

BUITENGEWONE
OFFISIELLE KOERANT
 VAN SUIDWES - AFRIKA.
OFFICIAL GAZETTE
 EXTRAORDINARY
 OF SOUTH WEST AFRICA.



UITGAWE OP GESAG.

PUBLISHED BY AUTHORITY.

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INHOUD

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Goewermentskennisgewing.

Government Notice.

Die volgende Goewermentskennisgewing word vir algemene inligting gepubliseer.

The following Government Notice is published for general information.

C. F. MARAIS,

Sekretaris van Suidwes-Afrika.

Kantoor van die Administrateur,
Windhoek.

C. F. MARAIS,

Secretary for South West Africa.

Administrator's Office,
Windhoek.

No. 113.]

[29 Mei 1959.

No. 113.]

[29th May, 1959.

ORDONNANSIES, 1959: UITVAARDIGING VAN.

Dit het die Administrateur behaag om sy goedkeuring te heg, ooreenkomsdig artikel *twee-en-dertig* van „De Suidwest-Afrika Konstitutie Wet 1925“ (Wet 42 van 1925), aan die volgende Ordonnansies wat hiermee vir algemene inligting gepubliseer word, ooreenkomsdig artikel *vier-en-dertig* van gemelde Wet:—

ORDINANCES, 1959: PROMULGATION OF.

The Administrator has been pleased to assent, in terms of section *thirty-two* of the South-West Africa Constitution Act, 1925 (Act No. 42 of 1925), to the following Ordinances which are hereby published for general information in terms of section *thirty-four* of the said Act:—

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No. 8.	Middele (1959-60) Ordonnansie 1959	Appropriation (1959-60) Ordinance, 1959	400
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ander" die woorde „om addisionele water op te gaan" in te voeg.

4. Artikel *drie-en-twintig* van die hoofordonnansie word hierby herroep.

5. Hierdie Ordonnansie heet die Waterwysigings-ordonnansie 1959.

additional water" after the word "watercourse" where it appears for the first time in sub-section (1).

4. Section *twenty-three* of the principal Ordinance is hereby repealed.

5. This Ordinance shall be called the Water Amendment Ordinance, 1959.

No. 12 van 1959.]

ORDONNANSIE

Ter wysiging van die Wet op Seëlregte.

(Goedgekeur 27 Mei 1959.)

(Engelse teks deur die Administrateur geteken.)

Die Wetgewende Vergadering van die Gebied Suid-wes-Afrika VERORDEN:—

1. In hierdie Ordonnansie dui die uitdrukking „die hoofwet" op „De Zegelwet 1911" (Wet 30 van 1911) soos gewysig by „De Zegelwet Wijsigingswet 1913" (Wet 31 van 1913) en „De Wet tot verdere Wijsiging van de Zegelwet 1921" (Wet 31 van 1921) van die Parlement van die Unie van Suid-Afrika, en soos op hierdie Gebied toegepas en ten opsigte van sodanige toepassing gewysig by Proklamasie van die Militêre Goewerneur van die Gebied gedagteken die twintigste dag van September 1915 (Proklamasie 13 van 1915), Proklamasie van die Administrateur gedagteken die sesde dag van September 1921 (Proklamasie 43 van 1921) en wylsings soos van tyd tot tyd tot tyd aangebring.

2. Artikel *ses* van die hoofwet, soos van tyd tot tyd gewysig, word hierby gewysig deur die uitdrukking „(d)" en „(e)" vaar hulle voorkom voor die derde en vierde voorbehoud tot subartikel (1) met die uitdrukking „(c)" en „(d)" onderskeidelik, te vervang.

3. Hierdie Ordonnansie heet die Wysigingsordonnansie op Seëlregte, 1959.

No. 12 of 1959.]

ORDINANCE

To amend the law relating to Stamp Duties and Fees.

(Assented to 27th May, 1959.)

(English text signed by the Administrator.)

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa as follows:—

1. In this Ordinance, the expression "the principal law" means the Stamp Duties and Fees Act, 1911 (Act 30 of 1911), as amended by the Stamp Duties and Fees Amendment Act, 1913 (Act 31 of 1913), and the Stamp Duties and Fees Further Amendment Act, 1921 (Act 31 of 1921) of the Parliament of the Union of South Africa, and as applied to this Territory and modified in respect of such application by Proclamation of the Military Governor of the Territory dated the twentieth day of September, 1915 (Proclamation 13 of 1915), Proclamation of the Administrator dated the sixth day of September, 1921 (Proclamation 43 of 1921), and as amended from time to time.

2. Section *six* of the principal law, as amended from time to time, is hereby amended by the substitution for the expressions "(d)" and "(e)" appearing before the third and fourth provisos to sub-section (1) of the expressions "(c)" and "(d)" respectively.

3. This Ordinance shall be called the Stamp Duties and Fees Amendment Ordinance, 1959.

No. 13 van 1959.]

ORDONNANSIE

Ter bekragtiging van 'n ooreenkoms tussen die Administrateur van Suidwes-Afrika en die Minister van Finansies van die Unie van Suid-Afrika oor die vermyding van dubbele belasting en die voorkoming van fiskale ontduiking ten opsigte van inkomstebelasting.

No. 13 of 1959.]

ORDINANCE

To ratify an agreement entered into between the Administrator of South West Africa and the Minister of Finance of the Union of South Africa in regard to the avoidance of double taxation and the prevention of fiscal evasion in respect of taxes on income.

(Goedgekeur 27 Mei 1959.)

(Afrikaanse teks deur die Administrateur geteken.)

Nademaal die Administrateur van die Gebied Suid-wes-Afrika en die Minister van Finansies van die Unie van Suid-Afrika op die dertiende dag van Februarie 1959 te Kaapstad 'n ooreenkoms aangegaan het, en nademaal dit wenslik is om daardie ooreenkoms te bekragtig en te bevestig;

SO IS DIT dat die Wetgewende Vergadering van die Gebied Suidwes-Afrika VERORDEN:—

(Assented to 27th May, 1959.)

(Afrikaans text signed by the Administrator.)

In that whereas on the thirteenth day of February 1959 an agreement was entered into at Cape Town between the Administrator of the Territory of South West Africa and the Minister of Finance of the Union of South Africa and whereas it is desirable that the aforesaid agreement should be ratified and confirmed;

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa as follows:—

1. Die ooreenkoms van die dertiende dag van Februarie 1959 tussen die Administrateur van die Gebied Suidwes-Afrika en die Minister van Finansies van die Unie van Suid-Afrika waarvan 'n afskrif in die bylae van hierdie Ordonnansie verskyn, word hierby bekragtig en bevestig, en al die nodige bevoegdhede en gesag om volslae en volledige uitwerking aan die bepalings daarvan te gee, word hierby verleen aan die kontraktante by daardie ooreenkoms.

2. Die Administrateur kan reëls, opdragte of regulasies uitvaardig wat bestaanbaar is met die ooreenkoms enoem in die eerste artikel sodat die doelstellings daarvan behoorlik behaal kan word.

3. Hierdie Ordonnansie heet die Ordonnansie ter Bekragtiging van die Ooreenkoms oor Inkomstebelasting 1959.

BYLAE.

OOREENKOMS TUSSEN DIE MINISTER VAN FINANSIES VAN DIE UNIE VAN SUID-AFRIKA EN DIE ADMINISTRATEUR VAN DIE GEBIED SUIDWES-AFRIKA TER VERMYDING VAN DUBBELE BELASTING EN DIE VOORKOMING VAN FISCALE ONTDUIKING TEN OPSIGTE VAN BELASTINGS OP INKOMSTE.

Die Minister van Finansies van die Unie van Suid-Afrika en die Administrateur van die Gebied Suidwes-Afrika, hieronder die kontrakterende partye genoem, het uit 'n begeerte om 'n ooreenkoms ter vermyding van dubbele belasting en die voorkoming van fiskale onduiking ten opsigte van belastings op inkomste aan te gaan, soos volg ooreengekom:

ARTIKEL I.

1. Die belastings wat die onderwerp van hierdie Ooreenkoms uitmaak, is die volgende:

- (a) in die Unie van Suid-Afrika: Die normale belasting, die superbelasting en die belasting op buitenlandse aandeelhouers (hieronder „Uniebelasting“ genoem);
- (b) in die Gebied Suidwes-Afrika: Die normale belasting, die superbelasting en die belasting op buitenlandse aandeelhouers (hieronder „Suidwes-Afrika-belasting“ genoem).

2. Hierdie Ooreenkoms is ook van toepassing op ander belastings van wesentlik soortgelyke aard wat deur die Regering van die Unie en die Administrasie van Suidwes-Afrika gehef word na die datum van ondertekening van hierdie Ooreenkoms.

ARTIKEL II.

1. In hierdie Ooreenkoms, tensy die verband anders handui, beteken:

- (a) „Unie“ die Unie van Suid-Afrika maar met uitsondering van die Hawe en Nedersetting Walvisbaai;
- (b) „Suidwes-Afrika“ die Gebied Suidwes-Afrika met inbegrip van die Hawe en Nedersetting Walvisbaai;
- (c) „een van die gebiede“ en „die ander gebied“, die Unie van Suid-Afrika of die Gebied Suidwes-Afrika na gelang van die geval;
- (d) „belasting“ Unie- of Suidwes-Afrika-belasting, na gelang van die geval;
- (e) „persoon“ ook enige liggaam van persone, met of sonder regspersoonlikheid;
- (f) „maatskappy“ ook enige liggaam met regspersoonlikheid;
- (g) „inwoner van die Unie“ en „inwoner van Suidwes-Afrika“ onderskeidelik 'n persoon wat gewoonlik in die Unie vir doeleindes van die Uniebelasting en nie gewoonlik in Suidwes-Afrika vir doeleindes van die Suidwes-Afrika-belasting woonagtig is nie,

1. The agreement dated the thirteenth day of February 1959 between the Administrator of the Territory of South West Africa and the Minister of Finance of the Union of South Africa, a copy whereof is set out in the Schedule to this Ordinance, is hereby ratified and confirmed, and all the necessary powers and authority are hereby conferred upon the parties to the said agreement for giving full and complete effect to the provisions thereof.

2. The Administrator may make rules, orders or regulations not inconsistent with the agreement in the first section mentioned for effectually carrying out and giving effect to the object and purposes thereof.

3. This Ordinance shall be called the Income Tax Agreement Ratification Ordinance, 1959.

SCHEDULE.

AGREEMENT BETWEEN THE MINISTER OF FINANCE OF THE UNION OF SOUTH AFRICA AND THE ADMINISTRATOR OF THE TERRITORY OF SOUTH WEST AFRICA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION IN RESPECT OF TAXES ON INCOME.

The Minister of Finance of the Union of South Africa and the Administrator of the Territory of South West Africa, hereinafter referred to as the Contracting Parties, desiring to conclude an agreement for the avoidance of double taxation and the prevention of fiscal evasion in respect of taxes on income, have agreed as follows:

ARTICLE I.

1. The taxes which are the subject of this Agreement are:

- (a) in the Union of South Africa: The normal tax, the supertax and non-resident shareholders' tax (hereinafter referred to as "Union tax");
- (b) in the Territory of South West Africa: the normal tax, the supertax and the non-resident shareholders' tax (hereinafter referred to as "South West African tax").

2. This Agreement shall also apply to any other taxes or a substantially similar character imposed by the Government of the Union and the Administration of South West Africa subsequent to the date of signature of this Agreement.

ARTICLE II.

1. In this Agreement unless the context otherwise requires —

- (a) "Union" means the Union of South Africa, excluding the Port and Settlement of Walvis Bay;
- (b) "South West Africa" means the Territory of South West Africa and includes the Port and Settlement of Walvis Bay;
- (c) "one of the territories" and "the other territory" mean the Union of South Africa or the Territory of South West Africa as the case may be;
- (d) "tax" means Union or South West African tax, as the case may be;
- (e) "person" includes any body of persons, corporate or not corporate;
- (f) "company" includes any body corporate;
- (g) "resident of the Union" and "resident of South West Africa" mean respectively any person who is ordinarily resident in the Union for the purposes of the Union tax and not ordinarily resident in South West Africa for the purposes of the South West African tax and any person who is ordinarily resident in South West Africa for the purposes of

en 'n persoon wat gewoonlik in Suidwes-Afrika vir doeleindes van die Suidwes-Afrika-belasting en nie gewoonlik in die Unie vir doeleindes van die Uniebelasting woonagtig is nie; en 'n maatskappy word as gewoonlik in die Unie woonagtig beskou as dit in die Unie ingelyf is of, tensy dit in Suidwes-Afrika ingelyf is, as sy besigheid in die Unie beheer en bestuur word en gewoonlik in Suidwes-Afrika woonagtig as dit in Suidwes-Afrika ingelyf is of, tensy dit in die Unie ingelyf is, as sy besigheid in Suidwes-Afrika beheer en bestuur word;

(h) „maatskappy van een van die gebiede“ en „maatskappy van die ander gebied“ 'n maatskappy wat 'n inwoner van die Unie of 'n maatskappy wat 'n inwoner van Suidwes-Afrika is, na gelang van die gevall;

(i) „Unie-onderneming“ en „Suidwes-Afrika-onderneming“ onderskeidelik 'n nywerheids- of handelsonoerneming wat deur 'n inwoner van die Unie gedryf word en 'n nywerheids- of handelsonoerneming wat deur 'n inwoner van Suidwes-Afrika gedryf word; en „onderneming van een van die gebiede“ en „onderneming van die ander gebied“ 'n Unie-onderneming of 'n Suidwes-Afrika-onderneming, na gelang die verband vereis;

(j) „nywerheids- of handelsonoerneming“ ook 'n onderneming wat hom besighou met myn-, vis-, landbou- of herderlike bedrywigheede of met bankiersake, assuransie of transaksies in beleggings, en „nywerheids- of handelswinst“ ook winste uit sodanige bedrywigheede of handel, maar nie inkomste in die vorm van diwidende, rente, huurgeld, tantiéme (met inbegrip van huurgeld of tantiéme op bloskoopfilms), bestuurskoste, vergoeding vir persoonlike dienste of winste uit die in-bedryfhoud van vervoerdienste nie;

(k) „permanente saak“ wanneer dit in verband met 'n onderneming van een van die gebiede gesig word, 'n tak, depot, bestuur, fabriek, plaas, myn, steengroef of ander vaste besigheidsplek met inbegrip van enige plek van natuurlike hulpbronne wat aan ontginning onderworpe is en 'n plek waar konstruksiewerk aan die gang is of masjienerie of installasie aangele word, maar sluit nie 'n agentskap in nie, tensy die agent 'n algemene magtiging besit, en dit gewoonlik uittoefen, om kontrakte namens die onderneming aan te gaan en te sluit of 'n voorraad handelsgoedere het waaruit hy gereeld bestellings namens die onderneming uitvoer.

In hierdie verband —

- (i) word 'n onderneming van een van die gebiede nie geag 'n permanente saak in die ander gebied te hé nie, enkel omdat hy besigheidstransaksies in daardie ander gebied deur bemiddeling van 'n *bona fide* makelaar of algemene kommissieagent wat in die gewone loop van sy besigheid as sodanig optree, verrig nie;
- (ii) beteken die feit dat 'n onderneming van een van die gebiede 'n vaste besigheidsplek in die ander gebied uitsluitlik vir die aankoop van goedere of handelsgoedere in stand hou, nie op sigself dat daardie vaste besigheidsplek 'n permanente saak van die onderneming is nie;
- (iii) beteken die feit dat 'n maatskappy wat in een van die gebiede woonagtig is 'n ondermaatskappy het wat in die ander gebied woonagtig is of wat handel of besigheid in die ander gebied (hetby deur bemiddeling van 'n permanente saak of andersins) dryf, nie op sigself dat daardie ondermaatskappy 'n permanente saak van sy moedermaatskappy is nie;
- (l) „winst“, „belasbare inkomste“ soos omskryf in die wette van die Unie en van Suidwes-Afrika betrekende die belastings wat die onderwerp van hierdie Ooreenkoms uitmaak;

„belastingowerhede“ die Kommissaris van Binnelandse Inkomste of sy gemagtigde verteenwoordiger, in die geval van die Unie, en die Kommissaris van Binnelandse Inkomste of sy gemagtigde

the South West African tax and not ordinarily resident in the Union for the purposes of the Union tax; and a company shall be regarded as ordinarily resident in the Union if it is incorporated in the Union or, unless it is incorporated in South West Africa, if its business is managed and controlled in the Union and ordinarily resident in South West Africa if it is incorporated in South West Africa, or, unless it is incorporated in the Union, if its business is managed and controlled in South West Africa;

- (h) "company of one of the territories" and "company of the other territory" mean a company which is a resident of the Union or a company which is a resident of South West Africa, as the case may be;
 - (i) "Union enterprise" and "South West African enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of the Union and an industrial or commercial enterprise or undertaking carried on by a resident of South West Africa; and "enterprise of one of the territories" and "enterprise of the other territory" mean a Union enterprise or a South West African enterprise, as the context requires;
 - (j) "industrial or commercial enterprise or undertaking" includes an enterprise or undertaking engaged in mining, fishing, agricultural or pastoral activities or in the business of banking, insurance or dealing in investments, and "industrial or commercial profits" includes profits from such activities or business but does not include income in the form of dividends, interest, rents, royalties (including rent or royalties of cinematograph films), management charges, remuneration for personal services or profits from the operation of transport services;
 - (k) "permanent establishment" when used with respect to an enterprise of one of the territories means a branch, depot, management, factory, farm, mine, quarry or other fixed place of business including any place of natural resources subject to exploitation and a place where construction work or the installation of plant or machinery is carried on but does not include an agency unless the agent has and habitually exercises, a general authority to negotiate and conclude contracts on behalf of the enterprise or has a stock of merchandise from which he regularly fills orders on its behalf.
- In this connection —
- (i) an enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a *bona fide* broker or general commission agent acting in the ordinary course of his business as such;
 - (ii) the fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise;
 - (iii) the fact that a company which is resident in one of the territories has a subsidiary company which is a resident of the other territory or which is engaged in trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company;
 - (l) "profits" mean "taxable income" as defined under the laws of the Union and of South West Africa relating to the taxes which are the subject of this Agreement;
 - (m) "taxation authorities" mean the Commissioner for Inland Revenue or his authorised representative in the case of the Union and the Commissioner for

verteenwoordiger in die geval van Suidwes-Afrika.

"Uniebelasting" en "Suidwes-Afrika-belasting" omvat 'n bedrag betaalbaar ten opsigte van 'n versuim of ontstrekking betreffende die belastings wat die onderwerp van hierdie Ooreenkoms uitmaak of wat 'n boete opgele deur die wette van een van die gebiede betreffende die belastings, verteenwoordig nie.

By die toepassing van die bepальings van hierdie Ooreenkoms deur of die Unie of Suidwes-Afrika het 'n ontstrekking wat nie anders omskryf is nie, tensy die verantwoordelikheid daarvan as wat aan daardie permanente saak van hierdie Ooreenkoms uitmaak.

ARTIKEL III.

1. Die nywerheids- en handelswinste van 'n onderneming in een van die gebiede is nie aan belasting in die ander gebied onderworpe nie, tensy die onderneming hom betreklik maak met handel of besigheid in die ander gebied en dié besigheid van 'n permanente saak in daardie ander gebied. Indien hy hom aldus besighou, kan belasting deur die ander gebied op daardie winste gele word, maar slegs die deel daarvan as wat aan daardie permanente saak van hierdie Ooreenkoms uitmaak.

2. Wanneer 'n onderneming van een van die gebiede betreklik maak met handel of besigheid in die ander gebied en dié besigheid van 'n permanente saak wat daarin gesitueer is,

a) word daar aan daardie permanente saak die nywerheids- of handelswinste toegeskryf wat hy na verwagting in daardie ander gebied kan verkry as hy 'n onafhanklike onderneming is wat hom met diezelfde of soortgelyke bedrywigheid onder dieselfde voorwaarde toestande besighou en die uiterste voorwaarde beding van die onderneming waarvan hy 'n permanente saak is;

b) word, behoudens die bepaling van subparagraaf (a), geen winste aan daardie permanente saak toegeskryf wat uit bronne buite daardie ander gebied verkry is nie.

3. Geen gedeelte van winste wat voortspruit uit die aankoop van goedere of handelsware deur 'n onderneming in een van die gebiede word toegeskryf aan 'n permanente saak wat in die ander gebied geleë is nie uit hoofde daarvan dat die aankoop van die goedere of handelsware in daardie ander gebied.

4. Hierdie Artikel is nie van toepassing nie in enige gevval waarin sy toepassing tot gevolg sou hê dat inkomste, wat by ontstentenis van sodanige toepassing aan belasting van die gebiede onderworpe sou wees, nie aan belasting in enige van die gebiede onderworpe sou wees.

ARTIKEL IV.

Wanneer

(a) 'n onderneming van een van die gebiede regstreeks of onregstreeks in die bestuur, beheer of kapitaal van 'n onderneming van die ander gebied deel het;

(b) dieselde persone regstreeks of onregstreeks in die bestuur, beheer of kapitaal van 'n onderneming van een van die gebiede en 'n onderneming van die ander gebied deel het; en

(c) in elkeen van die gevalle voorwaardes tussen die twee ondernemings met betrekking tot hul handels- of finansiële verhoudings gestel of opgele deur wat verskil van dié wat tussen onafhanklike ondernemings gestel sou word;

dan word wat by ontstentenis van daardie voorwaardes van die ondernemings sou toegeval het maar as die winste van daardie onderneming ingesluit en verteenwoordig belas word.

Inland Revenue or his authorised representative in the case of South West Africa.

2. "Union tax" and "South West African tax" do not include any sum payable in respect of any default or omission in relation to the taxes which are the subject of this Agreement or which represents a penalty imposed under the law of either territory relating to those taxes.

3. In the application of the provisions of this Agreement by either the Union or South West Africa any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of the Union or South West Africa, as the case may be, relating to the taxes which are the subject of this Agreement.

ARTICLE III.

1. The industrial and commercial profits of an enterprise in one of the territories shall not be subject to tax in the other territory unless the enterprise is engaged in trade or business in the other territory through a permanent establishment in that other territory. If it is so engaged tax may be imposed on those profits by the other territory but only on so much of them as is attributable to that permanent establishment.

2. Where an enterprise of one of the territories is engaged in trade or business in the other territory through a permanent establishment situated therein:-

- (a) there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive in that other territory if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment;
- (b) subject to the provisions of sub-paragraph (a) no profits derived from sources outside that other territory shall be attributed to that permanent establishment.

3. No portion of any profits arising from the sale of goods or merchandise by an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase of the goods or merchandise within that other territory.

4. This Article shall not apply in any case in which its application would have the result that income, which but for such application would be subject to tax in one of the territories, would not be subject to tax in either territory.

ARTICLE IV.

Where

(a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory;

or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory; and

(c) 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.

ARTICLE V.

ARTIKEL V.
Winste verkry deur die Regering of Administrasie na gelang van die geval, van, of deur 'n inwoner van een van die gebiede uit die in-bedryf-hou van vervoerdienste in die ander gebied is vrygestel van belasting in daardie ander gebied.

Profits derived by the Government or Administration, as the case may be, of, or by a resident of, one of the territories from operating transport services in the other territory shall be exempt from tax in that other territory.

ARTIKEL VI.

Enige tantiéme, huurgeld (met inbegrip van huurgeld of tantiéme van bioskoopfilms) of ander vergoeding wat ontvang word deur of toeval aan 'n inwoner van een van die gebiede ten opsigte van die gebruik of toestemming tot die gebruik in die ander gebied van 'n patent, ontwerp, handelsmerk, kopiereg, geheime proses, formule of enige ander eiendom van 'n soortgelyke aard, is vrygestel van belasting in daardie eersgenoemde gebied indien sodanige tantiéme, huurgeld of ander vergoeding aan belasting in die ander gebied onderworpe is.

ARTIKEL VII.

1. Enige pensioen (behalwe 'n pensioen deur die Regering van die Unie betaal vir dienste vir hom by die uitoefening van regeringsfunksies verrig) en enige jaargeld, uit bronne binne die Unie verkry of geag verkry te gewees het, deur iemand wat 'n inwoner van Suidwes-Afrika is, is van Uniebelasting vrygestel in die mate waarin dit ingehulft word in inkomste vir Suidwes-Afrika-belastingdoeleindes.

2. Enige pensioen (behalwe 'n pensioen deur die Administrasie van Suidwes-Afrika betaal vir dienste vir hom by die uitoefening van regeringsfunksies verrig) en enige jaargeld, uit bronne binne Suidwes-Afrika verkry of geag verkry te gewees het, deur iemand wat 'n inwoner van die Unie is, is van Suidwes-Afrika-belasting vrygestel in die mate waarin dit ingehulft word in inkomste vir Uniebelastingdoeleindes.

3. „Jaargeeld“ beteken 'n aangegewe som wat van tyd tot tyd op gegewe tye gedurende lewe of gedurende 'n vermeide of vasstelbare tydsduur betaalbaar is ingevolge 'n verpligtiging om die betalings te doen ten aansien van geld wat betaal is.

ARTIKEL VIII.

1. Soveel van enige pensioen betaal ten opsigte van dienste gelewer aan of die Regering van die Unie of die Administrasie van Suidwes-Afrika of aan beide, as wat in dieselfde verhouding tot die bedrag van sodanige pensioen staan, as wat die tydperk waarin die ontvanger in Suidwes-Afrika gestasioneer was, staan tot die hele tydperk waarin die dienste gelewer is, is van Uniebelasting vrygestel.

2. Soveel van enige pensioen betaal ten opsigte van dienste gelewer aan of die Regering van die Unie of die Administrasie van Suidwes-Afrika of aan beide, as wat in dieselfde verhouding tot die bedrag van sodanige pensioen staan, as wat die tydperk waarin die ontvanger nie in Suidwes-Afrika gestasioneer was nie, staan tot die hele tydperk waarin die dienste gelewer is, is van Suidwes-Afrika-belasting vrygestel.

ARTIKEL IX.

1. Iemand wat 'n inwoner van die Unie is, is vrygestel van Suidwes-Afrika-belasting op winste of vergoedingen opsigte van persoonlike (met inbegrip van professionele) dienste wat in enige jaar van aanslag binne Suidwes-Afrika verrig is as —

by vir 'n tydperk of tydperke van hoogstens altesam 183 dae gedurende diardie jaar in Suidwes-Afrika aanwesig is; en

ARTICLE VI.

Any royalty, rent (including rent or royalties of cinematograph films) or other consideration received by or accrued to a resident of one of the territories by virtue of the use in the other territory of, or the grant of permission to use in that other territory, any patent, design, trade mark, copyright, secret process, formula or any other property of a similar nature shall be exempt from tax in that first-mentioned territory if such royalty, rent or other consideration is subject to tax in the other territory.

ARTICLE VII.

1. Any pension (other than a pension paid by the Government of the Union for services rendered to it in the discharge of governmental functions) and any annuity, derived or deemed to have been derived from sources within the Union by an individual who is a resident of South West Africa, shall be exempt from Union tax to the extent that it is included in income for South West African tax purposes.

2. Any pension (other than a pension paid by the Administration of South West Africa for services rendered to it in the discharge of governmental functions) and any annuity, derived or deemed to have been derived from sources within South West Africa by an individual who is a resident of the Union, shall be exempt from South West African tax to the extent that it is included in income for Union tax purposes.

3. 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 consideration of money paid.

ARTICLE VIII.

1. So much of any pension paid in respect of services rendered to either the Government of the Union or the Administration of South West Africa or to both as bears to the amount of such pension the same ratio as the period during which the recipient was stationed in South West Africa bears to the total period during which the services were rendered shall be exempt from Union tax.

2. So much of any pension paid in respect of services rendered to either the Government of the Union or the Administration of South West Africa or to both as bears to the amount of such pension the same ratio as the period during which the recipient was not stationed in South West Africa bears to the total period during which the services were rendered shall be exempt from South West African tax.

ARTICLE IX.

1. An individual who is a resident of the Union shall be exempt from South West African tax on profits or remuneration in respect of personal (including professional) services performed within South West Africa in any year of assessment if —

(a) he is present within South West Africa for a period or periods not exceeding in the aggregate 183 days during that year; and

2. die dienste verrig word vir of namens 'n persoon wat in die Unie woonagtig is; en
3. die winste of vergoeding aan Uniebelasting onderworpe is.

2. Iemand wat 'n inwoner van Suidwes-Afrika is, is ontstel van Uniebelasting op winste of vergoeding ten opsigte van persoonlike (met inbegrip van professionele) dienste wat in enige jaar van aanslag binne die Unie verrig is as —

- (a) hy vir 'n tydperk of tydperke van hoogstens altesaam 183 dae gedurende daardie jaar in die Unie aanwesig is; en
- (b) die dienste verrig word vir of namens 'n persoon wat in Suidwes-Afrika woonagtig is; en
- (c) die winste of vergoeding aan Suidwes-Afrika-belasting onderworpe is.

1. Die bepalings van hierdie Artikel is nie van toepassing op die winste of vergoeding van openbare voorwerkers soos verhoog-, bioskoop-, of radiokunstenaars, musikante en atlete nie.

ARTIKEL X.

'n Student of besigheidsvakleerling van een van die gebiede wat voltydse onderwys of opleiding in die ander gebied ontvang, is vrygestel van belasting in daardie ander gebied op betalings wat vir doeleindes van sy onderhoud, onderwys of opleiding aan hom gedoen word deur personeel van die eergenoemde gebied.

ARTIKEL XI.

1. Wanneer Uniebelasting betaalbaar is ten opsigte van winste wat uit bronne binne die Unie verkry is deur 'n persoon wat gewoonlik in Suidwes-Afrika woonagtig is, of Suidwes-Afrika of geen belasting op sodanige winste nie of staan hy, behoudens sodanige bepalings (wat nie die algemene beginsel hiervan mag raak nie) as wat in Suidwes-Afrika uitgevaardig mag word, die Uniebelasting as 'n kredit teen enige Suidwes-Afrika-belasting wat ten opsigte van sodanige winste betaalbaar is.

2. Wanneer Suidwes-Afrika-belasting betaalbaar is ten opsigte van winste wat uit bronne binne Suidwes-Afrika verkry is deur 'n persoon wat gewoonlik in die Unie woonagtig is, of die Unie of geen belasting op sodanige winste nie of staan hy, behoudens sodanige bepalings (wat nie die algemene beginsel hiervan mag raak nie) as wat in die Unie uitgevaardig mag word, die Suidwes-Afrika-belasting toe as 'n kredit teen enige Uniebelasting wat ten opsigte van sodanige winste betaalbaar is.

3. Vir doeleindes van hierdie Artikel word beskou dat winste of vergoeding vir persoonlike (met inbegrip van professionele) dienste wat in een van die gebiede verrig is, uit bronne binne daardie gebied, en die dienste van 'n persoon wie se dienste geheel of hoofsaaklik verrig word in vliegtuie of ander voertuie wat deur 'n inwoner van een van die gebiede in bedryf gehou word, word as verrig in daardie gebied beskou.

4. Wanneer rente verkry word deur 'n persoon van 'n persoon (hieronder die skuldnaar genoem) wat gewoonlik in een van die gebiede woonagtig is, en die rente, onttrententenis van die bepalings van hierdie paragraaf, van belasting in albei gebiede onderworpe sou gewees het, dan word die daardale rente aan belasting onderworpe slegs in die gebied waarin die skuldnaar gewoonlik woonagtig is: Met die verstande dat indien die skuldnaar gewoonlik in die gebiede woonagtig is, die rente aan belasting onderworpe is slegs in die gebied waarin die rente toelaatbaar is as 'n aftrekking by die vasstelling van die skuldnaar se belasbare inkomste: Met dien verstande verder indien enigeen van die gebiede sy inkomstebelastingsvergelywing wysig deur die invloeding van 'n bepaling van werkragtens rente, ontvang deur of toegeval aan ten opsigte van 'n persoon gewoonlik in een van die gebiede woonagtig van 'n persoon wat gewoonlik in die ander ge-

- (b) the services are performed for or on behalf of a person resident in the Union; and
- (c) the profits or remuneration are subject to Union tax.

2. An individual who is a resident of South West Africa shall be exempt from Union tax on profits or remuneration in respect of personal (including professional) services performed within the Union in any year of assessment if —

- (a) he is present within the Union for a period or periods not exceeding in the aggregate 183 days during that year; and
- (b) the services are performed for or on behalf of a person resident in South West Africa; and
- (c) the profits or remuneration are subject to South West African tax.

3. The provisions of this Article shall not apply to the profits or remuneration of public entertainers such as stage, motion picture or radio artists, musicians and athletes.

ARTICLE X.

A student or business apprentice from one of the territories who is receiving full-time education or training in the other territory shall be exempt from tax in that other territory on payments made to him by persons in the firstmentioned territory for the purposes of his maintenance, education or training.

ARTICLE XI.

1. Where Union tax is payable in respect of profits derived from sources within the Union by a person ordinarily resident in South West Africa, South West Africa shall either impose no tax on such profits or, subject to such provisions (which shall not affect the general principle hereof) as may be enacted in South West Africa, shall allow the Union tax as a credit against any South West African tax payable in respect of such profits.

2. Where South West African tax is payable in respect of profits derived from sources within South West Africa by a person ordinarily resident in the Union, the Union shall either impose no tax on such profits or, subject to such provisions (which shall not affect the general principle hereof) as may be enacted in the Union, shall allow the South West African tax as a credit against any Union tax payable in respect of such profits.

3. For the purposes of this Article profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be profits from sources within that territory, and the services of an individual whose services are wholly or mainly performed in aircraft or other transport vehicles operated by a resident of one of the territories shall be deemed to be performed in that territory.

4. Where interest is derived by any person from a person (hereinafter referred to as the debtor) who is ordinarily resident in one of the territories and the interest would, but for the provisions of this paragraph, be subject to tax in both territories, that interest shall be subject to tax only in the territory in which the debtor is ordinarily resident: Provided that if the debtor is ordinarily resident in both territories, the interest shall be subject to tax only in the territory in which that interest is allowable as a deduction in the determination of the debtor's taxable income: Provided further that if either of a provision in terms of which interest received by or accrued to or in favour of a person ordinarily resident in one of the territories from a person ordinarily resident

bied woonagtig is, beskou word as uit 'n bron in daardie ander gebied verkry omdat die skuldenaar in daardie ander gebied woonagtig is, hierdie paragraaf verval vanaf die datum waarop of die belastingjaar ten opsigte waarvan sodanige wysliging in werking tree.

ARTIKEL XII.

Die belastingowerhede van die Unie en Suidwes-Afrika ruil inligting uit (dit wil sê inligting wat ingevolge die onderskeie belastingwette van die twee gebiede beskikbaar is) wat nodig is vir die uitvoering van die bepalings van hierdie Ooreenkoms of ter voorkoming van bedrog of vir die toepassing van die wetsbepalings teen wetlike onduiting in verband met die belastings wat die onderwerp van hierdie Ooreenkoms uitmaak. Aldus uitgerulde inligting word geheim gehou en aan geen ander persone openbaar gemaak as dié betrokke by die aanslaan en invordering van die belastings wat die onderwerp van hierdie Ooreenkoms uitmaak nie. Geen inligting word uitgerul wat 'n handelsgeheim of handelsproses aan die lig sou bring nie.

ARTIKEL XIII.

Hierdie Ooreenkoms word van krag op die datum waarop die laaste van al die dinge wat nodig is om die Ooreenkoms in elke gebied die krag van wet te gee, in beide gebiede gedoen is en geld daarna —

- (a) in die Unie, ten opsigte van aanslae vir die jaar van aanslag geëindig op 30 Junie 1955 en daaropvolgende jare;
- (b) in Suidwes-Afrika, ten opsigte van aanslae vir die jaar van aanslag geëindig op 30 Junie 1955 en daaropvolgende jare.

ARTIKEL XIV.

Hierdie Ooreenkoms bly vir 'n onbepaarde tydperk van krag, maar enige van die kontrakterende partye kan op of voor die dertigste dag van September in enige kalenderjaar na die jaar 1958, kennis van opseggung aan die ander kontrakterende party gee, en in so 'n geval verval hierdie Ooreenkoms —

- (a) in die Unie, ten opsigte van enige jaar van aanslag wat begin op of na die eerste dag van Julie in die kalenderjaar wat volg op dié waarin sodanige kennis gegee is;
- (b) in Suidwes-Afrika, ten opsigte van enige jaar van aanslag wat begin op of na die eerste dag van Julie in die kalenderjaar wat volg op dié waarin sodanige kennis gegee is.

TEN BEWYSE WAARVAN die ondergetekende hierdie Ooreenkoms onderteken het.

GEDOEN in duplo, in die Afrikaanse en Engelse tale, te Kaapstad op hede die dertiende dag van Februarie negentienhonderd nege-en-vyftig.

IN WITNESS WHEREOF the undersigned have signed this Agreement.

DONE in duplicate in the English and Afrikaans languages, at Cape Town this thirteenth day of February nineteen hundred and fifty-nine.

T. E. DONGES,
Minister van Finansies van die Unie van Suid-Afrika.
Minister of Finance of the Union of South Africa.

D. T. DU P. VILJOEN,
Administrateur van die Gebied Suidwes-Afrika,
Administrator of the Territory of South West Africa.

in the other territory is deemed to be derived from a source in that other territory because the debtor is resident in that other territory, this paragraph shall cease to have effect from the date from which or the tax year in respect of which such amendment comes into operation.

ARTICLE XII.

The taxation authorities of the Union and South West Africa shall exchange such information (being information available under the respective taxation laws of the two territories) as is necessary for carrying out the provisions of this Agreement or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of this Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of this Agreement. No information shall be exchanged which would disclose any trade secret or trade process.

ARTICLE XIII.

This Agreement shall come into force on the date on which the last of all such things shall have been done in both territories as are necessary to give the Agreement the force of law in each territory and shall thereupon have effect —

- (a) in the Union, in respect of assessments for the year of assessment ended on the 30th June, 1955, and subsequent years;
- (b) in South West Africa, in respect of assessments for the year of assessment ended on the 30th June, 1955, and subsequent years.

ARTICLE XIV.

This Agreement shall continue in effect indefinitely, but either of the contracting parties may, on or before the thirtieth day of September in any calendar year after the year 1958, give notice of termination to the other contracting party and, in such event, this Agreement shall cease to be effective —

- (a) in the Union, in respect of any year of assessment beginning on or after the first day of July in the calendar year next following that in which such notice is given;
- (b) in South West Africa, in respect of any year of assessment beginning on or after the first day of July in the calendar year next following that in which such notice is given.

IN WITNESS WHEREOF the undersigned have signed this Agreement.

DONE in duplicate in the English and Afrikaans languages, at Cape Town this thirteenth day of February nineteen hundred and fifty-nine.

TEN BEWYSE WAARVAN die ondergetekende hierdie Ooreenkoms onderteken het.

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