NEWS RELEASE

For Immediate Release

Introduction of the 'New' Renegotiated Double Taxation Agreement (DTA) Between the Government of the Kingdom of Lesotho and the Government of the Republic of South Africa

Maseru, 12th July 2016: On the 04th July 2016, the Minister of Foreign Affairs, Honourable Tlohang Sekhamane, issued a Government Circular (Savingram) confirming the 27th May 2016 as the date of entry into force of the renegotiated Double Taxation Agreement (DTA) between the Government of the Kingdom of Lesotho and the Government of the Republic of South Africa.

This is therefore confirmation that the DTA will be applicable on or after the thirtieth day following the date upon which the Agreement enters into force which is 27 June 2016.

Background

It is the practice in most countries for income tax to be imposed both on the world-wide income derived by residents of the country and on income derived by non-residents sourced in the country. The effect of such a system is that income derived by a resident of one country from a source in another country is subjected to tax in both countries. As this position clearly discourages foreign investment, it is normal for countries which have trade relations to conclude double taxation agreements. Such agreements commonly provide that income of a particular nature will either be taxable in only one of the countries, or may be taxed in both countries with one of them allowing a credit for the tax imposed by the other.

Key changes

The new DTA therefore brings about changes which are meant to both encourage investment and to curb tax avoidance and evasion. In general the DTA has introduced:

- Taxation on capital gains where the gains derived by a non-resident in Lesotho will be subject to tax.
- Ambiguous provisions which have previously been subject to abuse have been updated.
- Reduction of the qualification period for a permanent establishment, where there is no fixed place of business in relation to employment and professional services from 183 days to 90 days.

- Withholding tax (WHT) on Dividends will now be on a two-tier basis, where 10% of gross income will be withheld when the non-resident receiving the dividends owns 10% of the business assets. 15% is for all other cases.
- WHT on Technical Fees has now been reduced from 10% to 7.5% to attract more services of that nature.
- Open channels for dispute resolution by mutual agreement.

Further information in this regard can be obtained from the LRA Website: www.lra.org.ls or call: +266 52215214 during office hours.