

Market Notice

Number: 002
Date 11 January 2012

Dividends Tax

Members are referred to Market Notice 267 dated 18 October 2011 and the market workshop held on 16 November 2011 regarding Dividends Tax which will be introduced effective from 01 April 2012.

We have attached the following Declaration and Undertaking documents, as designed by the South African Revenue Service (SARS), for which the following should be noted –

Declaration and Undertaking – Exemptions.

This Declaration and Undertaking form relates to exemptions as per Section 64E of the Tax Law Amendment Bill. Where your clients meet the criteria per Section 64E of the Tax Law Amendment Bill they need to complete this form which must be retained by the member firm. The member firm will be required to update the BDA system accordingly. SARS have confirmed that the wording may be included in clients mandates as opposed to having a separate form completed. However, the wording has to be kept exactly the same. Further, the Client only has to complete this form once and not for every dividend payment – once exempt always exempt. If the clients status changes it will fall upon the client to advise the member firm who must update their records and the BDA system accordingly.

Section 64E of the Tax Law Amendment Bill has the following exemptions which will be catered for on the BDA system -

Code	Description
A	a company which is a resident;
B	the Government, a provincial administration or a municipality;
C	a public benefit organisation approved by the Commissioner in terms of section 30(3) (could be local or foreign, but must be approved);
D	a trust contemplated in section 37A (i.e. rehabilitation trust);
E	an institution, board or body contemplated in section 10(1)(cA) (ex. Water Board, Tribal Authority etc);
F	a fund contemplated in section 10(1)(d)(i) or (ii) (i.e. Pension/Provident/RA/Benefit Fund);
G	a person contemplated in section 10(1)(t) (ex. CSIR, SANRAL, ARMSCOR, Development Bank of SA etc);



JSE Limited Registration Number: 2005/022939/06
 One Exchange Square, Gwen Lane, Sandown, South Africa.
 Private Bag X991174, Sandton, 2146, South Africa. Telephone:
 +27 11 520 7000, Facsimile: +27 11 520 8584, www.jse.co.za

Executive Directors: NF Newton-King (CEO),
 F Evans (CFO) **Non-Executive Directors:** HJ Borkum
 (Chairman), AD Botha, ZL Combi, MR Johnston, DM Lawrence,
 A Mazwai, NS Nematswerani, N Nyembezi-Heita, N Payne
Alternate Directors: JH Burke, LV Parsons

H	a shareholder in a registered micro business, as defined in the Sixth Schedule, paying that dividend, to the extent that the aggregate amount of dividends paid by that registered micro business to its shareholders during the year of assessment in which that dividend is paid does not exceed the amount of R200 000;
I	(i) ...
J	A person that is not a resident and the dividend is a dividend contemplated in paragraph (b) of the definition of 'dividend' in section 64D (i.e. non-resident company listed on JSE).

Declaration and Undertaking – Double Taxation Agreements.

This Declaration and Undertaking form relates to Double Taxation Agreements. Where your clients meet the criteria in terms of the Double Taxation Agreements they need to complete this form which must be retained by the member firm. The member firm must also update the BDA system accordingly. A separate Declaration and Undertaking will have to be completed per event for which the Client meets the criteria in terms of the Double Taxation Agreements.

Should you have any questions regarding this notice, please contact either Chris Grove or Brett Kotze.

Chris Grove

Designation General Manager
 Division Client Services
 Tel +27 11 5207587
 Fax +27 11 5208729
 E-mail address: chrisg@jse.co.za

Distributed by the Company Secretariat +27 11 520 7346

DIVIDENDS TAX:

Declaration & Undertaking to be made by the beneficial owner of a dividend (EXEMPTION FROM TAX)

Notes on completion of this form:

- This form is to be completed by the beneficial owner (of dividends, including dividends *in specie*) in order for the exemptions from dividends tax referred to in section 64F read with sections 64FA(2), 64G(2) or 64H(2)(a) of the Income Tax Act, 1962 (Act No 58 of 1962) (the Act) to apply.
- In order to qualify for an exemption this declaration and written undertaking should be submitted to the withholding agent (declaring company or regulated intermediary) within the period required by the latter (provided it is before payment of an affected dividend) - failure to do so will result in the full 10% dividends tax being withheld/payable.
- Non South African residents seeking to qualify for a reduced rate should not complete this form. Please use Form DTD(RR).

PART A: WITHHOLDING AGENT
(This part is to be pre-populated by the Company or Regulated intermediary)

Registered name: _____

Dividends tax reference number: _____

Contact details: _____

PART B: BENEFICIAL OWNER

(This part is to be completed by the person entitled to the benefit of the dividend attaching to a share(s))

Full names & surname / registered name: _____

Nature of person / entity:

Individual

Listed company

Unlisted company

Trust (any type)

RSA Government, Provincial Administration, Municipalities

Retirement Fund (Pension, Provident, Benefit, RA etc)

Other (if selected please provide a description / explanation of nature of the entity / person: _____

Identity / Passport / Registration number: _____

South African income tax reference number: _____

Physical address: _____

Postal address: _____

Country in which resident for tax purposes: _____

PART C: EXEMPTION

(This part is to be completed by the person entitled to the benefit of the dividend attaching to a share(s))

Please indicate the reason why the beneficial owner is exempt from the dividends tax:

- Par (a) – a company which is resident in South Africa
- Par (b) – the Government, provincial government or municipality (of the Republic of South Africa)
- Par (c) – a public benefit organisation (approved by SARS ito section 30(3) of the Act)
- Par (d) – a trust contemplated in section 37A of the Act (mining rehabilitation trusts)

- [] Par (e) – an institution, body, or board contemplated in section 10(1)(cA) of the Act
- [] Par (f) – a fund contemplated in section 10(1)(d)(i) or (ii) of the Act (pension fund, pension preservation fund, provident fund, provident preservation fund, retirement annuity fund, beneficiary fund or benefit fund)
- [] Par (g) – a person contemplated in section 10(1)(t) of the Act (CSIR, SANRAL etc)
- [] Par (h) – a shareholder in a registered micro business as defined in the Sixth Schedule to the Act to the extent that the aggregate amount of the dividends paid by that registered micro business to its shareholders during the year of assessment in which that dividend is paid does not exceed R200,000
- [] Par (j) – a person that is not a resident and the dividend is a dividend contemplated in paragraph (b) of the definition of “dividend” in section 64D (i.e. a dividend on a foreign company’s shares listed in SA, such as dual-listed shares)

DECLARATION in terms of sections 64FA(1)(a)(i), 64G(2)(a)(aa) or 64H(2)(a)(aa) of the Act:

I _____ (*full names in print please*), the undersigned hereby declare that dividends paid to the beneficial owner is exempt, or would have been exempt had it not been a distribution of an asset *in specie*, from the dividends tax in terms of the paragraph of section 64F of the Act indicated above.

Signature: _____ Date: _____
 (Duly authorised to do so)
 Capacity of Signatory (if not the beneficial owner): _____

Undertaking in terms of sections 64FA(1)(a)(ii), 64G(2)(a)(bb) or 64H(2)(a)(bb) of the Act:

I _____ (*full names in print please*), the undersigned undertake to forthwith inform the Withholding Agent in writing should the circumstances of the beneficial owner referred to in the declaration above change.

Signature: _____ Date: _____
 (Duly authorised to do so)
 Capacity of Signatory: _____

DIVIDENDS TAX:

Declaration & Undertaking to be made by the beneficial owner of a dividend (REDUCED RATE OF TAX)

Notes on completion of this form:

- This form is to be completed by the beneficial owner (of dividends, including dividends *in specie*) in order for the reduced rate of dividends tax, referred to in sections 64FA, 64G or 64H of the Income Tax Act, 1962 (Act No 58 of 1962) (the Act) as well as the provisions of the Agreement for the Avoidance of Double Taxation and Prevention of Fiscal Evasion (DTA) between the Republic of South Africa and the country of residence of the beneficial owner, to apply.
- In order to qualify for the reduced rate referred to above this declaration and written undertaking should be submitted to the withholding agent (declaring company or regulated intermediary) within the period required by the latter (provided it is before payment of the dividend) - failure to do so will result in the full 10% dividends tax being withheld/payable.
- Where the beneficial owner is a foreign resident but does not qualify for a reduced rate this form should NOT be completed.

PART A: WITHHOLDING AGENT

(This part is to be pre-populated by the Company or Regulated intermediary)

Registered name: _____

Dividends tax reference number: _____

Contact details:

PART B: BENEFICIAL OWNER

(This part is to be completed by the person entitled to the benefit of the dividend attaching to a share(s))

Full names & surname / registered name: _____

Nature of person / entity:

Individual

Listed company

Unlisted company

Trust (any type)

RSA Government, Provincial Administration, Municipalities

Retirement Fund (Pension, Provident, Benefit, RA etc)

Other (if selected please provide a description / explanation of nature of the entity / person: _____

Identity / Passport / Registration number: _____

Date of birth / inception: _____

South African income tax reference number: _____

Physical address: _____

Postal address: _____

Country in which resident for tax purposes: _____

PART C: REDUCED RATE

(This part is to be completed by the person entitled to the benefit of the dividend attaching to a share(s))

Please provide the following details for all shares held in respect of which a reduced rate of tax is applicable:

No	Registered company name	Explanation of the reasons the beneficial owner meets the
----	-------------------------	---

		requirements of the DTA
1		
2		
3		
4		
5		

* If more entries need to be made please complete another Form DTD(RR).

DECLARATION in terms of sections 64FA(2)(a), 64G(3)(i) or 64H(3)(i) of the Act:

I _____ (*full names in print please*), the undersigned hereby declare that all the relevant requirements in terms of Article _____ of the Agreement for the Avoidance of Double Taxation and Prevention of Fiscal Evasion (DTA) in force on the relevant date between the Republic of South Africa and the country of residence of the beneficial owner specified above, as well as sections 64FA, 64G or 64H of the Act (whichever is applicable), have been met and that dividends paid on the shares specified above are therefore subject to a reduced rate of _____%.

Signature: _____ Date: _____
 (Duly authorised to do so)

Capacity of Signatory (if not the Beneficial Owner): _____

UNDERTAKING in terms of section 64FA(2)(b), 64G(3)(ii) or 64H(3)(ii) of the Act:

I _____ (*full names in print please*), the undersigned undertake to forthwith inform the Withholding Agent in writing should the circumstances of the beneficial owner referred to in the declaration above change.

Signature: _____ Date: _____
 (Duly authorised to do so)

Capacity of Signatory (if not the Beneficial Owner): _____