 5 raak nie die reg nie van 'n Kontrakterende Staat om, volgens sy reg, 'n belasting te hef op winste uit die vervreemding van enige eiendom verkry deur 'n individu wat 'n inwoner van die ander Kontrakterende Staat is en 'n inwoner was van eersgenoemde Staat te eniger tyd gedurende die drie jaar wat die vervreemding van die eiendom onmiddellik voorafgaan, indien die eiendom deur die individu besit was voordat hy 'n inwoner van daardie ander Staat geword het.

Artikel 14

Onafhanklike Persoonlike Dienste

1. Inkomste verkry deur 'n individu wat 'n inwoner van 'n Kontrakterende Staat is ten opsigte van professionele dienste of ander bedrywighede van 'n onafhanklike aard, is slegs in daardie Staat belasbaar, tensy hy 'n vaste basis in die ander Kontrakterende Staat gereeld tot sy beskikking het vir die doel van die verrigting van sy bedrywighede. Indien hy sodanige vaste basis het, kan die inkomste in die ander Staat belas word, maar slegs soveel daarvan as wat aan daardie vaste basis toeskryfbaar is. By die toepassing van hierdie Konvensie, waar 'n individu wat 'n inwoner is van 'n Kontrakterende Staat, in die ander Kontrakterende Staat teenwoordig is vir 'n tydperk of tydperke wat altesaam 183 dae in enige twaalfmaandetydperk beginnende of eindigende in die betrokke fiskale jaar, te bowe gaan, word hy geag 'n vaste basis in daardie ander Staat gereeld tot sy beskikking te hê en die inkomste wat verkry word uit sy bedrywighede wat in daardie ander Staat verrig word, is aan daardie vaste basis toeskryfbaar.

2. Die uitdrukking "professionele dienste" sluit veral in onafhanklike wetenskaplike, letterkundige, kuns-, opvoedkundige of onderwysbedrywighede, sowel as die onafhanklike bedrywighede van geneeskundiges, regsgeleerdes, ingenieurs, argitekte, tandartse en rekenmeesters.

Artikel 15

Afhanklike Persoonlike Dienste

1. Behoudens die bepalinge van Artikels 16, 18 en 19 is salarisse, lone en ander soortgelyke besoldiging wat deur 'n inwoner van 'n Kontrakterende Staat ten opsigte van 'n diensbetrekking verkry word, slegs in daardie Staat belasbaar, tensy die diensbetrekking in die ander Kontrakterende Staat beoefen word. Indien die diensbetrekking aldus beoefen word, kan sodanige besoldiging as wat daaruit verkry word in daardie ander Staat belas word.

2. Ondanks die bepalinge van paragraaf 1 is besoldiging wat deur 'n inwoner van 'n Kontrakterende Staat verkry word ten opsigte van 'n diensbetrekking wat in die ander Kontrakterende Staat beoefen word, slegs in eersgenoemde Staat belasbaar indien:

- (a) die ontvanger teenwoordig is in die ander Staat vir 'n tydperk of tydperke wat altesaam nie 183 dae in enige twaalfmaandetydperk beginnende of eindigende in die betrokke fiskale jaar, te bowe gaan nie; en
- (b) die besoldiging betaal word deur of namens 'n werkgewer wat nie 'n inwoner van die ander Staat is nie; en
- (c) die besoldiging nie gedra word deur 'n permanente saak of 'n vaste basis wat die werkgewer in die ander Staat het nie.

3. Ondanks die voorgaande bepalinge van hierdie Artikel kan besoldiging verkry ten opsigte dienste verrig aan boord van 'n skip of vliegtuig bedryf in internasionale verkeer deur 'n onderneming van 'n Kontrakterende Staat, in daardie Staat belas word.

Article 16***Directors' Fees***

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17***Entertainers and Sportspersons***

1. Notwithstanding the provisions of Articles 7, 14 and 15, income derived by a resident of a Contracting State as an entertainer such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

Article 18***Pensions and Annuities***

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration and annuities arising in a Contracting State and paid to a resident of the other Contracting State, may be taxed in the first-mentioned State.

2. The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

Article 19***Government Service***

1. (a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

- (i) is a national of that State; or
- (ii) did not become a resident of that State solely for the purpose of rendering the services.

Artikel 16***Direkteursgelde***

Direkteursgelde en ander soortgelyke betalings verkry deur 'n inwoner van 'n Kontrakterende Staat in sy hoedanigheid van lid van die direksie van 'n maatskappy wat 'n inwoner van die ander Kontrakterende Staat is, kan in daardie ander Staat belas word.

Artikel 17***Verhoogkunstenaars en Sportlui***

1. Ondanks die bepalinge van Artikels 7, 14 en 15 kan inkomste verkry deur 'n inwoner van 'n Kontrakterende Staat as 'n verhoogkunstenaar, soos 'n teater-, rolprent-, radio- of televisie-arties of 'n musikant, of as 'n sportman, uit sy persoonlike bedrywighe as sodanig wat in die ander Kontrakterende Staat beoefen word, in daardie ander Staat belas word.

2. Waar inkomste ten opsigte van persoonlike bedrywighe wat deur 'n verhoogkunstenaar of 'n sportman in dié hoedanigheid beoefen word, nie aan die verhoogkunstenaar of sportman self toeval nie, maar aan 'n ander persoon, kan daardie inkomste, ondanks die bepalinge van Artikels 7, 14 en 15, belas word in die Kontrakterende Staat waarin die bedrywighe van die verhoogkunstenaar of sportman beoefen word.

Artikel 18***Pensioene en Annuïteite***

1. Behoudens die bepalinge van paragraaf 2 van Artikel 19 kan pensioene en ander soortgelyke besoldiging wat in 'n Kontrakterende Staat ontstaan en aan 'n inwoner van die ander Kontrakterende Staat betaal word, in eersgenoemde Staat belas word.

2. Die uitdrukking "annuïteit" beteken 'n vermelde bedrag wat periodiek op vermelde tye gedurende lewe of gedurende 'n gespesifiseerde of vasstelbare tydperk betaalbaar is ingevolge 'n verpligting om die betalings te doen in ruil vir voldoende en volle vergoeding in geld of geldwaarde.

Artikel 19***Regeringsdiens***

1. (a) Salarisse, lone en ander soortgelyke besoldiging, behalwe 'n pensioen, betaal deur 'n Kontrakterende Staat of 'n staatkundige onderverdeling of 'n plaaslike owerheid daarvan aan 'n individu ten opsigte van dienste gelewer aan daardie Staat of onderverdeling of owerheid is slegs in daardie Staat belasbaar.

(b) Sodanige salarisse, lone en ander soortgelyke besoldiging is egter slegs in die ander Kontrakterende Staat belasbaar indien die dienste in daardie Staat gelewer word en die individu 'n inwoner van daardie Staat is wat:

- (i) 'n burger van daardie Staat is; of
- (ii) nie 'n inwoner van daardie Staat geword het met die uitsluitlike doel om die dienste te lewer nie.

2. (a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

3. The provisions of Articles 15, 16, 17 and 18 shall apply to salaries, wages and other similar remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20

Students, Apprentices and Business Trainees

A student, apprentice or business trainee who is present in a Contracting State solely for the purpose of his education or training and who is, or immediately before being so present was, a resident of the other Contracting State, shall be exempt from tax in the first-mentioned State on payments received from sources outside that first-mentioned State for the purposes of his maintenance, education or training.

Article 21

Miscellaneous Rules Applicable to Certain Offshore Activities

1. The provisions of this Article shall apply notwithstanding any other provision of this Convention where activities (in this Article called "relevant activities") are carried on offshore in connection with the exploration or exploitation of the sea bed and subsoil and their natural resources situated in a Contracting State.

2. An enterprise of a Contracting State which carries on relevant activities in the other Contracting State shall, subject to paragraph 3, be deemed to be carrying on business in that other State through a permanent establishment situated therein.

3. The provisions of paragraph 2 shall not apply where the relevant activities are carried on for a period or periods not exceeding in the aggregate 30 days in any period of twelve months commencing or ending in the fiscal year concerned. However, for the purposes of this paragraph, relevant activities carried on by an enterprise associated with another enterprise shall be regarded as carried on by the enterprise with which it is associated if such activities are substantially the same as relevant activities carried on by the last-mentioned enterprise, except to the extent that those activities are carried on at the same time. For the purposes of this paragraph, an enterprise shall be regarded as associated with another enterprise if it participates directly or indirectly in the management, control or capital of the other enterprise or if the same persons participate directly or indirectly in the management, control or capital of both enterprises.

4. Profits derived by an enterprise of a Contracting State from the transportation of supplies or personnel to a location, or between locations, where relevant activities are being carried on in the other Contracting State, or from the operation of tugboats and other vessels auxiliary to such activities, shall be taxable only in the first-mentioned State.

2. (a) Enige pensioen betaal deur, of uit fondse geskep deur, 'n Kontrakterende Staat of 'n staatkundige onderverdeling, of 'n plaaslike owerheid daarvan aan 'n individu ten opsigte van dienste gelewer aan daardie Staat of onderverdeling of owerheid, is slegs in daardie Staat belasbaar.

(b) Sodanige pensioen is egter slegs in die ander Kontrakterende Staat belasbaar indien die individu 'n inwoner van en 'n burger van daardie Staat is.

3. Die bepalings van Artikels 15, 16, 17 en 18 is van toepassing op salarisse, lone en ander soortgelyke besoldiging, en op pensioene, ten opsigte van dienste gelewer in verband met 'n besigheid wat deur 'n Kontrakterende Staat of 'n staatkundige onderverdeling of 'n plaaslike owerheid gedryf word.

Artikel 20

Studente, Vakleerlinge en Besigheidsleerlinge

'n Student, vakleerling of besigheidsleerling wat in 'n Kontrakterende Staat teenwoordig is uitsluitlik vir die doel van sy onderrig of opleiding en wat 'n inwoner is, of onmiddellik voor sodanige teenwoordigheid 'n inwoner was, van die ander Kontrakterende Staat, is in eersgenoemde Staat vrygestel van belasting op betalings ontvang van buite daardie eersgenoemde Staat vir die doel van sy onderhoud, onderrig of opleiding.

Artikel 21

Diverse Reëls van toepassing op Sekere Aflandige Bedrywighe

1. Die bepalings van hierdie Artikel is, ondanks enige ander bepaling van hierdie Konvensie, van toepassing waar bedrywighe (in hierdie Artikel genoem "relevante bedrywighe") aflandig beoefen word in verband met die eksplorاسie of ontginning van die seebodem en ondergrond en hul natuurlike hulpbronne wat in 'n Kontrakterende Staat geleë is.

2. 'n Onderneming van 'n Kontrakterende Staat wat relevante bedrywighe in die ander Kontrakterende Staat beoefen, word, behoudens paragraaf 3, geag 'n besigheid in daardie ander Staat te dryf deur middel van 'n permanente saak daarin geleë.

3. Die bepalings van paragraaf 2 is nie van toepassing nie waar die relevante bedrywighe beoefen word vir 'n tydperk of tydperke wat altesaam nie 30 dae in enige tydperk van twaalf maande beginnende of eindigende in die betrokke fiskale jaar, te bowe gaan nie. By die toepassing van hierdie paragraaf word relevante bedrywighe beoefen deur 'n onderneming wat verbonde is met 'n ander onderneming, egter geag beoefen te word deur die onderneming waarmee dit verbonde is indien sodanige bedrywighe wesenlik dieselfde is as relevante bedrywighe beoefen deur laasgenoemde onderneming, behalwe in die mate wat daardie bedrywighe terselfdertyd beoefen word. Vir doeleindes van hierdie paragraaf word 'n onderneming geag met 'n ander onderneming verbonde te wees indien hy regstreeks of onregstreeks in die bestuur van, beheer oor of kapitaal van die ander onderneming deelneem of indien dieselfde persone regstreeks of onregstreeks in die bestuur van, beheer oor of kapitaal van beide ondernemings deelneem.

4. Winste verkry deur 'n onderneming van 'n Kontrakterende Staat uit die vervoer van voorraad of personeel na 'n plek, of tussen plekke, waar relevante bedrywighe in die ander Kontrakterende Staat beoefen word, of uit die bedryf van sleepbote en ander vaartuie bykomstig by sodanige bedrywighe, is slegs in eersgenoemde Staat belasbaar.

5. Salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment connected with relevant activities in the other Contracting State may, to the extent that the duties are performed offshore in that other State, be taxed in that other State. However, such remuneration shall be taxable only in the first-mentioned State if the employment is carried on offshore for an employer who is not a resident of the other State and for a period or periods not exceeding in the aggregate 30 days in any twelve month period commencing or ending in the fiscal year concerned.

6. A resident of a Contracting State who carries on relevant activities in the other Contracting State, which consist of professional services or other activities of an independent character, shall be deemed to be performing those activities from a fixed base in that other State. However, income derived by a resident of a Contracting State in respect of such activities performed in the other Contracting State shall not be taxable in that other State if the activities are performed in that other State for a period or periods not exceeding in the aggregate 30 days in any twelve month period commencing or ending in the fiscal year concerned.

Article 22

Other Income

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment of fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

Article 23

Elimination of Double Taxation

Double taxation shall be eliminated as follows:

1. Subject to the provisions of the laws of Ireland regarding the allowance as a credit against Irish tax of tax payable in a territory outside Ireland, which shall not affect the general principle hereof:

- (a) South African tax payable under the laws of South Africa and in accordance with this Convention, whether directly or by deduction, on profits, income or gains from sources within South Africa (excluding in the case of a dividend tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any Irish tax computed by reference to the same profits, income or gains by reference to which South African tax is computed;
- (b) in the case of a dividend paid by a company which is a resident of South Africa to a company which is a resident of Ireland and which controls directly or indirectly 10 per cent or more of the voting power in the company paying the dividend, the credit shall take into account (in addition to any South African tax creditable under the provisions of subparagraph (a)) South African tax payable by the company in respect of the profits out of which such dividend is paid.

5. Salarisse, lone en ander soortgelyke besoldiging verkry deur 'n inwoner van 'n Kontrakterende Staat ten opsigte van 'n diensbetrekking verbonde met relevante bedrywighede in die ander Kontrakterende Staat kan, in die mate wat die pligte afluend in daardie ander Staat verrig word, in daardie ander Staat belas word. Sodanige besoldiging is egter slegs in eersgenoemde Staat belasbaar indien die diensbetrekking afluend beoefen word vir 'n werkgever wat nie 'n inwoner van die ander Staat is nie en vir 'n tydperk of tydperke wat altesaam nie 30 dae in enige twaalfmaandetydperk beginnende of eindigende in die betrokke fiskale jaar, te bowe gaan nie.

6. 'n Inwoner van 'n Kontrakterende Staat wat relevante bedrywighede in die ander Kontrakterende Staat bedryf, wat uit professionele dienste of ander bedrywighede van 'n onafhanklike aard bestaan, word geag daardie bedrywighede vanaf 'n vaste basis in daardie ander Staat te beoefen. Inkomste verkry deur 'n inwoner van 'n Kontrakterende Staat ten opsigte van sodanige bedrywighede wat in die ander Kontrakterende Staat beoefen word, is egter nie in daardie ander Staat belasbaar nie indien die bedrywighede in daardie ander Staat beoefen word vir 'n tydperk of tydperke wat altesaam nie 30 dae in enige twaalfmaandetydperk beginnende of eindigende in die betrokke fiskale jaar, te bowe gaan nie.

Artikel 22

Ander Inkomste

1. Inkomste-items van 'n inwoner van 'n Kontrakterende Staat, waar dit ook al ontstaan, wat nie in die voorgaande Artikels van hierdie Konvensie behandel is nie, is slegs in daardie Staat belasbaar.

2. Die bepaling van paragraaf 1 is nie van toepassing op inkomste nie, behalwe inkomste uit onroerende eiendom soos in paragraaf 2 van Artikel 6 omskryf, indien die ontvanger van sodanige inkomste, synde 'n inwoner van 'n Kontrakterende Staat, in die ander Kontrakterende Staat besigheid dryf deur middel van 'n permanente saak daarin geleë, of in daardie ander Staat onafhanklike persoonlike dienste verrig vanaf 'n vaste basis daarin geleë, en die reg of eiendom ten opsigte waarvan die inkomste betaal word, effektief verbonde is met sodanige permanente saak of vaste basis. In sodanige geval is die bepaling van Artikel 7 of Artikel 14, na gelang van die geval, van toepassing.

Artikel 23

Uitskakeling van Dubbele Belasting

Dubbele belasting word soos volg uitgeskakel:

1. Behoudens die bepaling van die reg van Ierland met betrekking tot die toelaat as krediet teen Ierse belasting van belasting betaalbaar in 'n grondgebied buite Ierland, wat nie die algemene beginsels hiervan aantast nie:

- (a) word Suid-Afrikaanse belasting betaalbaar ingevolge die reg van Suid-Afrika en in ooreenstemming met hierdie Konvensie, hetsy regstreeks of as aftrekking, op winste, inkomste of profyte uit bronne in Suid-Afrika (behalwe in die geval van dividendbelasting betaalbaar ten opsigte van die winste waaruit die dividende betaal word) as 'n krediet toegestaan teen enige Ierse belasting wat bereken word met betrekking tot dieselfde winste, inkomste of profyte ten opsigte waarvan die Suid-Afrikaanse belasting bereken word;
- (b) in die geval van 'n dividend betaal deur 'n maatskappy wat 'n inwoner van Suid-Afrika is aan 'n maatskappy wat 'n inwoner van Ierland is en wat regstreeks of onregstreeks 10 persent of meer van die stemkrag beheer dra in die maatskappy wat die dividend betaal, neem die krediet in ag (bykomend by enige Suid-Afrikaanse belasting krediteerbaar ingevolge die bepaling van subparagraaf (a)) Suid-Afrikaanse belasting betaalbaar deur die maatskappy ten opsigte van die winste waaruit sodanige dividende betaal word.

2. In South Africa, Irish tax paid by residents of South Africa in respect of income taxable in Ireland, in accordance with the provisions of this Convention, shall be deducted from the taxes due according to South African fiscal law. Such deduction shall not, however, exceed an amount which bears to the total South African tax payable the same ratio as the income concerned bears to the total income.

3. For the purposes of paragraphs 1 and 2 profits, income or gains owned by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Convention shall be deemed to be derived from sources in that other Contracting State.

4. Where in accordance with any provisions of this Convention income derived by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

5. Where, under any provision of this Convention, income or gains is or are wholly or partly relieved from tax in a Contracting State and, under the laws in force in the other Contracting State, an individual, in respect of the said income or gains, is subject to tax by reference to the amount thereof which is remitted to or received in that other State, and not by reference to the full amount thereof, then the relief to be allowed under this Convention in the first-mentioned State shall apply only to so much of the income or gains as is remitted to or received in that other State.

6. (a) Where in accordance with the provisions of the laws of South Africa specified in subparagraph (b), provided that such provisions remain in substance unchanged after the date of signature of this Convention, the profits of an enterprise of South Africa are exempted from tax for the purpose of encouraging economic development in South Africa, dividends paid out of such profits by a company which is a resident of South Africa to a company which is a resident of Ireland and which controls directly or indirectly 10 per cent or more of the voting power in the company paying the dividends shall not be regarded as income for the purposes of taxation in Ireland to the extent of 75 per cent of the amount of such dividends.

(b) Section 37H of the Income Tax Act (Act No 58 of 1962) as amended.

(c) The provisions of paragraph (a) shall cease to apply:

(i) after 31 December 2009; or

(ii) after such earlier date, if any, as the taxation laws of South Africa are changed to permit the taxation in South Africa of dividends derived from a company resident in Ireland. In the event of such a change in the taxation laws, or of the publication of proposals to make such a change, Ireland shall, upon request from South Africa, enter into negotiations concerning the continuation of the provisions of this paragraph notwithstanding such change.

Article 24

Non-discrimination

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. In Suid-Afrika word lersse belasting betaal deur inwoners van Suid-Afrika ten opsigte van inkomste wat in lerland belasbaar is ooreenkomstig die bepalings van hierdie Konvensie, afgetrek van die belasting verskuldig ingevolge Suid-Afrikaanse fiskale reg. Sodanige aftrekking mag egter nie 'n bedrag wat in dieselfde verhouding tot die totale Suid-Afrikaanse belasting betaalbaar staan as die verhouding waarin die betrokke inkomste tot die totale inkomste staan, te bowe gaan nie.

3. By die toepassing van paragrawe 1 en 2 word winste, inkomste of profyte wat besit word deur 'n inwoner van 'n Kontrakterende Staat wat ooreenkomstig hierdie Konvensie in die ander Kontrakterende Staat belas kan word, geag verkry te wees uit bronne in daardie ander Kontrakterende Staat.

4. Waar, ooreenkomstig 'n bepaling van hierdie Konvensie, inkomste verkry deur 'n inwoner van 'n Kontrakterende Staat in daardie Staat van belasting vrygestel is, kan sodanige Staat nietemin by die berekening van die belastingbedrag op die oorblywende inkomste van sodanige inwoner die vrygestelde inkomste in berekening bring.

5. Waar, ingevolge enige bepaling van hierdie Konvensie, inkomste of winste geheel en al of gedeeltelik van belasting in 'n Kontrakterende Staat onthef word, en ingevolge die wette van krag in die ander Kontrakterende Staat, 'n individu, ten opsigte van gemelde inkomste of winste, aan belasting onderworpe is deur verwysing na die bedrag daarvan wat geremitteer word na of ontvang word in daardie ander Staat, en nie deur verwysing na die volle bedrag daarvan nie, dan is die verligting wat ingevolge hierdie Konvensie in eersgenoemde Staat toegelaat word slegs van toepassing op soveel van die inkomste of winste as wat geremitteer word na of ontvang word in daardie ander Staat.

6. (a) Waar, ooreenkomstig die bepalings van die reg van Suid-Afrika in subparagraaf (b) vermeld, met dien verstande dat sodanige bepalings in wese onveranderd bly na die datum van ondertekening van hierdie Konvensie, die winste van 'n onderneming van Suid-Afrika van belasting vrygestel word met die doel om ekonomiese ontwikkeling in Suid-Afrika aan te moedig, word dividende wat uit sodanige winste betaal word deur 'n maatskappy wat 'n inwoner van Suid-Afrika is aan 'n maatskappy wat 'n inwoner van lerland is en wat regstreeks of onregstreeks 10 persent of meer van die stermkrag beheer in die maatskappy wat die dividende betaal, nie geag inkomste te wees nie vir doeleindes van belasting in lerland tot 75 persent van die bedrag van sodanige dividende.

(b) Artikel 37H van die Inkomstebelastingwet (Wet No. 58 van 1962), soos gewysig.

(c) Die bepalings van paragraaf (a) is nie meer van toepassing nie:

(i) na 31 Desember 2009; of

(ii) na sodanige vroeër datum, indien enige, na gelang die belastingwette van Suid-Afrika verander word om die belasting in Suid-Afrika van dividende verkry uit 'n maatskappy wat 'n inwoner van lerland is, toe te laat. In geval van so 'n verandering in die belastingwette, of van die bekendstelling van voorstelle om so 'n verandering te maak, moet lerland, op versoek van Suid-Afrika, in onderhandeling tree met betrekking tot die voortsetting van die bepalings van hierdie paragraaf ondanks sodanige verandering.

Artikel 24

Nie-diskriminasie

1. Burgers van 'n Kontrakterende Staat mag nie in die ander Kontrakterende Staat onderwerp word aan enige belasting of enige vereiste in verband daarmee wat anders is of swaarder druk as die belasting en die daarmee verbonde vereistes waaraan burgers van daardie ander Staat onder dieselfde omstandighede, in die besonder met betrekking tot verblyf, onderworpe is of onderwerp kan word nie. Hierdie bepaling is ondanks die bepalings van Artikel 1, ook van toepassing op persone wat nie inwoners van een van of van albei die Kontrakterende State is nie.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.

4. Except where the provisions of paragraph 1 of Article 9, paragraph 4 of Article 11 or paragraph 4 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

5. In this Article the term "taxation" means taxes which are the subject of this Convention.

Article 25

Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

2. Die belasting op 'n permanente saak wat 'n onderneming van 'n Kontrakterende Staat in die ander Kontrakterende Staat het, mag nie in daardie ander Staat op 'n minder gunstige wyse gehef word as die belasting wat gehef word op ondernemings van daardie ander Staat wat dieselfde bedrywighede beoefen nie. Hierdie bepaling word nie uitgelê as sou dit 'n Kontrakterende Staat verplig om aan inwoners van die ander Kontrakterende Staat enige persoonlike toelatings, verligtings en verminderings vir belastingdoeleindes uit hoofde van burgerlike status of gesinsverantwoordelikhede toe te staan wat hy aan sy eie inwoners toestaan nie.

3. Ondernemings van 'n Kontrakterende Staat waarvan die kapitaal geheel en al of gedeeltelik besit of beheer word, regstreeks of onregstreeks, deur een of meer inwoners van die ander Kontrakterende Staat, mag nie in eersgenoemde Staat onderwerp word aan enige belasting of enige vereiste in verband daarmee wat anders is of swaarder druk as die belasting en die daarmee verbonde vereistes waaraan ander soortgelyke ondernemings van eersgenoemde Staat onderworpe is of onderwerp kan word nie.

4. Behalwe waar die bepalings van paragraaf 1 van Artikel 9, paragraaf 4 van Artikel 11 of paragraaf 4 van Artikel 12 van toepassing is, is rente, tantièmes en ander uitbetalings betaal deur 'n onderneming van 'n Kontrakterende Staat aan 'n inwoner van die ander Kontrakterende Staat, vir doeleindes van die vasstelling van die belasbare winste van sodanige onderneming, onder dieselfde omstandighede aftrekbaar asof dit aan 'n inwoner van eersgenoemde Staat betaal was.

5. In hierdie Artikel beteken die uitdrukking "belasting" die belastingen waarvoor hierdie Konvensie handel.

Artikel 25

Prosedure vir Onderlinge Ooreenkoms

1. Waar 'n persoon van mening is dat die optrede van een van of van beide die Kontrakterende State tot gevolg het of tot gevolg sal hê dat hy nie ooreenkomstig hierdie Konvensie belas word nie, kan hy, ongeag die regsmiddels waarvoor die landsreg van daardie State voorsiening maak, sy saak stel aan die bevoegde owerheid van die Kontrakterende Staat waarvan hy 'n inwoner is of, indien sy saak onder paragraaf 1 van Artikel 24 ressorteer, aan dié van die Kontrakterende Staat waarvan hy 'n burger is. Die saak moet gestel word binne drie jaar vanaf die eerste kennisgewing van die handeling wat lei tot belasting wat nie in ooreenstemming met die bepalings van hierdie Konvensie is nie.

2. Die bevoegde owerheid moet, indien die beswaar vir hom geregverdig voorkom en hy nie self 'n geskikte oplossing kan vind nie, probeer om die saak deur onderlinge ooreenkoms met die bevoegde owerheid van die ander Kontrakterende Staat te besleg ten einde belasting te vermy wat nie in ooreenstemming met die Konvensie is nie. Enige ooreenkoms wat bereik word, word ondanks enige tydsbeperkinge ingevolge die landsreg van die Kontrakterende State geïmplementeer.

3. Die bevoegde owerhede van die Kontrakterende State moet probeer om enige probleme of twyfel wat in verband met die uitleg of toepassing van die Konvensie ontstaan, deur onderlinge ooreenkoms uit die weg te ruim. Hulle kan mekaar ook raadpleeg met die oog op die uitkakeling van dubbele belasting in gevalle waarvoor daar nie in die Konvensie voorsiening gemaak word nie.

4. Die bevoegde owerhede van die Kontrakterende State kan regstreeks met mekaar in verbinding tree ten einde tot 'n ooreenkoms te geraak soos in die voorgaande paragraawe beoog.

Article 26***Exchange of Information***

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention in so far as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic law of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

- (a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;
- (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

Article 27***Members of Diplomatic Missions and Consular Posts***

Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

Article 28***Entry into Force***

1. Each of the Contracting States shall notify to the other the completion of the procedures required by its law for the bringing into force of this Convention. The Convention shall enter into force on the date of receipt of the later of these notifications.

2. The provisions of the Convention shall thereupon have effect:

- (a) with regard to taxes withheld at source, in respect of amounts paid or credited on or after the first day of January next following the date upon which the Convention enters into force; and
- (b) with regard to other taxes, in the case of Ireland, for financial years in respect of corporation tax and for years of assessment in respect of income tax and capital gains tax and, in the case of South Africa, in respect of years of assessment, beginning on or after the first day of January next following the date upon which the Convention enters into force.

Artikel 26***Uitruil van Inligting***

1. Die bevoegde owerhede van die Kontrakterende State ruil sodanige inligting uit as wat nodig is vir die uitvoering van die bepalings van hierdie Konvensie of van die landsreg van die Kontrakterende State aangaande belastings deur die Konvensie gedek vir sover die belasting daarkragtens nie strydig met die Konvensie is nie. Die uitruil van inligting word nie deur Artikel 1 beperk nie. Enige inligting ontvang deur 'n Kontrakterende Staat word as geheim behandel op dieselfde wyse as inligting wat ingevolge die landsreg van daardie Staat verkry word, en mag openbaar gemaak word slegs aan persone of owerhede (met inbegrip van howe en administratiewe liggame) betrokke by die aanslaan of invordering van, die afdwing of vervolging met betrekking tot, of die beslissing van appèlle in verband met, die belastings deur die Konvensie gedek. Sodanige persone of owerhede mag die inligting slegs vir sodanige doeleindes gebruik. Hulle kan die inligting by openbare hofverrigtinge of by regterlike beslissings openbaar maak.

2. In geen geval word die bepalings van paragraaf 1 uitgelê nie as sou dit 'n Kontrakterende Staat die verpligting opleë om:

- (a) administratiewe maatreëls uit te voer wat strydig is met die wette of die administratiewe praktyk van daardie of van die ander Kontrakterende Staat;
- (b) inligting te verstrek wat nie kragtens die wette of in die normale loop van die administrasie van daardie of van die ander Kontrakterende Staat verkrygbaar is nie;
- (c) inligting te verstrek wat enige handels-, besigheids-, nywerheids-, kommersiële of professionele geheim of handelsproses sou openbaar, of inligting te verstrek waarvan die openbaarmaking strydig met openbare beleid (ordre public) sou wees.

Artikel 27***Lede van Diplomatieke Missies en Konsulêre Poste***

Niks in hierdie Konvensie raak die fiskale voorregte van lede van diplomatieke missies of van konsulêre poste ingevolge die algemene reëls van die volkereg of ingevolge die bepalings van spesiale ooreenkomste nie.

Artikel 28***Inwerkingtreding***

1. Elk van die Kontrakterende State stel die ander in kennis van die afhandeling van die prosedures wat ingevolge sy reg vereis word om hierdie Konvensie in werking te stel. Die Konvensie tree in werking op die datum van ontvangs van die laaste van hierdie kennisgewings.

2. Die bepalings van die Konvensie is daarna van toepassing:

- (a) met betrekking tot belastings wat by die bron teruggehou word, ten opsigte van bedrae betaal of gekrediteer op of na die eerste dag van Januarie eersvolgende op die datum waarin die Konvensie in werking tree; en
- (b) met betrekking tot ander belastings, in die geval van Ierland, vir finansiële jare ten opsigte van maatskappybelasting en vir jare van aanslag ten opsigte van inkomstebelasting en kapitaalwinstbelasting en, in die geval van Suid-Afrika, ten opsigte van jare van aanslag beginnende op of na die eerste dag van Januarie eersvolgende op die datum waarin die Konvensie in werking tree.

3. The Agreement between the Government of Ireland and the Government of the Union of South Africa for the avoidance of double taxation on income derived from the business of sea and air transport, which entered into force upon proclamation in the Government Gazette of the Union of South Africa on 26 August 1960, shall terminate upon the entry into force of this Convention and its provisions shall not have effect for any period for which this Convention shall have effect.

Article 29

Termination

1. This Convention shall remain in force indefinitely but either of the Contracting States may terminate the Convention through the diplomatic channel, by giving to the other Contracting State written notice of termination not later than 30 June of any calendar year starting five years after the year in which the Convention entered into force.

2. In such event the Convention shall cease to apply:

- (a) with regard to taxes withheld at source, in respect of amounts paid or credited after the end of the calendar year in which such notice is given; and
- (b) with regard to other taxes, in the case of Ireland, for financial years in respect of corporation tax and for years of assessment in respect of income tax and capital gains tax and, in the case of South Africa, in respect of years of assessment, beginning after the end of the calendar year in which such notice is given.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Convention.

DONE at Pretoria in duplicate, this 7th day of October 1997.

FOR THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA

FOR THE GOVERNMENT OF
IRELAND

3. Die Ooreenkoms tussen die Regering van Ierland en die Regering van die Unie van Suid-Afrika vir die vermyding van dubbele belasting op inkomste verkry uit die besigheid van see- en lugvervoer, wat van krag geword het by proklamasie in die Staatskoerant van die Unie van Suid-Afrika op 26 Augustus 1960, word opgesê by die inwerkingtreding van hierdie Konvensie en die bepaling daarvan is nie van krag vir enige tydperk waarvoor hierdie Konvensie van krag is nie.

Artikel 29

Opsegging

1. Hierdie Konvensie bly vir 'n onbepaalde tyd van krag, maar enigeen van die Kontrakterende State kan die Konvensie langs die diplomatieke kanaal opseë deur aan die ander Kontrakterende Staat skriftelik kennis van opsegging te gee nie later nie as 30 Junie van enige kalenderjaar wat begin vyf jaar na die jaar waarin die Konvensie in werking getree het.

2. In sodanige geval is die Konvensie nie meer van toepassing nie:

- (a) met betrekking tot belastinge wat by die bron teruggehou word, ten opsigte van bedrae betaal of gekrediteer na die einde van die kalenderjaar waarin sodanige kennis gegee word; en
- (b) met betrekking tot ander belastinge, in die geval van Ierland, vir finansiële jare ten opsigte van maatskappybelasting en vir jare van aanslag ten opsigte van inkomstebelasting en kapitaalwinstbelasting en, in die geval van Suid-Afrika, ten opsigte van jare van aanslag beginnende na die einde van die kalenderjaar waarin sodanige kennis gegee word.

TEN BEWYSE WAARVAN die ondergetekendes, synde behoorlik daartoe gemagtig, hierdie Konvensie onderteken het.

GEDOEN in tweevoud, te Pretoria, op hede die 7de dag van Oktober 1997.

**NAMENS DIE REGERING VAN DIE
REPUBLIEK VAN SUID-AFRIKA**

**NAMENS DIE REGERING VAN
IERLAND**

Protocol

At the time of signing this Convention between the Government of the Republic of South Africa and the Government of Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains, the undersigned have agreed that the following provisions shall form an integral part of the Convention:

1. Concerning Article 10 it is understood that dividends arising in South Africa or Ireland are not subjected to tax. Should there be any change in these systems, the Contracting States will reconsider the provisions of that Article at the request of either State.
2. With reference to paragraph 1 of Article 23 of the Convention it is understood that:
 - (a) if following the signature of the Convention, the laws of South Africa should change to permit the taxation of dividends from sources outside South Africa and the allowance for relief against South African tax on dividends received in South Africa of tax of another country on the profits out of which the dividends are paid, then it shall immediately notify Ireland and enter into a renegotiation of this Convention to allow similar relief in respect of Irish tax on profits out of which dividends are received in South Africa;
 - (b) the South African secondary tax on companies is a tax on the income of the periods for which the tax is paid.
3. Notwithstanding paragraph 2 of Article 24, South Africa may impose on the profits attributable to a permanent establishment in South Africa of a company which is a resident of Ireland a tax at a rate which does not exceed the rate of normal tax on companies resident in South Africa by more than five percentage points.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Protocol.

DONE at Pretoria in duplicate, this 7th day of October 1997.

FOR THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA

FOR THE GOVERNMENT OF
IRELAND

Protokol

Ten tye van die ondertekening van hierdie Konvensie tussen die Regering van die Republiek van Suid-Afrika en die Regering van Ierland vir die Vermydning van Dubbele Belasting en die Voorkoming van Fiskale Ontduiking met betrekking tot Belastings op Inkomste en Kapitaalwinste, het die ondergetekendes ooreengekom dat die volgende bepalinge 'n integrerende deel van die Konvensie vorm.

1. Met betrekking tot Artikel 10 word daar verstaan dat dividende wat in Suid-Afrika of Ierland ontstaan, nie aan belasting onderworpe is nie. Sou daar enige verandering in hierdie stelsels plaasvind, sal die Kontrakterende State die bepalinge van daardie Artikel heroorweeg op versoek van enigeen van die State.
2. Met verwysing na paragraaf 1 van Artikel 23 van die Konvensie word verstaan dat:
 - (a) indien in opvolging van die ondertekening van die Konvensie, die wette van Suid-Afrika verander ten einde die belasting van dividende uit bronne buite Suid-Afrika toe te laat en die toestaan van verligting teen Suid-Afrikaanse belasting op dividende ontvang in Suid-Afrika van belasting van 'n ander land op die winste waaruit die dividende betaal word, hy Ierland onmiddellik in kennis sal stel en in heronderhandeling van hierdie Konvensie tree ten einde 'n soortgelyke verligting toe te staan ten opsigte van Ierse belasting op winste waaruit dividende in Suid-Afrika ontvang word;
 - (b) die Suid-Afrikaanse sekondêre belasting op maatskappye 'n belasting is op die inkomste van die tydperke waarvoor die belasting betaal word.
3. Ondanks paragraaf 2 van Artikel 24, kan Suid-Afrika op die winste toeskryfbaar aan 'n permanente saak in Suid-Afrika van 'n maatskappy wat 'n inwoner van Ierland is, 'n belasting opleë teen 'n koers wat nie die normale belasting op maatskappye wat in Suid-Afrika woonagtig is met meer as vyf persentasiepunte te bowe gaan nie.

TEN BEWYSE WAARVAN die ondergetekendes, synde behoorlik daartoe gemagtig is, hierdie Protokol onderteken het.

GEDOEN in tweevoud te Pretoria, op hede die 7de dag van Oktober 1997.

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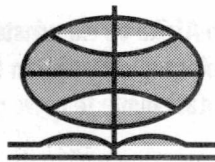
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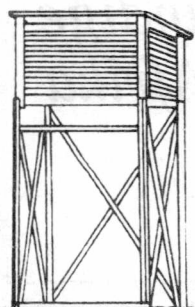
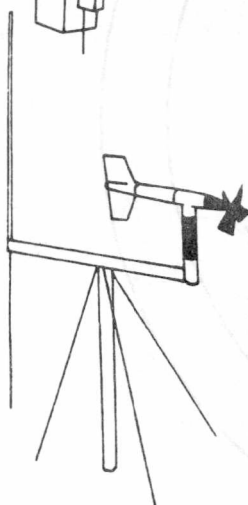
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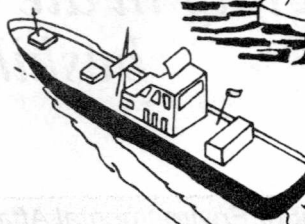
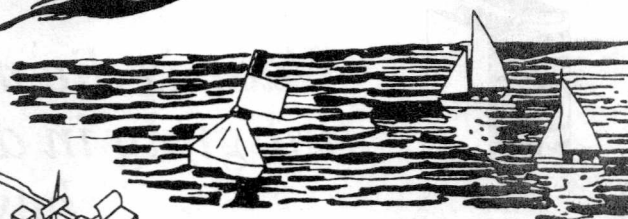
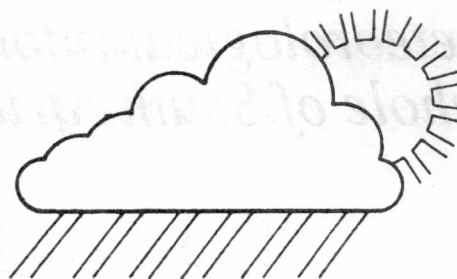
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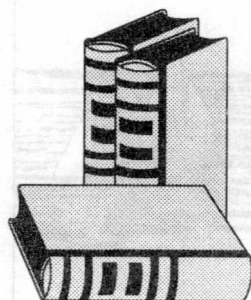
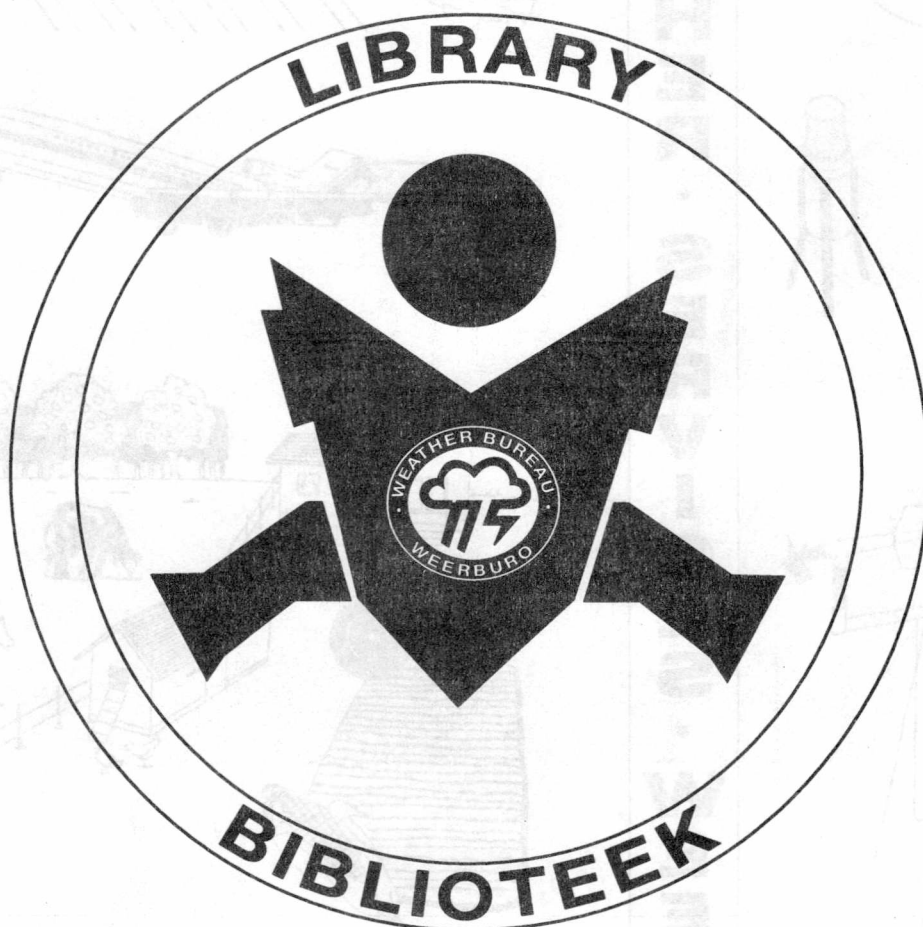
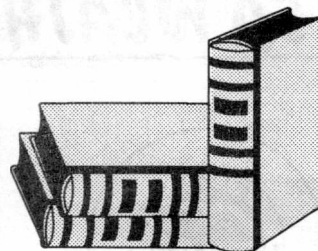
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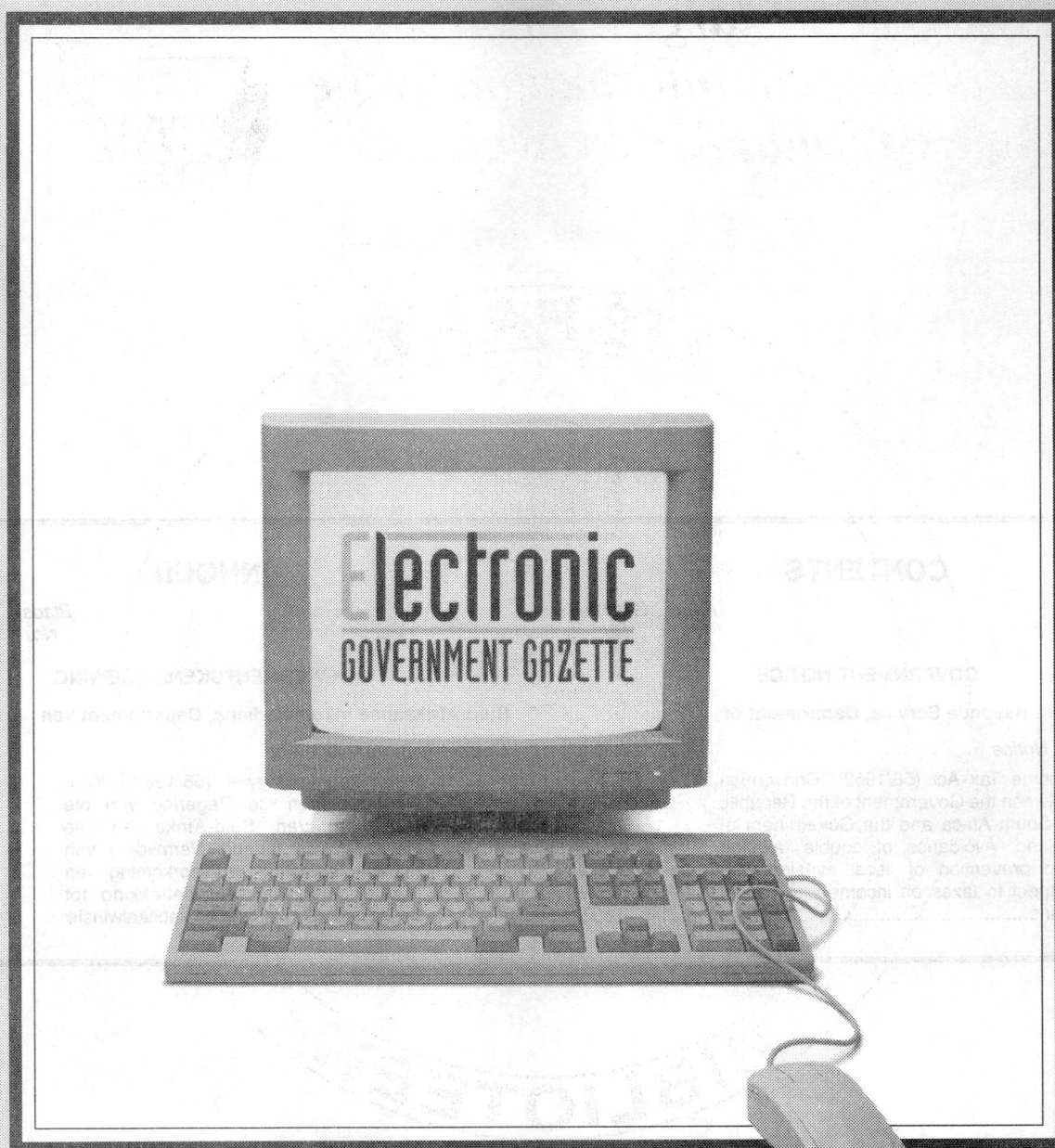
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