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Leto VIII

3. Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Češko republiko o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki na dohodek in premoženje (BCZIDO)

Na podlagi druge alineje prvega odstavka 107. člena in prvega odstavka 91. člena Ustave Republike Slovenije izdajam

U K A Z

O RAZGLASITVI ZAKONA O RATIFIKACIJI KONVENCIJE MED REPUBLIKO SLOVENIJO IN ČEŠKO REPUBLIKO O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI NA DOHODEK IN PREMOŽENJE (BCZIDO)

Razlašam Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Češko republiko o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki na dohodek in premoženje (BCZIDO), ki ga je sprejel Državni zbor Republike Slovenije na seji 22. januarja 1998.

Št. 011-22-5/98

Ljubljana, dne 30. januarja 1998

Predsednik
Republike Slovenije
Milan Kučan l. r.

Z A K O N

O RATIFIKACIJI KONVENCIJE MED REPUBLIKO SLOVENIJO IN ČEŠKO REPUBLIKO O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI NA DOHODEK IN PREMOŽENJE (BCZIDO)

1. člen

Ratificira se Konvencija med Republiko Slovenijo in Češko republiko o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki na dohodek in premoženje, podpisana v Ljubljani dne 13. junija 1997.

2. člen

Konvencija se v izvirniku v slovenskem in angleškem jeziku glasi:*

K O N V E N C I J A MED REPUBLIKO SLOVENIJO IN ČEŠKO REPUBLIKO O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI NA DOHODEK IN PREMOŽENJE

Republika Slovenija in Češka republika
sta se v želji, da bi sklenili konvencijo o izogibanju
dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi
z davki na dohodek in premoženje,
dogovorili o naslednjem:

C O N V E N T I O N BETWEEN THE REPUBLIC OF SLOVENIA AND THE CZECH REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

The Republic of Slovenia and the Czech republic
Desiring to conclude a Convention for the avoidance of
double taxation and the prevention of fiscal evasion with
respect to taxes on income and on capital,
have agreed as follows:

* Besedilo konvencije v češkem jeziku je na vpogled v Sektorju za mednarodne pravne zadeve Ministrstva za zunanje zadeve Republike Slovenije.

1. člen

Osebe, za katere se uporablja konvencija

Ta konvencija se uporablja za osebe, ki so rezidenti ene ali obeh držav pogodbenic.

2. člen

Davki, za katere se uporablja konvencija

1. Ta konvencija se uporablja za davke na dohodek in premoženje, ki jih uvajajo država pogodbenica, njene politične enote ali njene lokalne oblasti, ne glede na to, kako so uvedeni.

2. Za davke na dohodek in premoženje štejemo vse davke, ki se uvedejo na celotni dohodek, na celotno premoženje ali na sestavine dohodka ali premoženja, vključujoč davke na dobiček od odsvojitve premičnin ali nepremičnin, davke na celotne zneske mezd ali plač, ki jih plačujejo podjetja, kot tudi davke na zvišanje vrednosti kapitala.

3. Obstoječi davki, za katere se uporablja konvencija, so zlasti:

a) v Sloveniji:

(i) davek na dobiček pravnih oseb;

(ii) davek na dohodek posameznikov, vključujoč mezde in plače, dohodek od kmetijskih dejavnosti, dohodek iz poslovanja, kapitalске dobičke in dohodek iz nepremičnin in premičnin;

(iii) davek na premoženje;

(v nadaljevanju "slovenski davek");

b) v Češki republiki:

(i) davek na dohodek posameznikov;

(ii) davek na dohodek pravnih oseb;

(iii) davek na nepremičnine;

(v nadaljevanju "češki davek").

4. Ta konvencija se bo uporabljala tudi za kakršne koli enake ali vsebinsko podobne dajatve, ki bodo uvedene po datumu podpisa konvencije, dodatno k že obstoječim dajatvam ali namesto njih. Pristojni organi držav pogodbenic morajo drug drugega obvestiti o vseh bistvenih spremembah, ki so bile izvedene v ustreznih davčnih zakonih.

3. člen

Splošne definicije

1. Za namene te konvencije, razen če kontekst ne zahteva drugače:

a) izraz "Slovenija" pomeni Republiko Slovenijo in v primeru, ko se uporablja v zemljepisnem smislu, pomeni ozemlje Slovenije, vključno s teritorialnim morjem in vsemi drugimi področji v morju in v zraku, na katerih Republika Slovenija v skladu z mednarodnim pravom izvaja suverene pravice in sodno oblast;

b) izraz "Češka republika" pomeni ozemlje Češke republike, na katerem se po češki zakonodaji in v skladu z mednarodnim pravom izvršujejo suverene pravice Češke republike;

c) izraza "država pogodbenica" in "druga država pogodbenica" pomenita Slovenijo ali Češko republiko, odvisno od konteksta;

d) izraz "oseba" zajema posameznika, družbo ali katero koli drugo telo, ki združuje več oseb;

e) izraz "družba" pomeni katero koli korporacijo ali enoto, ki se obravnava kot korporacija v davčne namene;

Article 1

Personal scope

This Convention shall apply to persons who are residents of one or both of the Contracting States.

Article 2

Taxes covered

1. This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

3. The existing taxes to which the Convention shall apply are in particular:

a) in Slovenia:

(i) the tax on profits of legal persons;

(ii) the tax on income of individuals, including wages and salaries, income from agricultural activities, income from business, capital gains and income from immovable and movable property;

(iii) the tax on property;

(hereinafter referred to as "Slovenian tax");

b) in the Czech Republic:

(i) the tax on income of individuals;

(ii) the tax on income of legal persons;

(iii) the tax on immovable property;

(hereinafter referred to as "Czech tax").

4. This Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their respective taxation laws.

Article 3

General definitions

1. For the purposes of this Convention, unless the context otherwise requires:

a) the term "Slovenia" means the Republic of Slovenia and when used in a geographical sense, means the territory of the Republic of Slovenia, including the territorial sea and any other area in the sea and in the air within which the Republic of Slovenia, in accordance with international law, exercises sovereign rights and jurisdiction;

b) the term "Czech Republic" means the territory of the Czech Republic over which, under Czech legislation and in accordance with international law, the sovereign rights of the Czech Republic are exercised;

c) the terms "a Contracting State" and "the other Contracting State" mean Slovenia or the Czech Republic as the context requires;

d) the term "person" includes an individual, a company and any other body of persons;

e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

f) izraza "podjetje države pogodbenice" in "podjetje druge države pogodbenice" pomenita podjetje, ki ga upravlja rezident države pogodbenice, in podjetje, ki ga upravlja rezident druge države pogodbenice;

g) izraz "državljan" pomeni:

(i) katerega koli posameznika, ki ima državljanstvo države pogodbenice;

(ii) katero koli pravno osebo, partnerstvo ali združenje, katere status izhaja iz zakonov, ki veljajo v državi pogodbenici;

h) izraz "mednarodni promet" pomeni kakršen koli prevoz z ladjo, z letalom, s cestnim ali železniškim vozilom, s katerim upravlja podjetje, ki ima sedež dejanske uprave v državi pogodbenici, razen kadar ladja, letalo, cestno ali železniško vozilo opravljajo prevoze izključno med kraji v drugi državi pogodbenici;

i) izraz "pristojni organ" pomeni:

(i) v primeru Slovenije Ministrstvo za finance ali njegovega pooblaščenega predstavnika;

(ii) v primeru Češke republike ministra za finance ali njegovega pooblaščenega predstavnika.

2. Kadar uporablja država pogodbenica to konvencijo, ima vsak izraz, ki s konvencijo ni opredeljen, če kontekst ne zahteva drugače, tak pomen, kot ga ima po njenih zakonih, ki se nanašajo na davke, za katere se uporablja ta konvencija.

4. člen *Rezident*

1. Za namene te konvencije izraz "rezident države pogodbenice" pomeni katero koli osebo, ki je v skladu z zakoni te države pogodbenice dolžna plačevati davke zaradi svojega stalnega prebivališča, bivališča, sedeža uprave ali katerega koli drugega kriterija podobne narave. Vendar ta izraz ne pomeni katere koli osebe, ki je dolžna v tej državi plačevati le davke od dohodkov, ki izvirajo v tej državi, ali od premoženja, ki se tam nahaja.

2. Kadar je v skladu z določbami prvega odstavka posameznik rezident obeh držav pogodbenic, se njegov status opredeli, kot sledi:

a) šteje se za rezidenta države, v kateri ima stalno prebivališče; če ima stalno prebivališče v obeh državah, se šteje za rezidenta države, s katero ima tesnejše osebne in ekonomske odnose (središče vitalnih interesov);

b) če države, v kateri ima središče svojih vitalnih interesov, ni mogoče določiti, ali če nima na razpolago stalnega prebivališča v eni ali drugi državi, se šteje, da je rezident države, v kateri običajno prebiva;

c) če ima svoje običajno bivališče v obeh državah ali v nobeni od njiju, se šteje za rezidenta države, katere državljan je;

d) če je državljan obeh držav ali nobene od njiju, pristojni organi držav pogodbenic razrešijo to vprašanje s skupnim dogovorom.

3. Kadar je zaradi določb prvega odstavka oseba, razen posameznika, rezident v obeh državah pogodbenicah, se šteje za rezidenta države, v kateri je njen sedež dejanske uprave.

f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

g) the term "national" means:

(i) any individual possessing the nationality of a Contracting State;

(ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;

h) the term "international traffic" means any transport by a ship, aircraft, road or railway vehicle operated by an enterprise which has its place of effective management in a Contracting State, except when the ship, aircraft, road or railway vehicle is operated solely between places in the other Contracting State;

i) the term "competent authority" means:

(i) in the case of Slovenia, the Ministry of Finance or its authorized representative.

(ii) in the case of the Czech Republic, the Minister of Finance or his authorized representative;

2. As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.

Article 4 *Resident*

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);

b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;

c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;

d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

5. člen

Stalna poslovna enota

1. Za namene te konvencije izraz "stalna poslovna enota" pomeni stalno mesto poslovanja, v katerem se v celoti ali delno odvijajo posli določenega podjetja.

2. Izraz "stalna poslovna enota" še posebej vključuje:

- a) sedež uprave;
- b) podružnico;
- c) poslovalnico;
- d) tovarno;
- e) delavnico, in
- f) rudnik, naftno ali plinsko nahajališče, kamnolom ali kateri koli drug kraj, kjer izkoriščajo naravne vire.

3. Izraz "stalna poslovna enota" prav tako obsega:

a) gradbišče, projekt gradnje, montaže ali instalacij ali s tem povezane nadzorne dejavnosti, vendar le v primeru, ko gradbišče, projekt ali dejavnosti trajajo dlje kot dvanajst mesecev;

b) izvajanje storitev, vključno s svetovanjem in storitvami vodenja, s strani podjetja države pogodbenice prek zaposlenih ali drugega osebja, ki ga podjetje angažira v ta namen, vendar le v primeru, ko dejavnosti te narave na ozemlju druge države pogodbenice trajajo za obdobje ali obdobja, ki v celoti presega (-jo) 6 mesecev znotraj katerega koli dvanajstmesečnega obdobja.

4. Ne glede na prejšnje določbe tega člena se šteje, da izraz "stalna poslovna enota" ne vključuje:

a) uporabe prostorov izključno za skladiščenje, razstavljanje ali dostavo dobrin ali blaga, ki pripada podjetju;

b) vzdrževanja zalog dobrin ali blaga, ki pripada podjetju, samo zaradi skladiščenja, razstavitve ali dostave;

c) vzdrževanja zalog dobrin ali blaga, ki pripada podjetju, izključno za namene predelave v drugem podjetju;

d) vzdrževanja stalnega kraja poslovanja izključno za nakup dobrin ali blaga ali za zbiranje podatkov za podjetje;

e) vzdrževanja stalnega kraja poslovanja izključno za namenom oglaševanja, informiranja, znanstvenega raziskovanja ali podobne dejavnosti pripravljalne ali pomožne narave za podjetje;

f) vzdrževanja stalnega kraja poslovanja izključno zaradi kakršne koli kombinacije dejavnosti, navedenih v točkah a) do e), če je celotna dejavnost stalnega kraja poslovanja, ki izvira iz te kombinacije, pripravljalne ali pomožne narave.

5. Kljub določbam prvega in drugega odstavka, kjer oseba – ki ni zastopnik z neodvisnim statusom, za katerega veljajo določbe šestega odstavka – deluje v državi pogodbenici v imenu podjetja in ima oziroma običajno uporablja pooblastilo za sklepanje pogodb v imenu podjetja, se šteje, da ima podjetje stalno poslovno enoto v tej državi za vse dejavnosti, ki jih ta oseba opravlja za podjetje, razen če njene dejavnosti niso omejene na tiste, omenjene v četrtem odstavku, zaradi katerih se ta stalni kraj poslovanja po tem odstavku ne bi štel za stalno poslovno enoto, če bi se te dejavnosti opravliale prek stalnega kraja poslovanja.

Article 5

Permanent establishment

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

- a) a place of management;
- b) a branch;
- c) an office;
- d) a factory;
- e) a workshop, and
- f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. The term "permanent establishment" likewise encompasses:

a) a building site, construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than twelve months;

b) the furnishing of services, including consultancy or managerial services, by an enterprise of a Contracting State through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue in the territory of the other Contracting State for a period or periods exceeding in the aggregate 6 months within any twelve-month period.

4. Notwithstanding the preceding provisions of this Article the term "permanent establishment" shall be deemed not to include:

a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise;

f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person, other than an agent of an independent status to whom paragraph 6 applies, is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. Ne šteje se, da ima podjetje stalno poslovno enoto v državi pogodbenici, če opravlja posle v tej državi prek posrednika, splošnega komisionarja ali kakršnega koli drugega agenta, ki ima neodvisen status, če te osebe delujejo v okviru svojega rednega poslovanja.

7. Dejstvo, da družba, ki je rezident države pogodbenice, nadzoruje ali jo nadzoruje družba, ki je rezident druge države pogodbenice, oziroma ki izvaja posle v tej drugi državi (prek stalne poslovne enote ali drugače), samo po sebi še ne pomeni, da se taka družba šteje za stalno poslovno enoto druge.

6. člen

Dohodek od nepremičnin

1. Dohodek rezidenta države pogodbenice, ki izhaja iz nepremičnin (vključno z dohodkom od kmetijstva ali gozdarstva), ki so v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

2. Izraz "nepremičnine" ima pomen, ki ga določa zakonodaja države pogodbenice, v kateri je določena nepremičnina. Izraz zajema vselej tudi premoženje, ki je sestavni del nepremičnin, živi in neživi inventar kmetijskih in gozdnih gospodarstev, pravice, za katere veljajo določbe splošnega prava, ki se nanašajo na zemljiško lastnino, užitek na nepremičninah in pravice do spremenljivih ali stalnih plačil kot odškodnino za izkoriščanje ali pravico do izkoriščanja nahajališč rud, virov ter drugih naravnih bogastev. Ladje, čolni in letala se ne štejejo za nepremičnine.

3. Določbe prvega odstavka se uporabljajo tudi za dohodek, ustvarjen z neposredno uporabo, oddajanjem v najem ali drugačno uporabo nepremičnine.

4. Določbe prvega in tretjega odstavka se uporabljajo tudi za dohodek od nepremičnine podjetja in za dohodek od nepremičnine, ki se uporablja za opravljanje samostojnih osebnih storitev.

7. člen

Poslovni dobiček

1. Dobiček podjetja države pogodbenice se obdavči samo v tej državi, razen če podjetje posluje v drugi državi pogodbenici prek stalne poslovne enote v njej. Če podjetje posluje kot prej omenjeno, se lahko dobiček podjetja obdavči v drugi državi, vendar samo v tolikšni meri, kolikor se pripisuje tej stalni poslovni enoti.

2. V skladu z določbami tretjega odstavka, kjer podjetje države pogodbenice posluje v drugi državi pogodbenici prek stalne poslovne enote v njej, bo v vsaki državi pogodbenici stalni poslovni enoti pripisan dobiček, ki bi ga lahko pričakovali, če bi bila podjetje in stalna poslovna enota dve različni in ločeni podjetji, ki se ukvarjata z enakimi ali podobnimi dejavnostmi pod enakimi ali podobnimi pogoji in delujeta popolnoma neodvisno drug od drugega.

3. Pri določanju dobičkov stalne poslovne enote se mora dovoliti odbitek stroškov, ki nastanejo pri poslovanju stalne poslovne enote, vključujoč poslovodne in splošne upravne stroške, ki so nastali bodisi v državi, kjer je stalna poslovna enota, ali drugje.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6

Income from immovable property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7

Business profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. Če je bilo v državi pogodbenici običajno določati dobiček, ki se pripisuje stalni poslovni enoti na podlagi razdelitve celotnega dobička podjetja na različne dele, nič v drugem odstavku ne more preprečiti državi pogodbenici, da bi določala dobiček za obdavčevanje s takšno razdelitvijo, ki je običajna. Metoda razdelitve mora vseeno biti takšna, da so rezultati v skladu z načeli, ki jih vsebuje ta člen.

5. Stalni poslovni enoti se ne pripisuje dobiček, če samo kupuje dobrine ali blago za podjetje.

6. Za namene prejšnjih odstavkov se morajo stalni poslovni enoti dobički določati po isti metodi leto za letom, razen če ni upravičenega in zadostnega razloga za nasprotno.

7. Kjer dobički vključujejo dele dohodka, ki so posebej obravnavani v drugih členih te konvencije, na določbe tistih členov ne bodo vplivale določbe tega člena.

8. člen

Mednarodni transport

1. Dobički iz prevozov z ladjami, letali, cestnimi in železniškimi vozili v mednarodnem prometu se obdavčijo samo v državi pogodbenici, v kateri je sedež dejanske uprave podjetja.

2. Če je sedež dejanske uprave podjetja, ki se ukvarja z ladijskim pomorskim prometom, na ladji, se šteje, da je sedež dejanske uprave v državi pogodbenici, v kateri je matična luka ladje, če pa ladja nima matične luke, je sedež dejanske uprave v državi pogodbenici, katere rezident je prevoznik.

3. Določbe prvega odstavka veljajo tudi za dobičke iz udeležbe v poolu, mešanem podjetju ali mednarodnih poslovnih agencijah.

9. člen

Povezana podjetja

1. Kjer

a) podjetje države pogodbenice neposredno ali posredno sodeluje pri upravljanju, nadzoru ali v kapitalu podjetja druge države pogodbenice ali

b) iste osebe sodelujejo neposredno ali posredno pri upravljanju, nadzoru ali v kapitalu podjetja države pogodbenice in podjetja druge države pogodbenice,

in v obeh primerih obstajajo oziroma se uvedejo med dvema podjetjema v njunih komercialnih ali finančnih razmerjih pogoji, ki so drugačni od tistih, kakršni bi bili med neodvisnimi podjetji, potem se dobički, do katerih bi – če takih pogojev ne bi bilo – v enem od podjetij prišlo, vendar – prav zaradi takih pogojev do njih ni prišlo, smejo vključiti v dobičke tega podjetja in ustrezno obdavčiti.

2. Kjer država pogodbenica v dobiček podjetja te države vključuje in ustrezno obdavči dobičke, ki so bili že obdavčeni v drugi državi pogodbenici v okviru podjetja te druge države pogodbenice in so tako vključeni dobički tisti dobički, ki bi jih sicer imelo podjetje prve omenjene države, če bi bili pogoji med obema podjetjema enaki pogojem med neodvisnimi podjetji, takrat mora ta druga država ustrezno prilagoditi znesek davka, ki se v tej državi zaračuna od takega dobička. Pri določanju take prilagoditve, je treba upoštevati

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

International transport

1. Profits from the operation of ships, aircraft, road or railway vehicles in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

3. The provisions of paragraph 1 shall also apply to profits derived from the participation in a pool, a joint business or an international operating agency.

Article 9

Associated enterprises

1. Where

a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and 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.

2. Where a Contracting State includes in the profits of an enterprise of that State and taxes accordingly, profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of

določbe te konvencije in pristojni organi držav pogodbenic se med seboj posvetujejo, če je to potrebno.

3. Določbe drugega odstavka ne veljajo v primeru goljufije, velike malomarnosti ali namerne napake.

10. člen
Dividende

1. Dividende, ki jih družba – rezident države pogodbenice – izplača rezidentu druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

2. Vendar se takšne dividende lahko obdavčijo tudi v državi pogodbenici, katere rezident je družba, ki izplačuje dividende, v skladu z zakoni te države, če pa je upravičeni lastnik dividend rezident druge države pogodbenice, tako obračunani davek ne sme presegati:

a) 5 odstotkov bruto zneska dividend, če je upravičeni lastnik družba, ki ima v svoji lasti direktno vsaj 25 odstotkov kapitala družbe, ki izplačuje dividende;

b) 15 odstotkov bruto zneska dividend v vseh drugih primerih.

Pristojni organi držav pogodbenic določijo način uporabe take omejitve z medsebojnim dogovorom.

Določbe tega odstavka ne vplivajo na obdavčevanje družbe glede na dobičke, iz katerih so plačane dividende.

3. Izraz "dividende", uporabljen v tem členu, pomeni dohodek iz delnic ali drugih pravic udeležbe v dobičku, ki niso terjatve, kot tudi dohodek iz drugih pravic v družbi, ki se davčno enako obravnavajo kot dohodek od delnic po davčnih zakonih države, katere rezident je družba, ki izplačuje dividende.

4. Določbe prvega in drugega odstavka ne veljajo, če upravičeni lastnik dividend, ki je rezident države pogodbenice, opravlja posle v drugi državi pogodbenici, katere rezident je družba, ki izplačuje dividende prek stalne poslovne enote, ki se tam nahaja, ali opravlja v drugi državi pogodbenici samostojne osebne storitve prek stalne baze, ki se tam nahaja, in je holding, ki se mu izplačujejo dividende, dejansko povezan s takšno stalno poslovno enoto ali stalno bazo. V takšnem primeru veljajo določbe 7. ali 14. člena, odvisno od primera.

5. Kadar družba, ki je rezident države pogodbenice, dobiva svoje dobičke ali dohodke iz druge države pogodbenice, ta druga država ne sme uvesti nobenih davkov na dividende, ki jih izplača družba, razen če so te dividende izplačane rezidentu te druge države, oziroma če je holding, ki se mu izplačujejo dividende, dejansko povezan s stalno poslovno enoto ali stalno bazo v tej drugi državi, niti ne obračunati na nerazdeljene dobičke družbe davka na nerazdeljene dobičke, celo če se izplačane dividende ali nerazdeljeni dobički sestojijo v celoti ali delno iz dobičkov ali dohodka, ki nastane v tej drugi državi.

the tax charged therein on those profits. In determining such adjustment, due regard shall be paid to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

3. The provisions of paragraph 2 shall not apply in the case of fraud, gross negligence, or willful default.

Article 10
Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State the tax so charged shall not exceed:

a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 25 per cent of the capital of the company paying the dividends;

b) 15 per cent of the gross amount of the dividends in all other cases.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares, or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the taxation laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid, or the undistributed profits consist wholly or partly of profits or income arising in such other State.

11. člen
Obresti

1. Obresti, ki nastanejo v državi pogodbenici in so izplačane rezidentu druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

2. Vendar so lahko take obresti obdavčene tudi v državi pogodbenici, v kateri so nastale, in v skladu z zakoni te države, če pa je upravičeni lastnik obresti rezident druge države pogodbenice, tako obračunan davek ne sme presežati 5 odstotkov bruto zneska obresti. Pristojni organi držav pogodbenic določijo način uporabe take omejitve z medsebojnim dogovorom.

3. Kljub določbam drugega odstavka se obresti, nastale v državi pogodbenici, ki jih prejme vlada druge države pogodbenice, vključno s političnimi enotami in lokalnimi oblastmi ali njihovo centralno banko in katerih upravičeni lastnik je vlada druge države pogodbenice, vključno s političnimi enotami in lokalnimi oblastmi ali njihovo centralno banko, izvzamejo iz davka v prvo omenjeni državi pogodbenici.

4. Izraz "obresti", kot se uporablja v tem členu, pomeni dohodek iz terjatev kakršne koli vrste, ne glede na to, ali so zavarovane s hipoteko ali ne in ne glede na to, ali imajo pravico do udeležbe pri dolžnikovih dobičkih in še posebej dohodek iz državnih vrednostnih papirjev in dohodek iz zadolžnic ali obveznic vključno s premijami in nagradami, ki pripadajo takšnim vrednostnim papirjem, zadolžnicam ali obveznicam. Pogodbene kazni zaradi zamude v plačilu se po tem členu ne štejejo za obresti.

5. Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik obresti, ki je rezident države pogodbenice, opravlja posle v drugi državi pogodbenici, v kateri nastajajo obresti iz stalne poslovne enote, ki je v njej, ali opravlja v tej drugi državi pogodbenici samostojne osebne storitve iz stalne baze, ki je v njej, in je terjatev, v zvezi s katero se izplačujejo obresti, dejansko povezana s takšno stalno poslovno enoto ali stalno bazo. V takih primerih veljajo določbe 7. ali 14. člena, odvisno od primera.

6. Šteje se, da so obresti nastale v državi pogodbenici, kadar je plačnik država, politična enota, organ lokalne oblasti ali rezident te države. Kadar pa ima oseba, ki plačuje obresti, ne glede na to ali je rezident države pogodbenice ali ne, v državi pogodbenici stalno poslovno enoto ali stalno bazo, v zvezi s katero je nastal dolg, od katerega se plačujejo obresti in te obresti plačuje stalna poslovna enota ali stalna baza, se šteje, da so te obresti nastale v državi, v kateri je stalna poslovna enota ali stalna baza.

7. Kadar zaradi posebnega odnosa med plačnikom in upravičenim lastnikom ali med obema in kako drugo osebo znesek obresti glede na terjatev, za katero se plačujejo, presega znesek, ki bi bil dogovorjen med plačnikom in upravičenim lastnikom, če takega odnosa ne bi bilo, se določbe tega člena uporabljajo samo za zadnji omenjeni znesek. V takšnem primeru se presežni del plačila obdavči v skladu z zakoni vsake države pogodbenice, pri tem pa je treba upoštevati druge določbe te konvencije.

Article 11
Interest

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State the tax so charged shall not exceed 5 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and derived and beneficially owned by the Government of the other Contracting State, including political subdivisions and local authorities or by Central Bank thereof, shall be exempt from tax in the first-mentioned Contracting State.

4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

12. člen

Licenčnine in avtorski honorarji

1. Licenčnine in avtorski honorarji, ki nastanejo v državi pogodbenici in se izplačujejo rezidentu v drugi državi pogodbenici, se lahko obdavčujejo v tej drugi državi.

2. Vendar se lahko takšne licenčnine in avtorski honorarji obdavčijo tudi v državi pogodbenici, v kateri nastanejo v skladu z zakoni te države, če pa je upravičeni lastnik licenčnin in avtorskih honorarjev rezident druge države pogodbenice, tako obračunani davek ne sme presegati 10 odstotkov bruto zneska licenčnin in avtorskih honorarjev. Pristojni organi držav pogodbenic določijo način uporabe take omejitve z medsebojnim dogovorom.

3. Izraz "licenčnine in avtorski honorarji", uporabljen v tem členu, pomeni kakršna koli plačila, prejeta za uporabo ali pravico do uporabe kakršne koli avtorske pravice za literarno, umetniško ali znanstveno delo, vključno s kinematografskimi filmi in filmi ali trakovi za televizijsko ali radijsko predvajanje, kakršnega koli patenta, blagovne znamke, vzorca ali modela, načrta, tajne formule ali postopka, ali kakršne koli industrijske, komercialne ali znanstvene opreme, ali za informacije, ki se nanašajo na industrijske, komercialne ali znanstvene izkušnje.

4. Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik licenčnin in avtorskih honorarjev, ki je rezident države pogodbenice, opravlja posle v drugi državi pogodbenici, v kateri nastajajo licenčnine in avtorski honorarji iz stalne poslovne enote, ki je v njej, ali opravlja v tej drugi državi samostojne osebne storitve iz stalne baze, ki je v njej, in je pravica ali lastnina, v zvezi s katero se izplačujejo licenčnine in avtorski honorarji, dejansko povezana s takšno stalno poslovno enoto ali stalno bazo. V takih primerih veljajo določbe 7. ali 14. člena, odvisno od primera.

5. Šteje se, da so licenčnine in avtorski honorarji nastali v državi pogodbenici, kadar je plačnik država, politična enota, organ lokalne oblasti ali rezident te države. Kadar pa ima oseba, ki plačuje licenčnine in avtorske honorarje, ne glede na to ali je rezident države pogodbenice ali ne, v državi pogodbenici stalno poslovno enoto ali stalno bazo, v zvezi s katero je nastala obveznost za plačilo licenčnin in avtorskih honorarjev in te licenčnine in avtorske honorarje plačuje stalna poslovna enota ali stalna baza, se šteje, da so licenčnine in avtorski honorarji nastali v državi, v kateri je stalna poslovna enota ali stalna baza.

6. Kadar zaradi posebnega odnosa med plačnikom in upravičenim lastnikom ali med obema in kako drugo osebo znesek licenčnin in avtorskih honorarjev glede na uporabo, pravico ali informacijo, za katero se plačujejo, presega znesek, ki bi bil dogovorjen med plačnikom in upravičenim lastnikom, če takega odnosa ne bi bilo, se določbe tega člena uporabljajo samo za zadnji omenjeni znesek. V takšnem primeru se presežni del plačila obdavči v skladu z zakoni vsake države pogodbenice, pri tem pa je treba upoštevati druge določbe te konvencije.

13. člen

Capital gains

1. Dobički, ki jih rezident države pogodbenice dobi z odtujitvijo nepremičnin, ki so navedene v 6. členu in so v drugi državi pogodbenici, se lahko obdavčijo v tej drugi državi.

Article 12

Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State the tax so charged shall not exceed 10 per cent of the gross amount of the royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use any copyright of literary, artistic or scientific work including cinematograph films, and films or tapes for television or radio broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or any industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13

Capital gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

2. Dobički od odtujitve premočnin, ki so del poslovnega premoženja stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ali premočnin, ki pripadajo stalni bazi, ki jo ima rezident države pogodbenice na voljo v drugi državi pogodbenici za opravljanje samostojnih osebnih storitev, vključujoč dobičke od odtujitve takšne stalne poslovne enote (samostojno ali skupaj s celotnim podjetjem) ali takšne stalne baze, se lahko obdavčijo v tej drugi državi.

3. Dobički od odtujitve ladij, letal, cestnih ali železniških vozil, s katerimi se opravljajo prevozi v mednarodnem prometu, ali premočnin v zvezi s prevozi takih ladij, letal, cestnih ali železniških vozil, se lahko obdavčijo samo v državi pogodbenici, v kateri je dejanski sedež uprave podjetja.

4. Dobički od odtujitve kakršnega koli drugega premoženja, razen premoženja, navedenega v prvem, drugem in tretjem odstavku, se lahko obdavčijo samo v državi pogodbenici, katere rezident je oseba, ki odtuji premoženje.

14. člen

Samostojne osebne storitve

1. Dohodek, ki ga rezident države pogodbenice ustvari s poklicnimi storitvami ali drugimi samostojnimi dejavnostmi, se lahko obdavči samo v tej državi pogodbenici, razen v naslednjih primerih, ko se takšen dohodek lahko obdavči tudi v drugi državi pogodbenici:

a) če ima stalno bazo za opravljanje svojih dejavnosti, ki mu je redno na voljo v drugi državi pogodbenici. V tem primeru se lahko v tej drugi državi pogodbenici obdavči samo tolikšen del dohodka, kolikor ga lahko pripišemo tej stalni bazi; ali

b) če obdobje ali obdobja njegovega bivanja v drugi državi pogodbenici skupno presegajo 183 dni znotraj katerega koli dvanajstmesečnega obdobja. V tem primeru se lahko v tej drugi državi obdavči samo tolikšen del dohodka, kolikor ga izvira iz njegovih dejavnosti, opravljenih v tej drugi državi.

2. Pri izračunavanju v točki b) prvega odstavka omenjenega obdobja veljajo določbe tretjega odstavka 15. člena.

3. Izraz "poklicne storitve" še posebej vključuje samostojne znanstvene, literarne, umetniške, izobraževalne ali pedagoške dejavnosti, kot tudi samostojne dejavnosti zdravnikov, odvetnikov, inženirjev, arhitektov, zobozdravnikov in računovodij.

15. člen

Odvisne osebne storitve

1. V skladu z določbami 16., 18. in 19. člena se plače, mezde in drugi podobni prejemki, ki jih prejema rezident države pogodbenice iz zaposlitve, obdavčijo samo v tej državi, razen če se zaposlitev izvaja v drugi državi pogodbenici. Če se zaposlitev izvaja v drugi državi, se lahko takšna plačila, ki od tam izvirajo, obdavčijo v tej drugi državi.

2. Kljub določbam prvega odstavka se prejemki, ki jih prejme rezident države pogodbenice iz zaposlitve, ki se izvaja v drugi državi pogodbenici, obdavčijo samo v prvi omenjeni državi, če so izpolnjeni vsi naslednji pogoji:

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains from the alienation of ships, aircraft, road or railway vehicles operated in international traffic or movable property pertaining to the operation of such ships, aircraft, road or railway vehicles shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

Independent personal services

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State except in the following circumstances, when such income may also be taxed in the other Contracting State:

a) if he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other State; or

b) if his stay in the other State is for a period or periods exceeding in the aggregate 183 days within any twelve-month period; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State.

2. In the computation of the periods mentioned in paragraph 1 b) the provisions of paragraph 3 of Article 15 shall apply.

3. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15

Dependent personal services

1. Subject to the provisions of Articles 16, 18 and 19 salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if all the following conditions are met:

a) prejemnik je zaposlen v drugi državi v obdobju ali obdobjih, ki ne presegajo skupno 183 dni v katerem koli dvanajstmesečnem obdobju z začetkom ali koncem v fiskalnem letu, in

b) prejemke izplača oziroma jih izplačajo v imenu delodajalca, ki ni rezident druge države, in

c) prejemki ne bremenijo stalne poslovne enote ali stalne baze, ki jo ima delodajalec v drugi državi.

3. Pri izračunavanju v točki a) drugega odstavka omejenih obdobjev je treba vključiti naslednje dneve:

a) vse dneve fizične prisotnosti, vključno z dnevi prihoda in odhoda, in

b) dneve preživete zunaj države delovanja, kot so sobote in nedelje, državni prazniki, počitnice in poslovna potovanja, ki so neposredno povezana z zaposlitvijo prejemnika v tej državi, po katerih je nadaljeval z delom na ozemlju te države.

4. Izraz "delodajalec", omenjen v točki b) drugega odstavka, pomeni osebo, ki ima pravico do opravljenega dela in nosi odgovornost in tveganje v zvezi z izvajanjem dela.

5. Kljub zgornjim določbam tega člena se prejemke iz zaposlitve na ladji, letalu, cestnem ali železniškem vozilu v mednarodnem prometu lahko obdavči v državi pogodbenici, v kateri je sedež dejanske uprave podjetja.

16. člen

Plačila direktorjem

Plačila direktorjem in druga podobna plačila, ki jih prejema rezident države pogodbenice kot član upravnega odbora ali katerega koli drugega podobnega organa družbe, ki je rezident druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

17. člen

Umetniki in športniki

1. Kljub določbam 14. in 15. člena se lahko dohodek, ki ga ustvari rezident države pogodbenice, kot na primer gledališki, filmski, radijski ali televizijski umetnik ali glasbenik ali kot športnik, s svojimi osebnimi dejavnostmi, ki jih izvaja v drugi državi pogodbenici, obdavči v tej drugi državi.

2. Kadar dohodek iz osebnih dejavnosti, ki jih izvaja umetnik ali športnik s to svojo dejavnostjo, ne pripada samemu umetniku ali športniku, temveč drugi osebi, je ta dohodek kljub določbam 7., 14. in 15. člena lahko obdavčen v državi pogodbenici, v kateri se opravljajo dejavnosti umetnika ali športnika.

3. Določbe prvega in drugega odstavka ne veljajo, če dejavnosti, ki se izvajajo v državi pogodbenici, v glavnem podpira iz javnih skladov druga država pogodbenica, politična enota ali njen organ lokalne oblasti. V tem primeru se dohodek pridobljen iz takšnih dejavnosti obdavči le v tej drugi državi pogodbenici.

a) the recipient is employed in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned, and

b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and

c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. In the computation of the periods mentioned in paragraph 2 a), the following days shall be included:

a) all days of physical presence including days of arrivals and departures, and

b) days spent outside the State of activity such as Saturdays and Sundays, national holidays, holidays and business trips directly connected with the employment of the recipient in that State, after which the activity was resumed on the territory of that State.

4. The term "employer" mentioned in paragraph 2 b), means the person having right on the work produced and bearing the responsibility and risk connected with the performance of the work.

5. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship, aircraft, road or railway vehicle operated in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16

Directors' fees

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or any other similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17

Artistes and sportsmen

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply if the activities exercised in a Contracting State are mainly supported by public funds of the other Contracting State, or a political subdivision, or a local authority thereof. In such case, income derived from such activities shall be taxable only in that other Contracting State.

18. člen
Pokojnine

V skladu z določbami drugega odstavka 19. člena se pokojnine in druga podobna nadomestila, ki se izplačajo rezidentu države pogodbenice za preteklo zaposlitev, obdavčijo samo v tej državi.

19. člen
Državna služba

1. a) Nadomestila, razen pokojnin, ki jih izplača država pogodbenica, politična enota ali njen organ lokalne oblasti posamezniku za storitve, ki jih opravi za to državo, enoto ali organ lokalne oblasti, se obdavčijo samo v tej državi.

b) Takšno nadomestilo pa se obdavči samo v drugi državi pogodbenici, če so storitve opravljene v tej državi in če je posameznik rezident te države:

(i) državljan te države ali

(ii) ni postal rezident te države izključno za namene opravljanja storitev.

2. a) Vsaka pokojnina, ki jo izplačajo ali se izplača iz sredstev skladov, ki so jih oblikovali država pogodbenica, politična enota ali njen organ lokalne oblasti posamezniku v zvezi z opravljenimi storitvami za to državo, politično enoto ali njen organ lokalne oblasti, se obdavči samo v tej državi.

b) Vendar pa se takšna pokojnina obdavči samo v drugi državi pogodbenici, če je posameznik rezident in državljan te države.

3. Določbe 15., 16. in 18. člena se uporabljajo za nadomestila in pokojnine za storitve, opravljene v zvezi s posli države pogodbenice, politične enote ali njenega organa lokalne oblasti.

20. člen
Študenti

Študent ali pripravnik, ki je ali je bil tik pred obiskom države pogodbenice rezident druge države pogodbenice in ki je v prvi omenjeni državi pogodbenici prisoten samo zaradi svojega izobraževanja ali usposabljanja, je oproščen davkov v prvi omenjeni državi plačila, ki jih prejema za svoje vzdrževanje, izobraževanje ali usposabljanje, če ta plačila izvirajo iz virov zunaj te države.

21. člen
Drugi dohodki

1. Deli dohodka rezidenta države pogodbenice, kjer koli izvirajo, ki niso obravnavani v predhodnih členih te konvencije, se obdavčijo samo v tej državi.

2. Določbe prvega odstavka se ne uporabljajo za dohodek, razen za dohodek iz nepremičnin, kot so opredeljene v drugem odstavku 6. člena, če prejemnik takega dohodka, rezident države pogodbenice, opravlja posle v drugi državi pogodbenici prek stalne poslovne enote, ki se nahaja v njej, ali opravlja v drugi državi samostojne osebne storitve prek stalne baze, ki se nahaja v njej, in je pravica ali imetje, za katero se plačuje dohodek, dejansko povezana s takšno stalno poslovno enoto ali stalno bazo. V takšnem primeru veljajo določbe 7. ali 14. člena, odvisno od primera.

Article 18
Pensions

Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 19
Government service

1. a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or local authority shall be taxable only in that State.

b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

(i) is a national of that State; or

(ii) did not become a resident of that State solely for the purpose of rendering the services.

2. a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20
Students

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Article 21
Other income

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

22. člen

Obdavčevanje premoženja

1. Premožnje, ki sestoji iz nepremičnin, navedenih v 6. členu, ki je last rezidenta države pogodbenice in je v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

2. Premožnje, ki sestoji iz premičnin, ki so del poslovnega premoženja stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ali iz premičnin, ki pripadajo stalni bazi, ki je na voljo rezidentu države pogodbenice v drugi državi pogodbenici za opravljanje samostojnih osebnih storitev, se lahko obdavči v tej drugi državi.

3. Premožnje, ki sestoji iz ladij, letal, cestnih ali železniških vozil, ki se uporabljajo v mednarodnem prometu, in premičnin potrebnih za delovanje takih ladij, letal, cestnih ali železniških vozil, se lahko obdavči samo v državi pogodbenici, v kateri je sedež dejanske uprave podjetja.

4. Vse drugo premoženje rezidenta države pogodbenice se obdavči samo v tej državi.

23. člen

Odprava dvojnega obdavčevanja

1. Kadar rezident države pogodbenice dobiva dohodek ali ima v lasti premoženje, ki se lahko v skladu z določbami te konvencije obdavči v drugi državi pogodbenici, prva omenjena država odobri:

a) kot odbitek od davka na dohodek tega rezidenta znesek, ki je enak davku od dohodka, ki je plačan v tej drugi državi;

b) kot odbitek od davka na premoženje tega rezidenta znesek, ki je enak davku od premoženja, ki je plačan v tej drugi državi.

Takšen odbitek pa v nobenem primeru ne sme presežati tistega dela davka na dohodek ali davka na premoženje, kot je bil izračunan pred odbitkom, ki ga odvisno od primera lahko pripišemo dohodku ali premoženju, ki se ga lahko obdavči v tej drugi državi.

2. Če je v skladu s katero koli določbo te konvencije dohodek, ki ga ustvari ali premoženje, ki ga ima v lasti rezident države pogodbenice, oproščeno davka v tej državi, lahko ta država pri obračunavanju davka od preostalega dohodka ali premoženja zadevnega rezidenta vseeno upošteva od davka oproščeni dohodek ali premoženje.

24. člen

Enako obravnavanje

1. Državljeni države pogodbenice v drugi državi pogodbenici ne smejo biti zavezani kakršnemu koli obdavčevanju ali kakršnim koli zahtevam s tem v zvezi, ki je drugačno ali bolj obremenjujoče, kot je ali je lahko obdavčevanje in s tem povezane zahteve za državljane te druge države v enakih okoliščinah, še posebno glede rezidentstva. Ta določba velja, ne glede na določbe 1. člena, tudi za osebe, ki niso rezidenti ene ali obeh držav pogodbenic.

2. Obdavčevanje stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ne sme biti manj ugodno v drugi državi pogodbenici, kot bi bilo obdavčevanje podjetij te druge države, ki opravlja enake dejavnosti. Ta določba se ne razume, kot da zavezuje državo

Article 22

Capital

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.

2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other State.

3. Capital represented by ships, aircraft, road or railway vehicles operated in international traffic and by movable property pertaining to the operation of such ships, aircraft, road or railway vehicles shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 23

Elimination of double taxation

1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall allow:

a) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in that other State;

b) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in that other State.

Such deduction in either case shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in that other State.

2. Where in accordance with any provision of the Convention income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

Article 24

Non-discrimination

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not

pogodbenico, da dodeli rezidentom druge države pogodbenice kakršne koli osebne olajšave in odbitke za davčne namene na račun osebnega statusa ali družinskih obveznosti, ki jih dodeljuje svojim rezidentom.

3. Razen kjer veljajo določbe prvega odstavka 9. člena, sedmega odstavka 11. člena ali šestega odstavka 12. člena, se obresti, licenčnine in avtorski honorarji in druga izplačila, ki jih izplačuje podjetje države pogodbenice rezidentu druge države pogodbenice za namene določite obdavčljivega dobička takega podjetja, odbijajo pod istimi pogoji, kot če bi bili izplačani rezidentu prve omenjene države. Tudi dolgovi podjetja države pogodbenice rezidentu druge države pogodbenice se pri ugotavljanju obdavčljivega premoženja tega podjetja odbijajo pod enakimi pogoji, kot da bi bili pogodbeno dogovorjeni z rezidentom prve omenjene države.

4. Podjetja države pogodbenice, katerih kapital je v celoti ali delno, neposredno ali posredno v lasti ali pod nadzorom enega ali več rezidentov druge države pogodbenice, ne smejo biti v prvi omenjeni državi zavezana kakršnemu koli obdavčevanju ali zahtevam s tem v zvezi, ki bi bile drugačne ali bolj obremenjujoče kot obdavčevanje in s tem povezane zahteve, katerim so ali so lahko zavezana druga podobna podjetja prve omenjene države.

5. Določbe tega člena se uporabljajo kljub določbam 2. člena za davke vseh vrst in opisov.

25. člen

Postopek skupnega dogovora

1. Kadar oseba meni, da so ali bodo dejanja ene ali obeh držav pogodbenic imela za posledico obdavčevanje, ki ni v skladu z določbami te konvencije, lahko ne glede na sredstva, ki mu jih omogoča domača zakonodaja teh dveh držav, predloži zadevo pristojnemu organu države pogodbenice, katere rezident je, če se njegov primer nanaša na prvi odstavek 24. člena, pa tisti državi pogodbenici, katere državljan je. Zadeva mora biti vložena v treh letih od prve prijave dejanja, ki je imelo za posledico obdavčevanje, ki ni v skladu z določbami te konvencije.

2. Pristojni organ si mora, če se mu zdi pritožba upravičena in če sam ne more priti do zadovoljive rešitve, prizadevati razrešiti primer v skupnem dogovoru s pristojnim organom druge države pogodbenice, z namenom, da bi se izognil obdavčenju, ki ni v skladu z določbami te konvencije. Vsak dogovor, ki ga skleneta, je treba izvajati ne glede na roke v domači zakonodaji držav pogodbenic.

3. Pristojni organi držav pogodbenic si morajo prizadevati s skupnim dogovorom razrešiti kakršne koli težave ali dvome, ki izvirajo iz razlage ali uporabe te konvencije. Prav tako se lahko med seboj posvetujejo o odpravi dvojnega obdavčevanja v primerih, ki jih ne predvideva ta konvencija.

4. Pristojni organi držav pogodbenic lahko neposredno komunicirajo drug z drugim, da bi dosegli dogovor v smislu zgornjih odstavkov. Kadar se za dosego dogovora zdi to priporočljivo, se pristojni organi držav pogodbenic lahko sestanejo v komisiji za ustno izmenjavo mnenj, ki je sestavljena iz predstavnikov pristojnih organov držav pogodbenic.

be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining of taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.

5. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 25

Mutual agreement procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

26. člen

Izmenjava informacij

1. Pristojni organi držav pogodbenic si izmenjujejo informacije, ki so potrebne za izvajanje določb te konvencije ali domačih zakonov držav pogodbenic, ki veljajo za davke, ki so zajeti v tej konvenciji, če obdavčevanje v skladu z njimi ne nasprotuje tej konvenciji. Izmenjava informacij ni omejena s 1. členom. Vsaka informacija, ki jo prejme država pogodbenica, se obravnava za tajno na enak način, kot se informacije, pridobljene po zakonih te države, in se razkrije samo osebam ali organom (vključno s sodišči in upravnimi organi), ki odmerjajo ali pobirajo davke iz te konvencije, ki izvajajo njihovo izterjavo ali pregon v zvezi z njimi, ali odločajo o pritožbah v zvezi z njimi. Te osebe in oblasti morajo uporabljati informacije samo v te namene. Informacije lahko razkrijejo na javnih sodnih razpravah ali pri sodnih odločitvah.

2. V nobenem primeru se določbe prvega odstavka ne smejo razumeti, kot da nalagajo obveznosti državi pogodbenici:

a) da izvaja administrativne ukrepe, ki niso v skladu z zakonodajo ali administrativno prakso te ali druge države pogodbenice;

b) da preskrbi informacije, ki jih ni mogoče dobiti po zakonski ali običajni upravni poti te ali druge države pogodbenice;

c) da preskrbi informacije, ki bi razkrile kakršno koli trgovinsko, poslovno, industrijsko, komercialno ali poklicno skrivnost ali trgovinske postopke ali informacije, katerih razkritje bi nasprotovalo javnemu redu (ordre public).

27. člen

Diplomatski predstavniki in konzularni uslužbenci

Nič v tej konvenciji ne vpliva na davčne ugodnosti diplomatskih predstavnikov ali konzularnih uslužbencev, določene s splošnimi pravili mednarodnega prava ali z določbami posebnih sporazumov.

28. člen

Začetek veljavnosti

1. Državi pogodbenici se medsebojno obvestita, da so izpolnjene ustavnopravne zahteve za začetek veljavnosti te konvencije.

2. Konvencija začne veljati na dan zadnjega od obvestil, navedenih v prvem odstavku, in njene določbe se uporabljajo:

a) v zvezi z davki zajetimi pri viru, za dohodek, ki je bil plačan ali kreditiran prvega ali po prvem januarju koledarskega leta, ki neposredno sledi tistemu, v katerem konvencija začne veljati;

b) v zvezi z drugimi davki na dohodek in davki na premoženje, za dohodek in premoženje v katerem koli fiskalnem letu z začetkom prvega ali po prvem januarju koledarskega leta, ki neposredno sledi tistemu, v katerem konvencija začne veljati.

3. Določbe Konvencije med Socialistično federativno republiko Jugoslavijo in Češkoslovaško socialistično republiko o izogibanju dvojnega obdavčevanja v zvezi z davki na dohodek in premoženje, podpisane v Pragi 2. novembra 1981, prenehajo veljati v zvezi z vsemi slovenskimi ali češkimi davki povezanimi z dohodkom ali premoženjem, za katere začne veljati sedanja konvencija v skladu z določbami drugega odstavka.

Article 26

Exchange of information

1. The competent authorities of the Contracting States shall exchange such information as is relevant for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the Contracting States the obligation:

a) to carry out administrative measures at variance with the laws and the administrative practice of that or of the other Contracting State;

b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

Article 27

Members of diplomatic missions and consular posts

Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

Article 28

Entry into force

1. The Contracting States shall notify each other that the constitutional requirements for the entry into force of this Convention have been complied with.

2. The Convention shall enter into force on the date of the later of the notifications referred to in paragraph 1 and its provisions shall have effect:

a) in respect of taxes withheld at source, to income paid or credited on or after 1st January in the calendar year next following that in which the Convention enters into force;

b) in respect of other taxes on income, and taxes on capital, to income or capital in any taxable year beginning on or after 1st January in the calendar year next following that in which the Convention enters into force.

3. The provisions of the Convention between the Socialist Federal Republic of Yugoslavia and the Czechoslovak Socialist Republic for the avoidance of double taxation with respect to taxes on income and on capital signed at Prague, on 2nd November 1981, shall cease to be effective with respect to any Slovenian or Czech tax relating to income or capital for which the present Convention becomes effective in accordance with the provisions of paragraph 2.

29. člen

Prenehanje veljavnosti

Ta konvencija velja, dokler je ne odpove ena od držav pogodbenic. Vsaka država pogodbenica lahko konvencijo odpove po diplomatski poti, tako da posreduje obvestilo o odpovedi vsaj šest mesecev pred koncem katerega koli koledarskega leta po preteku petih let od datuma, ko ta konvencija stopi v veljavo. V takem primeru ta konvencija preneha veljati:

a) v zvezi z davki zajetimi pri viru, za dohodek, ki je bil plačan ali kreditiran prvega ali po prvem januarju koledarskega leta, ki neposredno sledi tistemu, v katerem je bilo obvestilo posredovano;

b) v zvezi z drugimi davki na dohodek in davki na premoženje, za dohodek in premoženje v katerem koli fiskalnem letu z začetkom prvega ali po prvem januarju koledarskega leta, ki neposredno sledi tistemu, v katerem je bilo obvestilo posredovano.

DA BI TO POTRDILA sta podpisana, za to pravilno pooblaščenca, podpisala to konvencijo.

SESTAVLJENO v dveh izvodih v Ljubljani dne 13. junija 1997 v slovenskem, češkem in angleškem jeziku pri čemer so vsa tri besedila enako verodostojna. V primerih razhajanj med slovenskim in češkim besedilom je odločilno angleško besedilo.

Za Republiko Slovenijo
Zoran Thaler l. r.

Za Češko republiko
Josef Zieleniec l. r.

For the Republic of Slovenia
Zoran Thaler (s)

For the Czech Republic
Josef Zieleniec (s)

3. člen

Za izvajanje konvencije skrbi Ministrstvo za finance.

4. člen

Ta zakon začne veljati naslednji dan po objavi v Uradnem listu Republike Slovenije – Mednarodne pogodbe.

Št. 432-01/97-14/1

Ljubljana, dne 22. januarja 1998

Predsednik
Državnega zbora
Republike Slovenije
Janez Podobnik, dr. med. l. r.

VSEBINA

3. Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Češko republiko o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki na dohodek in premoženje (BCZIDO)

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