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CONTENTS • INHOUD

No.	Page No. Gazette No.
GOVERNMENT NOTICE	
South African Revenue Service, Department of Government Notice	
R. 1018 Press Statement: Multinationals and Secondary Tax on Companies.....	3 26735

GOVERNMENT NOTICE

SOUTH AFRICAN REVENUE SERVICE

No. R. 1018

27 August 2004

MINISTER OF FINANCE PRESS STATEMENT 26 AUGUST 2004

MULTINATIONALS AND SECONDARY TAX ON COMPANIES

It has come to my attention that certain multinational companies and their advisers are attempting to argue that they may declare dividends to non-resident group companies without paying Secondary Tax on Companies (STC).

I am concerned that this argument is based on an improper reading of the Double Taxation Agreements South Africa has entered into with other jurisdictions. I am further concerned that it has taken the form of a "product" that has been aggressively marketed by certain advisers without any consideration of the potential impact that it would have on the South African fiscus, Government's ability to fund the developmental needs of South Africa, and the distortions it would introduce in competition between multinational and domestic groups, were it to be successful.

SARS has engaged with advisers that have marketed this product and with some of their clients in order to highlight both the broader policy and technical objections to it. The engagements with the advisers have not produced satisfactory results. SARS has indicated that it will oppose this product or any variation of it through all legal avenues available to it.

In order to ensure that business certainty is maintained while this process unfolds I have decided to propose a legislative amendment to Parliament to make it even more abundantly clear that STC is leviable under the circumstances at issue. I also wish to make it clear that it is not and has never been Government's intention to provide multinational groups with a more favourable STC dispensation than domestic groups. I will recommend to Parliament that the proposal be effective in respect of dividends declared on or after 26 August 2004. A draft of the proposed amendment will be released shortly and will be open for public comment.

SARS has informed me that it will continue to engage with individual multinationals, as there have been positive indications that certain of these multinationals have begun to reconsider their positions. SARS will also continue to engage with advisers, including those that have indicated that they regard the product as unacceptable.

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