

10E. TAXATION

Material South African Income Tax Consequences

The following is a summary of material income tax considerations under South African income tax law. No representation is made by any particular purchaser of our securities as to the effect of South African or other tax laws to which they may be subject.

South Africa imposes tax on worldwide income of South African residents. Generally, individuals not resident in South Africa are exempt in the following circumstances:

Income Tax and Withholding Tax on Dividends

Non-residents will pay income tax on any amounts received by or accrued to them from a source within Africa. Interest received by a non-resident on a debt instrument issued by a South African company will be exempt from tax. Dividends received by a non-resident are exempt from taxation in terms of Section 10(1)(i) of the South African Income Tax Act 1962 (as amended) if the taxpayer is a resident of a country with which South Africa has entered into a double tax agreement. If the taxpayer is not a resident of such a country, the exemption applies to so much of any interest and dividends (which are not exempt) as exceeds (a) R34,500 if the taxpayer is 65 years of age or older or (b) R23,800 if the taxpayer is younger than 65 years of age.

No withholding tax is deductible in respect of interest payments made to non-resident investors.

Section 64F of the amendments to the Income Tax Act as set out in Part VIII in Chapter II of the Taxation Laws Amendment Act of 2013 (the "2013 Act") provides that dividends received by a non-resident shareholder of a South African company are exempt from tax. The exemption applies to dividends received by a non-resident shareholder of a South African company which is a resident of a country with which South Africa has entered into a double tax agreement. The exemption applies to dividends received by a non-resident shareholder of a South African company which is a resident of a country with which South Africa has entered into a double tax agreement. The exemption applies to dividends received by a non-resident shareholder of a South African company which is a resident of a country with which South Africa has entered into a double tax agreement.

The above provisions shall not apply if the beneficial owner of the dividends is resident in the United States of America, or if the dividends are attributable to such permanent establishment or fixed base.

In fiscal years 2022 and 2021, the tax rates for taxable mining income for Ergo was 5% and 25% for both years. The gold mining tax formula for determining the South African gold mining tax for 2021 for fiscal year 2021 was 28% and the percentage rate of tax payable and X is the ratio of taxable expenditure of any year to the total mining income derived, expressed as a percentage. The tax rate for non-mining income was 28% for both fiscal years.

On February 23, 2022, the Minister of Finance announced that the CIT rate for companies with years of assessment commencing on or after April 1, 2022, will be lowered from 28% to 27%. The mining operations of the Group are not affected by this change. The gold mining tax formula was changed to 28% from 27% on or after April 1, 2022. It was further announced that the lowering of the CIT rate will be implemented alongside the CIT base by limiting interest deductions and assessed losses. Section 23H of the Income Tax Act, which provides that dividends received by non-resident shareholders are exempt from tax, is permitted to be set-off against taxable income.

With effect from April 1, 2014, Section 8F of the Income Tax Act results in any amount of interest which is deemed to be a dividend declared by the payor and received by the recipient which is income tax, as opposed to interest which is exempt from tax. The terms of some of our intercompany loans cause them to be deemed to be interest for tax purposes. The characterization of the affected loans as interest is not impacted by subsequent amendments to Section 8F of the Income Tax Act that became effective in fiscal year 2017.

U.S. Federal Income Tax Considerations

The following is a summary of the U.S. federal income tax considerations generally applicable to the ownership of shares or ADRs. Unless otherwise indicated, this discussion addresses only U.S. Holders of the securities (general property held for investment) for U.S. federal income tax purposes. This discussion is based on the Internal Revenue Code (the "Code"), Treasury regulations promulgated thereunder, judicial decisions in the United States (the "IRS"), administrative pronouncements and other relevant authorities, all of which are subject to change and interpretation, and possibly on a retroactive basis. There can be no assurance that the IRS will sustain a position contrary to any of the considerations discussed herein.

This summary does not address U.S. federal estate, gift or other non-income tax considerations, the estate tax, gift tax, or investment income, or any state, local or non-U.S. tax considerations, and does not address all aspects of U.S. federal income taxation that may be relevant to certain types of U.S. Holders subject to special provisions under U.S. federal income tax laws, partnerships or other pass-through entities, banks and other financial institutions, estate planning, persons holding ordinary shares or ADRs as part of a "hedge," persons who acquired the shares or ADRs upon the exercise of compensation, persons whose functional currency is not the U.S. dollar, or persons who own more than one share or ADR.

For purposes of this discussion, a "U.S. Holder" is a beneficial owner of ordinary shares or ADRs that is, for U.S. federal income tax purposes:

- a citizen or individual resident of the United States;
- a corporation (or any entity treated as a corporation for U.S. federal income tax purposes) organized under the laws of the District of Columbia;
- an estate the income of which is subject to U.S. federal income tax without regard to its source; or
- a trust (i) if a court within the United States is able to exercise primary supervision over the administration of the trust, or (ii) if the trust is a valid election to be treated as a U.S. person.

If a partnership (or other entity or arrangement treated as a partnership for U.S. federal income tax purposes) has any federal income tax treatment of a partner in the partnership will generally depend on the status of the partnership. Partners holding any ordinary shares or ADRs and their partners should consult their tax advisors regarding the tax consequences of their investment.

U.S. Holders of ordinary shares or ADRs should consult their tax advisors regarding the U.S. federal income tax consequences of the acquisition and disposition of ordinary shares or ADRs in light of their particular circumstances as well as any laws of any foreign state or local taxing jurisdiction.

Distributions

For U.S. federal income tax purposes, a U.S. Holder of ADRs will be treated as the owner of the ADRs. Changes of ownership of ADRs and ADRs for ordinary shares will generally not be subject to U.S. federal income tax.

Subject to the discussion below under the heading "Passive Foreign Investment Company", the gross amount of any distribution on ordinary shares or ADRs (including any amounts withheld in respect of South African withholding taxes) to the extent paid out of our current or accumulated earnings and profits, as determined under U.S. federal law, will be the gross income of a U.S. Holder on the day actually or constructively received. The U.S. federal income tax distributions received by a U.S. Holder will generally equal the dollar value of the payments of dividends or amounts withheld in respect of South African withholding taxes), determined dividends paid to the U.S. Holder in such U.S. Holder's income, regardless of whether the payment is in any gain or loss in the U.S. Holder's income. The exchange fluctuations during the period from the date a U.S. Holder receives dividends or payments into the payment into dollars will be treated as ordinary income or loss.

Distributions, if any, in excess of our current or accumulated earnings and profits will constitute a non-applicable against our capital. The U.S. Holder's basis in the ordinary shares or ADRs. To the extent that basis is exhausted, the excess will be treated as capital gain, and the U.S. Holder will be subject to U.S. federal income tax on the excess. We do not intend to calculate our earnings or profits for U.S. federal income tax purposes. We do not intend to calculate our earnings or profits for U.S. federal income tax purposes. We do not intend to calculate our earnings or profits for U.S. federal income tax purposes.

An individual or other non-corporate U.S. Holder may be subject to tax on any such dividends at the lower capital gains rate, provided that certain conditions are satisfied, including that (1) the dividends are received from a U.S. Holder, or we are eligible for the benefit of a reduced rate of tax on such dividends; (2) the U.S. Holder (as discussed below) for the taxable year in which the dividends are received, and (3) the U.S. Holder meets the holding period requirements. Dividend income derived with respect to the U.S. Holder's ordinary shares or ADRs received deduction generally allowed to a U.S. corporation. U.S. Holders should consult their tax advisors regarding the applicability of the receipt of any dividends paid with respect to the ordinary shares and ADRs.

For U.S. foreign tax credit purposes, dividends received on ordinary shares or ADSs common shares will generally be treated as passive category income. Subject to certain conditions and the ability of a U.S. Holder to claim a foreign tax credit in respect of any dividends received on ordinary shares or ADSs to the extent such taxes are nonrefundable. The U.S. Holder may, alternatively, elect to compute its taxable income for U.S. federal income tax purposes. The U.S. Holder's election to claim a foreign tax credit applies to all creditable foreign income taxes paid or accrued during the taxable year and the deductibility of foreign taxes are complex. All U.S. Holders should consult their tax advisors regarding the deductibility of foreign taxes in light of their particular circumstances.

Passive Foreign Investment Company

A non-U.S. corporation, such as our company, will be classified as a passive foreign investment company (PFIC) for any taxable year if either (i) 75% or more of our gross income for such year, including any company income, is considered to be passive income or (ii) 50% or more of our assets (determined on the basis of a quarterly average) during such year consist of any company assets which are considered to be passive assets. Passive income generally includes dividends, interest, royalties, and capital gains from property held for investment. Passive assets are those which give rise to passive income. Assets which are not passive include cash, assets readily convertible into cash, and (subject to certain exceptions) debt instruments. Assets which are not passive are taken into account and may be classified as active or passive depending on their nature.

If we are a PFIC for any taxable year during which a U.S. Holder holds ordinary shares or ADRs, the U.S. Holder will be subject to tax on (i) gain recognized upon the disposition of the ordinary shares or ADRs and (ii) the excess distribution for the year in which the U.S. Holder holds the ordinary shares or ADRs or, if the U.S. Holder is a U.S. Holder for the entire year, the excess distribution for the year in which the U.S. Holder holds the ordinary shares or ADRs. Under these rules:

- the gain or excess distribution will be allocated ratably over a U.S. Holder's holding period for the ordinary shares or ADRs, as applicable; of the excess distribution or of the sale or other disposition of the ordinary shares or ADRs for the taxable year in which we are classified as a PFIC (each, an "ordinary year"), will be taxed as
- amounts allocated to each prior year (other than the current taxable year or a pre-PFIC year) will be added to the highest taxable year; and
- such amounts will be increased by an additional tax equal to interest on the resulting tax deemed deferred in the preceding taxable year or a pre-PFIC year).

Although we generally will be treated as a PFIC as to any U.S. Holder if we are a PFIC for any period during a U.S. Holder's holding period, a U.S. Holder may avoid PFIC classification for subsequent years if such holder ceases to be a PFIC for the entire year in which the U.S. Holder holds the ordinary shares or ADRs through the close of the tax year in which we cease to be a PFIC.

A U.S. Holder of a PFIC is required to file an annual report with the Internal Revenue Service Section 6012(a)(9) for each year in which we are a PFIC.

A U.S. Holder of ordinary shares or ADRs that are treated as "marketable stock" may be able to avoid and imposition of the special tax above by making a mark-to-market election. Pursuant to this election, the U.S. Holder will be able to deduct a loss or gain in an amount equal to the difference between, as of the close of the taxable year, the fair market value of the ordinary shares or ADRs and the adjusted tax basis in such ordinary shares or ADRs. Losses would be allowed only if they are included by the U.S. Holder under the election for prior taxable years. If a U.S. Holder makes a mark-to-market election for which we are classified as a PFIC, tax rules that apply to U.S. Holders of PFICs will not apply to the U.S. Holder's investment in us. If the U.S. Holder subsequently ceases to be classified as a PFIC, the U.S. Holder will not be able to deduct a loss or gain described above during any period that we are not classified as a PFIC. A U.S. Holder of a PFIC who makes a mark-to-market election cannot be made for any lower-tier PFICs that we may own, a U.S. Holder may continue to be subject to such U.S. Holder's indirect interest in any investments held by us that are treated as a PFIC for U.S. tax purposes. U.S. Holders should consult their tax advisors with respect to the application of the mark-to-market election to their shares or ADRs.

In the case of a U.S. Holder who holds ordinary shares or ADRs and who does not make a mark-to-market election, the special tax above will not apply if such holder makes an election to treat us as a "qualified electing fund" (QEF). If we are a QEF, the U.S. Holder will be able to deduct a loss or gain in an amount equal to the difference between, as of the close of the taxable year, the fair market value of the ordinary shares or ADRs and the adjusted tax basis in such ordinary shares or ADRs. Losses would be allowed only if they are included by the U.S. Holder under the election for prior taxable years. If a U.S. Holder makes a QEF election for which we are classified as a PFIC, tax rules that apply to U.S. Holders of PFICs will not apply to the U.S. Holder's investment in us. If the U.S. Holder subsequently ceases to be classified as a PFIC, the U.S. Holder will not be able to deduct a loss or gain described above during any period that we are not classified as a PFIC. A U.S. Holder of a PFIC who makes a QEF election cannot be made for any lower-tier PFICs that we may own, a U.S. Holder may continue to be subject to such U.S. Holder's indirect interest in any investments held by us that are treated as a PFIC for U.S. tax purposes. U.S. Holders should consult their tax advisors with respect to the application of the QEF election to their shares or ADRs.

We believe that we were not a PFIC for our taxable year ended June 30, 2022. There can be no assurance regarding our PFIC status for future taxable years, however, because our PFIC status is a factual determination made based on our assets. The value of our assets for purposes of the asset test, and the classification of our assets, may be determined in part by reference to the market price of our ordinary shares or ADRs at the time we determine which assets we generally take into account our current market capitalization in estimating the value of our assets. Our PFIC status for the current taxable year and foreseeable future taxable years may be affected by our market capitalization.

Disposition of Ordinary Shares or ADRs

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