


# Uradni list

## Republike Slovenije



# Mednarodne pogodbe

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Leto XII

**19. Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Kraljevino Španijo o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja s protokolom (BESIDO)**

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 KRALJEVINO ŠPANIJO O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA IN PREMOŽENJA S PROTOKOLOM (BESIDO)**

Razlašam Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Kraljevino Španijo o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja s protokolom (BESIDO), ki ga je sprejel Državni zbor Republike Slovenije na seji 28. februarja 2002.

Št. 001-22-17/02  
Ljubljana, 8. marca 2002

Predsednik  
Republike Slovenije  
**Milan Kučan** l. r.

### Z A K O N

#### **O RATIFIKACIJI KONVENCIJE MED REPUBLIKO SLOVENIJO IN KRALJEVINO ŠPANIJO O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA IN PREMOŽENJA S PROTOKOLOM (BESIDO)**

##### 1. člen

Ratificira se Konvencija med Republiko Slovenijo in Kraljevino Španijo o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja s protokolom, podpisana v Ljubljani 23. maja 2001.

##### 2. člen

Konvencija s protokolom se v slovenskem in angleškem jeziku glasi: \*

#### **K O N V E N C I J A** **MED REPUBLIKO SLOVENIJO IN** **KRALJEVINO ŠPANIJO O IZOGIBANJU** **DVOJNEGA OBDAVČEVANJA IN** **PREPREČEVANJU DAVČNIH UTAJ V ZVEZI** **Z DAVKI OD DOHODKA IN PREMOŽENJA**

Republika Slovenija in Kraljevina Španija sta se v želji, da bi sklenili konvencijo o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja, sporazumeli, kot sledi:

#### **C O N V E N T I O N** **BETWEEN THE REPUBLIC OF SLOVENIA AND** **THE KINGDOM OF SPAIN 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 Kingdom of Spain, 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 s protokolom v španskem jeziku je na vpogled v Sektorju za mednarodnopravne zadeve Ministrstva za zunanje zadeve Republike Slovenije.

I. POGLAVJE  
PODROČJE UPORABE KONVENCIJE

## 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 od dohodka in premoženja, ki se uvedejo v imenu države pogodbenice ali njenih političnih enot ali lokalnih oblasti, ne glede na način njihove uvedbe.

2) Za davke od dohodka in premoženja se štejejo vsi davki, uvedeni na celoten dohodek, celotno premoženje ali na sestavine dohodka ali premoženja, vključno z davki od dobička iz odtujitve premičnin ali nepremičnin, davki na skupne zneske mezd ali plač, ki so jih izplačala podjetja, ter davki od povečanja premoženja.

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

## a) V Sloveniji:

i) davek od dobička pravnih oseb;

ii) davek od dohodka posameznikov, vključno z mezdami in plačami, dohodkom iz kmetijskih dejavnosti, dohodkom iz poslovanja, kapitalskimi dobički in dohodkom iz nepremičnin in premičnin (dohodnina);

iii) davek od premoženja in

iv) poseben davek na bilančno vsoto bank in hranilnic

(v nadaljevanju "slovenski davek");

## b) V Španiji:

i) davek od dohodka posameznikov (el Impuesto sobre la Renta de las Personas Físicas);

ii) davek od dobička pravnih oseb (el Impuesto sobre Sociedades);

iii) davek od dohodka nerezidentov (el Impuesto sobre la Renta de no Residentes);

iv) davek od premoženja (el Impuesto sobre el Patrimonio) in

v) lokalni davki od dohodka in premoženja

(v nadaljevanju "španski davek").

4) Ta konvencija se uporablja tudi za kakršne koli enake ali vsebinsko podobne davke, ki se uvedejo po datumu podpisa konvencije dodatno k obstoječim davkom ali namesto njih. Pristojna organa držav pogodbenic drug drugega uradno obvestita o vseh bistvenih spremembah svoje davčne zakonodaje.

II. POGLAVJE  
OPREDELITEV IZRAZOV

## 3. člen

## SPLOŠNA OPREDELITEV IZRAZOV

1) Za namene te konvencije, razen če sobesedilo zahteva drugače:

a) izraz "Slovenija" pomeni Republiko Slovenijo, in ko se uporablja v zemljepisnem smislu, ozemlje Republike Slovenije, vključno s teritorialnim morjem, morskim dnom in podzemljem ob teritorialnem morju, v obsegu, v katerem lahko Slovenija nad takim teritorialnim morjem, morskim dnom in podzemljem izvaja svoje suverene pravice in jurisdikcijo v skladu s svojo notranjo zakonodajo in mednarodnim pravom;

CHAPTER I  
SCOPE OF THE CONVENTION

## Article 1

## PERSONS COVERED

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 (davek od dobička pravnih oseb);

(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 (dohodnina);

(iii) the tax on property (davek na premoženje); and

(iv) special tax on assets of banks and saving banks (davek na bilančno vsoto bank in hranilnic);

(hereinafter referred to as "Slovenian tax").

## b) in Spain:

(i) the income tax on individuals (el Impuesto sobre la Renta de las Personas Físicas);

(ii) the corporation tax (el Impuesto sobre Sociedades);

(iii) the income tax on non residents (el Impuesto sobre la Renta de no Residentes);

(iv) the capital tax (el Impuesto sobre el Patrimonio); and

(v) local taxes on income and on capital;

(hereinafter referred to as "Spanish Tax").

(4) The 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 significant changes which have been made in their respective taxation laws.

CHAPTER II  
DEFINITIONS

## Article 3

## GENERAL DEFINITIONS

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

a) the term "Slovenija" means the Republic of Slovenia and, when used in a geographical sense, means the territory of the Republic of Slovenia, including the territorial sea, sea bed and subsoil adjacent to the territorial sea to the extent the Republic of Slovenia exercises its sovereign rights or jurisdiction over such territorial sea, sea area, sea bed and subsoil in accordance with its domestic legislation and international law;

b) izraz "Španija" pomeni državo Španijo, in ko se uporablja v zemljepisnem smislu, ozemlje države Španije, vključno z ozemljem zunaj teritorialnega morja, nad katerim država Španija v skladu z mednarodnim pravom in s svojo notranjo zakonodajo izvaja ali bo lahko v prihodnje izvajala jurisdikcijo ali svoje suverene pravice v zvezi z morskim dnom, njegovim podzemljem in vodami nad njim ter z naravnimi viri v njih;

c) izraza "država pogodbenica" in "druga država pogodbenica" pomenita, kot zahteva sobesedilo, Slovenijo ali Španijo;

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

e) izraz "družba" pomeni katero koli korporacijo ali kateri koli subjekt, ki se za davčne namene obravnava kot korporacija;

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 "mednarodni promet" pomeni kakršen koli prevoz z ladjo ali letalom, ki ga opravlja podjetje, ki ima sedež dejanske uprave v državi pogodbenici, razen če ladja ali letalo opravlja prevoze samo med kraji v drugi državi pogodbenici;

h) izraz "pristojni organ" pomeni:

i) za Slovenijo Ministrstvo za finance Republike Slovenije ali pooblaščenega predstavnika tega ministrstva;

ii) za Španijo ministra za finance ali njegovega pooblaščenega predstavnika;

i) izraz "državljan" pomeni:

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

ii) katero koli pravno osebo, osebno družbo ali združenje, katerih status izhaja iz veljavne zakonodaje v državi pogodbenici.

2) Kadar koli država pogodbenica uporabi konvencijo, ima kateri koli izraz, ki v njej ni opredeljen, razen če sobesedilo zahteva drugače, pomen, ki ga ima takrat po pravu te države za namene davkov, za katere se konvencija uporablja, pri čemer kateri koli pomen po veljavni davčni zakonodaji te države prevlada nad pomenom izraza po drugi zakonodaji te države.

#### 4. člen REZIDENT

1) Za namene te konvencije izraz "rezident države pogodbenice" pomeni katero koli osebo, ki je po zakonodaji te države dolžna plačevati davke zaradi svojega stalnega prebivališča, prebivališča, sedeža uprave ali katerega koli drugega podobnega merila, in tudi vključuje to državo ali katero koli njeno politično enoto ali lokalno oblast. Ta izraz pa ne vključuje katere koli osebe, ki je dolžna plačevati davke v tej državi samo v zvezi z dohodki iz virov v tej državi ali premoženja v njej.

2) Kadar je zaradi določb prvega odstavka posameznik rezident obeh držav pogodbenic, se njegov status določi na naslednji način:

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

b) če ni mogoče opredeliti države, v kateri ima središče življenjskih interesov, ali če nima v nobeni od držav na razpolago stalnega prebivališča, se šteje za rezidenta države, v kateri ima običajno bivališče;

b) the term "Spain" means the Spanish State and, when used in a geographical sense, means the territory of the Spanish State, including any area outside the territorial sea upon which, in accordance with international law and on application of its domestic legislation, the Spanish State exercises or may exercise in the future jurisdiction or sovereign rights with respect to the seabed, its subsoil and superjacent waters, and their natural resources;

c) the terms "a Contracting State" and "the other Contracting State" mean Slovenia or Spain 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 that is treated as a body corporate for tax purposes;

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

h) the term "competent authority" means:

(i) in Slovenia: the Ministry of Finance of the Republic of Slovenia or its authorized representative;

(ii) in Spain: the Minister of Finance or his authorized representative;

i) 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.

(2) As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

#### 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, and also includes that State and any political subdivision or local authority thereof. This term, however, 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) če ima 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, pristojna organa držav pogodbenic vprašanje rešita s skupnim dogovorom.

3) Kadar je zaradi določb prvega odstavka oseba, ki ni posameznik, rezident obeh držav pogodbenic, se šteje, da je rezident države, v kateri ima sedež dejanske uprave.

#### 5. člen

##### STALNA POSLOVNA ENOTA

1) Za namene te konvencije izraz "stalna poslovna enota" pomeni stalno mesto poslovanja, prek katerega v celoti ali delno potekajo posli podjetja.

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

- a) sedež uprave,
- b) podružnico,
- c) pisarno,
- d) tovarno,
- e) delavnico in
- f) rudnik, nahajališče nafte ali plina, kamnolom ali kateri koli drug kraj pridobivanja naravnih virov.

3) Gradbišče ali projekt gradnje ali montaže je stalna poslovna enota samo, če traja več kot dvanajst mesecev.

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

a) uporabe prostorov samo za namen skladiščenja, razstavljanja ali dostave dobrin ali blaga, ki pripada podjetju;

b) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za namen skladiščenja, razstavljanja ali dostave;

c) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za namen predelave s strani drugega podjetja;

d) vzdrževanja stalnega mesta poslovanja samo za namen nakupa dobrin ali blaga ali zbiranja informacij za podjetje;

e) vzdrževanja stalnega mesta poslovanja samo za namen opravljanja kakršne koli druge dejavnosti pripravljalne ali pomožne narave za podjetje;

f) vzdrževanja stalnega mesta poslovanja samo za kakršno koli kombinacijo dejavnosti, omenjenih v pododstavkih a) do e), pod pogojem, da je splošna dejavnost stalnega mesta poslovanja, ki je posledica te kombinacije, pripravljalne ali pomožne narave.

5) Ne glede na določbe prvega in drugega odstavka, kadar oseba – ki ni zastopnik z neodvisnim statusom, za katerega se uporablja šesti odstavek – deluje v imenu podjetja ter ima in običajno uporablja v državi pogodbenici pooblastilo za sklepanje pogodb v imenu podjetja, se za to podjetje šteje, da ima stalno poslovno enoto v tej državi v zvezi s katerimi koli dejavnostmi, ki jih ta oseba prevzame za podjetje, razen če so dejavnosti take osebe omejene na tiste iz četrtega odstavka, zaradi katerih se to stalno mesto poslovanja po določbah tega odstavka ne bi štelo za stalno poslovno enoto, če bi se opravljale prek stalnega mesta poslovanja.

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.

#### 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) A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.

(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 carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (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 samo zato, ker opravlja posle v tej državi prek posrednika, splošnega komisionarja ali katerega koli drugega zastopnika z neodvisnim statusom, pod pogojem, da te osebe delujejo v okviru svojega rednega poslovanja.

7) Dejstvo, da družba, ki je rezident države pogodbenice, nadzoruje družbo, ki je rezident druge države pogodbenice ali opravlja posle v tej drugi državi (prek stalne poslovne enote ali drugače) ali je pod nadzorom take družbe, samo po sebi še ne pomeni, da je ena od družb stalna poslovna enota druge.

### III. POGLAVJE OBDAVČEVANJE DOHODKA

#### 6. člen DOHODEK IZ NEPREMIČNIN

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

2) Izraz "nepremičnine" ima pomen, ki ga ima po pravu države pogodbenice, v kateri je zadevna nepremičnina. Izraz vedno vključuje premoženje, ki je sestavni del nepremičnin, živino in opremo, ki se uporablja v kmetijstvu in gozdarstvu, pravice, za katere veljajo določbe splošnega prava v zvezi z zemljiško lastnino, užitek na nepremičninah in pravice do spremenljivih ali stalnih plačil kot odškodnino za izkoriščanje ali pravico do izkoriščanja nahajališča rud, virov ter drugega naravnega bogastva; ladje, čolni in letala se ne štejejo za nepremičnine.

3) Določbe prvega odstavka se uporabljajo za dohodek, ki se ustvari z neposredno uporabo, dajanjem v najem ali katero koli drugo obliko uporabe nepremičnine.

4) Kadar lastništvo delnic ali drugih pravic daje lastniku takih delnic ali pravic neposredno ali posredno pravico do uporabe nepremičnin, se lahko dohodek od neposredne uporabe, dajanja v najem ali katere koli druge oblike uporabe take pravice do uporabe obdavči v državi pogodbenici, v kateri je nepremičnina.

5) Določbe prvega, tretjega in četrtega odstavka se uporabljajo tudi za dohodek iz nepremičnin podjetja in za dohodek iz nepremičnin, ki se uporabljajo 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 je prej omenjeno, se lahko dobiček podjetja obdavči v drugi državi, vendar samo toliko dobička, kot se pripiše tej stalni poslovni enoti.

2) Ob upoštevanju določb tretjega odstavka, kadar podjetje države pogodbenice posluje v drugi državi pogodbenici prek stalne poslovne enote v njej, se v vsaki državi pogodbenici tej stalni poslovni enoti pripiše dobiček, za katerega bi se lahko pričakovalo, da bi ga imela, če bi bila različno in ločeno podjetje, ki opravlja enake ali podobne dejavnosti pod istimi ali podobnimi pogoji ter povsem neodvisno posluje s podjetjem, katerega stalna poslovna enota je.

(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.

### CHAPTER III TAXATION OF INCOME

#### 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) Where the ownership of shares or other rights directly or indirectly entitles the owner of such shares or rights to the enjoyment of immovable property, the income from the direct use, letting or use in any other form of such right to the enjoyment may be taxed in the Contracting State in which the immovable property is situated.

(5) The provisions of paragraphs 1, 3 and 4 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) Pri določanju dobička stalne poslovne enote je dovoljeno odšteti stroške, ki nastanejo za namene stalne poslovne enote, vključno s poslovnimi in splošnimi upravnimi stroški, ki so tako nastali bodisi v državi, v kateri je stalna poslovna enota, ali drugje.

4) Če se v državi pogodbenici dobiček, ki se pripiše stalni poslovni enoti, običajno določi na podlagi porazdelitve vsega dobička podjetja na njegove dele, nič v drugem odstavku tej državi pogodbenici ne preprečuje določiti obdavčljivega dobička z običajno porazdelitvijo; sprejeta metoda porazdelitve pa mora biti taka, da je rezultat v skladu z načeli tega člena.

5) Stalni poslovni enoti se ne pripiše dobiček samo zato, ker nakupuje dobrine ali blago za podjetje.

6) Za namene prejšnjih odstavkov se dobiček, ki se pripiše stalni poslovni enoti, vsako leto določi po isti metodi, razen če je upravičen in zadosten razlog za nasprotno.

7) Kadar dobiček vključuje dohodkovne postavke, ki so posebej obravnavane v drugih členih te konvencije, določbe tega člena ne vplivajo na določbe tistih členov.

#### 8. člen

##### POMORSKI IN LETALSKI PREVOZ

1) Dobitek iz opravljanja ladijskih ali letalskih prevozov v mednarodnem prometu se obdavči samo v državi pogodbenici, v kateri je sedež dejanske uprave podjetja.

2) Če je sedež dejanske uprave ladjarskega podjetja na krovu ladje, se šteje, da je v državi pogodbenici, v kateri ima ladja matično пристanišče, ali če nima takega matičnega pristanišča, v državi pogodbenici, katere rezident je ladijski prevoznik.

3) Določbe prvega odstavka se uporabljajo tudi za dobiček iz udeležbe v interesnem združenju (pool), mešanem podjetju ali mednarodni prevoznici agenciji.

#### 9. člen

##### POVEZANA PODJETJA

1) Kadar:

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

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

in v obeh primerih obstajajo ali se uvedejo med podjetjema v njunih komercialnih ali finančnih odnosih pogoji, drugačni od tistih, ki bi obstajali med neodvisnimi podjetji, se kakršni koli dobiček, ki bi prirastel enemu od podjetij, če takih pogojev ne bi bilo, vendar prav zaradi takih pogojev ni prirastel, lahko vključi v dobiček tega podjetja in ustrezno obdavči.

2) Kadar država pogodbenica v dobiček podjetja te države vključuje – in ustrezno obdavči – dobiček, za katerega je že bilo obdavčeno podjetje druge države v tej drugi državi pogodbenici, in se ta druga država strinja, da je tako vključeni dobiček dobiček, ki bi prirastel podjetju prve omenjene države, če bi bili pogoji, ki obstajajo med podjetjema, taki, kot bi obstajali med neodvisnimi podjetji, ta druga država

(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) 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

##### SHIPPING AND AIR TRANSPORT

(1) Profits from the operation of ships or aircraft 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 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 State has been charged to tax in that other Contracting State and that other State agrees that 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

va lahko ustrezno prilagodi znesek davka, ki se v tej državi zaračuna od tega dobička. Pri določanju take prilagoditve je treba upoštevati druge določbe te konvencije, pristojna organa držav pogodbenic pa se po potrebi med seboj posvetujeta.

#### 10. člen DIVIDENDE

1) Dividende, ki jih družba, ki je rezident države pogodbenice, plača rezidentu druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

2) Take dividende pa se lahko obdavčijo tudi v državi pogodbenici, katere rezident je družba, ki dividende plačuje, in v skladu z zakonodajo te države, če pa je upravičeni lastnik dividend rezident druge države pogodbenice, tako obračunani davek ne presega:

a) 5 odstotkov bruto zneska dividend, če je upravičeni lastnik družba, ki ima neposredno v lasti najmanj 25 odstotkov kapitala družbe, ki plačuje dividende;

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

Pristojna organa držav pogodbenic se sporazumno dogovorita o načinu uporabe takih omejitev.

Ta odstavek ne vpliva na obdavčenje družbe v zvezi z dobičkom, iz katerega se plačajo dividende.

3) Izraz "dividende", kot je uporabljen v tem členu, pomeni dohodek iz delnic, "jouissance" delnic ali "jouissance" pravic, rudniških delnic, ustanoviteljskih delnic ali drugih pravic do udeležbe v dobičku, ki niso terjatve, in tudi dohodek iz drugih pravic v družbi, ki se davčno obravnava enako kot dohodek iz delnic po zakonodaji države, katere rezident je družba, ki dividende deli.

4) Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik dividend, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, katere rezident je družba, ki dividende plačuje, prek stalne poslovne enote v njej ali opravlja v tej drugi državi samostojne osebne storitve iz stalne baze v njej ter je delež, v zvezi s katerim se dividende plačajo, dejansko povezan s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

5) Kadar dobiček ali dohodek družbe, ki je rezident države pogodbenice, izhaja iz druge države pogodbenice, ta druga država ne sme uvesti nobenega davka na dividende, ki jih plača družba, razen če se te dividende plačajo rezidentu te druge države ali če je delež, v zvezi s katerim se take dividende plačajo, dejansko povezan s stalno poslovno enoto ali stalno bazo v tej drugi državi, niti ne sme uvesti davka od nerazdeljenega dobička na nerazdeljeni dobiček družbe, tudi če so plačane dividende ali nerazdeljeni dobiček v celoti ali delno sestavljeni iz dobička ali dohodka, ki nastane v taki drugi državi.

#### 11. člen OBRESTI

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

those which would have been made between independent enterprises, then that other State may make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

#### 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, "jouissance" shares or "jouissance" rights, mining shares, founders' 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 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.

#### 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) Take obresti pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in v skladu z zakonodajo te države, če pa je upravičeni lastnik obresti rezident druge države pogodbenice, tako zaračunani davek ne presega 5 odstotkov bruto zneska obresti. Pristojna organa držav pogodbenic se sporazumno dogovorita o načinu uporabe te omejitve.

3) Ne glede na določbe drugega odstavka se obresti, ki nastanejo v državi pogodbenici in plačajo rezidentu druge države pogodbenice, obdavčijo samo v tej drugi državi, če je prejemnik upravičeni lastnik obresti in

a) so obresti v upravičeni lasti države pogodbenice, njene politične enote ali lokalne oblasti ali

b) obresti plača država pogodbenica, njena politična enota ali lokalna oblast.

4) Izraz "obresti", kot je uporabljen v tem členu, pomeni dohodek od vseh vrst terjatev ne glede na to, ali so zavarovane s hipoteko ali ne, in ne glede na to, ali imajo pravico do udeležbe v dolžnikovem dobičku ali ne, in še posebej dohodek iz državnih vrednostnih papirjev ter dohodek iz obveznic ali zadolžnic, vključno s premijami in nagradami, ki pripadajo takim vrednostnim papirjem, obveznicam ali zadolžnicam. Kazni zaradi zamude pri plačilu se za namen tega člena ne štejejo za obresti.

5) Določbe prvega, drugega in tretjega odstavka se ne uporabljajo, če upravičeni lastnik obresti, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, v kateri obresti nastanejo, prek stalne poslovne enote v njej ali opravlja v tej drugi državi samostojne osebne storitve iz stalne baze v njej ter je terjatev, v zvezi s katero se obresti plačajo, dejansko povezana s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

6) Šteje se, da obresti nastanejo v državi pogodbenici, kadar je plačnik 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 nastala zadolžitev, za katero se plačajo obresti, ter take obresti krije taka stalna poslovna enota ali stalna baza, se šteje, da take obresti nastanejo v državi, v kateri je stalna poslovna enota ali stalna baza.

7) Kadar zaradi posebnega odnosa med plačnikom in upravičenim lastnikom ali med njima in drugo osebo znesek obresti glede na terjatev, za katero se plačajo, presega znesek, za katerega bi se sporazumela plačnik in upravičeni lastnik, če takega odnosa ne bi bilo, se določbe tega člena uporabljajo samo za zadnji omenjeni znesek. V takem primeru se presežni del plačil še naprej obdavčuje v skladu z zakonodajo vsake države pogodbenice, pri čemer je treba upoštevati druge določbe te konvencije.

## 12. člen

### LICENČNINE IN AVTORSKI HONORARJI

1) Licenčnine in avtorski honorarji, ki nastanejo v državi pogodbenici in se plačajo rezidentu druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

2) Take licenčnine in avtorski honorarji pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in v skladu z zakonodajo te države, če pa je upravičeni lastnik licenčnin in avtorskih honorarjev rezident druge države pogodbenice, tako zaračunani davek ne presega 5 odstotkov bruto zneska takih licenčnin in avtorskih honorarjev. Pristojna organa držav pogodbenic se sporazumno dogovorita o načinu uporabe te omejitve.

(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 paid to a resident of the other Contracting State shall be taxable only in that other State if the recipient is the beneficial owner of the interest and

a) the interest is beneficially owned by a Contracting State, a political subdivision or a local authority thereof; or

b) the interest is paid by a Contracting State, a political subdivision or a local authority thereof.

(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, 2 and 3 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 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.

## 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 5 per cent of the gross amount of such royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.



3) Izraz "licenčnine in avtorski honorarji", kot je uporabljen v tem členu, pomeni plačila vsake vrste, prejeta kot povračilo za uporabo ali pravico do uporabe kakršnih koli avtorskih pravic za literarno, umetniško ali znanstveno delo, vključno s kinematografskimi filmi ali filmi, trakovi ali drugimi sredstvi za reprodukcijo slike ali zvoka, katerega koli patenta, blagovne znamke, vzorca ali modela, načrta, tajne formule ali postopka ali za uporabo ali pravico do uporabe industrijske, komercialne ali znanstvene opreme ali za informacije o industrijskih, komercialnih ali znanstvenih izkušnjah.

4) Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik licenčnin in avtorskih honorarjev, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, v kateri licenčnine in avtorski honorarji nastanejo, prek stalne poslovne enote v njej ali v tej drugi državi opravlja samostojne osebne storitve iz stalne baze v njej ter je pravica ali premoženje, v zvezi s katerim se licenčnine in avtorski honorarji plačajo, dejansko povezano s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. oziroma 14. člena, odvisno od primera.

5) Šteje se, da so licenčnine in avtorski honorarji nastali v državi pogodbenici, kadar je plačnik 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 ter take licenčnine in avtorske honorarje krije taka stalna poslovna enota ali stalna baza, se šteje, da so take 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 njima in drugo osebo znesek licenčnin in avtorskih honorarjev glede na uporabo, pravico ali informacijo, za katero se plačujejo, presega znesek, za katerega bi se sporazumela plačnik in upravičeni lastnik, če takega odnosa ne bi bilo, se določbe tega člena uporabljajo samo za zadnji omenjeni znesek. V takem primeru se presežni del plačil še naprej obdavčuje v skladu z zakonodajo vsake države pogodbenice, pri čemer je treba upoštevati druge določbe te konvencije.

### 13. člen KAPITALSKI DOBIČEK

1) Dobiček, ki ga rezident države pogodbenice doseže z odtujitvijo nepremičnin, ki so omenjene v 6. členu in so v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

2) Dobiček iz odtujitve premičnin, ki so del poslovnega premoženja stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ali premičnin, ki se nanašajo na stalno bazo, ki jo ima rezident države pogodbenice na voljo v drugi državi pogodbenici za namen opravljanja samostojnih osebnih storitev, vključno z dobičkom iz odtujitve take stalne poslovne enote (same ali s celotnim podjetjem) ali take stalne baze, se lahko obdavči v tej drugi državi.

3) Dobiček iz odtujitve ladij ali letal, s katerimi se opravljajo prevozi v mednarodnem prometu, ali premičnin, ki se nanašajo na opravljanje prevozov s takimi ladjami ali letali, se obdavči samo v državi pogodbenici, v kateri je sedež dejanske uprave podjetja.

4) Dobiček iz odtujitve delnic družbe (ki niso delnice, ki kotirajo na potrjeni borzi vrednostnih papirjev) ali drugih pravic do udeležbe v družbi, katere premoženje neposredno ali posredno v glavnem predstavljajo nepremičnine v državi pogodbenici, se lahko obdavči v tej državi.

(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 cinematographic films, or films, tapes and other means of image or sound reproduction, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, 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 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 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) 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 a 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 or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft 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 company shares (other than shares listed on an approved stock exchange) or other participation rights in a company, the property of which consists, directly or indirectly, mainly of immovable property situated in a Contracting State, may be taxed in that State.

Dobiček iz odtujitve delnic ali drugih pravic, ki dajejo lastniku takih delnic ali pravic neposredno ali posredno pravo do uporabe nepremičnine v državi pogodbenici, se lahko obdavči v tej državi.

5) Dobiček iz odtujitve kakršnega koli premoženja, ki ni premoženje, navedeno v prvem, drugem, tretjem in četrtem odstavku, se obdavči samo v državi pogodbenici, katere rezident je oseba, ki odtuji premoženje.

#### 14. člen

##### SAMOSTOJNE OSEBNE STORITVE

1) Dohodek, ki ga dobi rezident države pogodbenice od poklicnih storitev ali drugih samostojnih dejavnosti, se obdavči samo v tej državi, razen če ima stalno bazo, ki mu je redno na voljo v drugi državi pogodbenici za namen opravljanja njegovih dejavnosti. Če ima tako stalno bazo, se dohodek lahko obdavči v drugi državi, a samo toliko dohodka, kolikor se pripiše tej stalni bazi.

2) Izraz "poklicne storitve" vključuje še posebej 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., 19. in 20. člena se plače, mezde in drugi prejemki, ki jih dobi rezident države pogodbenice iz zaposlitve, obdavčijo samo v tej državi, razen če se zaposlitev izvaja v drugi državi pogodbenici. Če se zaposlitev izvaja tako, se lahko tako pridobljeni prejemki obdavčijo v tej drugi državi.

2) Ne glede na določbe prvega odstavka se prejemek, ki ga dobi rezident države pogodbenice iz zaposlitve, ki se izvaja v drugi državi pogodbenici, obdavči samo v prvi omenjeni državi, če:

- a) je prejemnik navzoč v drugi državi v obdobju ali obdobjih, ki ne presegajo skupno 183 dni v katerem koli obdobju dvanajstih mesecev, ki se začne ali konča v zadevnem davčnem letu, in
- b) prejemek plača delodajalec, ki ni rezident druge države, oziroma je plačan v njegovem imenu in
- c) prejemka ne krije stalna poslovna enota ali stalna baza, ki jo ima delodajalec v drugi državi.

3) Ne glede na prejšnje določbe tega člena se prejemek, ki izhaja iz zaposlitve na ladji ali letalu, s katerim se opravljajo prevozi 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 dobi rezident države pogodbenice kot član upravnega odbora družbe, ki je rezident druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

#### 17. člen

##### UMETNIKI IN ŠPORTNIKI

1) Ne glede na določbe 14. in 15. člena se dohodek, ki ga dobi rezident države pogodbenice kot nastopajoči izvajalec, kot je gledališki, filmski, radijski ali televizijski umetnik ali glasbenik, ali kot športnik iz takšnih osebnih dejavnosti, ki jih izvaja v drugi državi pogodbenici, lahko obdavči v tej drugi državi.

Gains from the alienation of shares or other rights, which directly or indirectly entitle the owner of such shares or rights to the enjoyment of immovable property situated in a Contracting State, may be taxed in that State.

(5) Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3 and 4 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 unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

(2) 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, 19 and 20, 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:

- a) the recipient is present 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) Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft 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 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) Kadar dohodek iz osebnih dejavnosti, ki jih izvaja nastopajoči izvajalec ali športnik kot tak, ne priraste samemu nastopajočemu izvajalcu ali športniku, temveč drugi osebi, se ta dohodek kljub določbam 7., 14. in 15. člena lahko obdavči v državi pogodbenici, v kateri se izvajajo dejavnosti nastopajočega izvajalca ali športnika.

3) Ne glede na določbe prvega in drugega odstavka se dohodek iz dejavnosti iz prvega odstavka, ki se izvajajo v okviru kulturnega ali športnega sporazuma ali dogovora med državama pogodbenicama, ne obdavči v državi pogodbenici, v kateri se izvajajo dejavnosti, če se obisk v tej državi v celoti ali pretežno financira z javnimi sredstvi druge države pogodbenice ali njene politične enote ali lokalne oblasti.

#### 18. člen POKOJNINE

V skladu z določbami drugega odstavka 19. člena se pokojnine in drugi podobni prejemki, ki se izplačujejo rezidentu države pogodbenice za preteklo zaposlitev, obdavčijo samo v tej državi.

#### 19. člen DRŽAVNA SLUŽBA

1) a) Plače, mezde in drugi podobni prejemki razen pokojnin, ki jih plačuje država pogodbenica ali njena politična enota ali lokalna oblast posamezniku za storitve, ki jih opravi za to državo ali enoto ali oblast, se obdavčijo samo v tej državi.

b) Take plače, mezde in drugi podobni prejemki pa se obdavčijo samo v drugi državi pogodbenici, če se storitve opravljajo v tej državi in je posameznik rezident te države, ki:

- i) je državljan te države ali
- ii) ni postal rezident te države samo za namen opravljanja storitev.

2) a) Vsaka pokojnina, plačana iz skladov države pogodbenice ali njene politične enote ali lokalne oblasti posamezniku za storitve, opravljene za to državo ali enoto ali oblast, se obdavči samo v tej državi.

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

3) Določbe 15., 16., 17. in 18. člena se uporabljajo za plače, mezde in druge podobne prejemke ter za pokojnine za storitve, opravljene v zvezi s posli države pogodbenice ali njene politične enote ali lokalne oblasti.

#### 20. člen PROFESORJI, UČITELJI IN RAZISKOVALCI

1) Posameznik, ki je ali je bil tik pred obiskom druge države pogodbenice rezident države pogodbenice in je na povabilo katere koli univerze, višje ali visoke šole, šole ali druge podobne izobraževalne ustanove, ki jo vlada te druge države priznava za neprofitno, navzoč v tej drugi državi pogodbenici v obdobju, ki ni daljše od dveh let od datuma njegovega prvega prihoda v drugo državo, samo za namen poučevanja ali raziskovanja ali obojega v taki izobraževalni ustanovi, se v tej drugi državi pogodbenici ne obdavči za prejemke za tako poučevanje ali raziskovanje.

(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) Notwithstanding the provisions of paragraphs 1 and 2, income derived from activities referred to in paragraph 1 performed under a cultural or sports agreement or arrangement between the Contracting States shall be exempt from tax in the Contracting State in which the activities are exercised if the visit to that State is wholly or substantially supported by public funds of the other Contracting State or of a political subdivision or of a local authority thereof.

#### 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) Salaries, wages and other similar 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 authority shall be taxable only in that State.

b) However, such salaries, wages and other similar 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, 17 and 18 shall apply to salaries, wages and other similar remuneration, and to 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 PROFESSORS, TEACHERS AND RESEARCHERS

(1) An individual who is or was a resident of a Contracting State immediately before making a visit to the other Contracting State and who, at the invitation of any university, college, school or other similar educational institution, which is recognized as non-profitable by the Government of that other State, visits that other Contracting State for a period not exceeding two years from the date of his first arrival in that other State solely for the purpose of teaching or doing research or both at such educational institution, shall be exempt from tax in that other Contracting State on any remuneration for such teaching or research.

2) Ta člen se za prejemke od raziskovanja uporablja samo, če tako raziskovanje izvaja posameznik v javno korist in ne predvsem v korist druge zasebne osebe ali oseb.

(2) This Article shall only apply to income from research if such research is undertaken by the individual for the public interest and not primarily for the benefit of some other private person or persons.

#### 21. člen ŠTUDENTI

#### Article 21 STUDENTS

Plačila, ki jih študent ali pripravnik, ki je ali je bil tik pred obiskom države pogodbenice rezident druge države pogodbenice in je v prvi omenjeni državi navzoč samo za namen svojega izobraževanja ali usposabljanja, prejme za svoje vzdrževanje, izobraževanje ali usposabljanje, se ne obdavčijo v tej državi pod pogojem, da taka plačila nastanejo iz virov zunaj te države.

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.

#### 22. člen DRUGI DOHODKI

#### Article 22 OTHER INCOME

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

(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) Določbe prvega odstavka se ne uporabljajo za dohodek, ki ni dohodek od nepremičnin, kot so opredeljene v drugem odstavku 6. člena, če prejemnik takega dohodka, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici prek stalne poslovne enote v njej ali v tej drugi državi opravlja samostojne osebne storitve iz stalne baze v njej in je pravica ali premoženje, za katero se plača dohodek, dejansko povezano s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

(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.

### IV. POGLAVJE OBDAVČEVANJE PREMOŽENJA

### CHAPTER IV TAXATION OF CAPITAL

#### 23. člen PREMOŽENJE

#### Article 23 CAPITAL

1) Premoženje, ki ga predstavljajo nepremičnine iz 6. člena, ki je v lasti rezidenta države pogodbenice in so v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

(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) Premoženje, ki ga predstavljajo premičnine, ki so del poslovnega premoženja stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ali premičnine v zvezi s stalno bazo, ki je na voljo rezidentu države pogodbenice v drugi državi pogodbenici za opravljanje samostojnih osebnih storitev, se lahko obdavči v tej drugi državi.

(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) Premoženje, ki ga predstavljajo ladje in letala, s katerimi se opravljajo prevozi v mednarodnem prometu, in premičnine v zvezi z opravljanjem prevozov s takimi ladjami in letali, se obdavči samo v državi pogodbenici, v kateri je sedež dejanske uprave podjetja.

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

4) Premoženje, ki ga predstavljajo delnice, pravice ali primerljive pravice v družbi, v kateri koli drugi pravni osebi ali osebni družbi, katere sredstva v glavnem predstavljajo nepremičnine ali pravice do nepremičnin, ki so v državi pogodbenici, ali delnice ali druge pravice, ki dajejo lastniku pravico do uporabe nepremičnine, ki je v državi pogodbenici, se lahko obdavči v državi pogodbenici, v kateri je nepremičnina.

(4) Capital constituted by shares, rights or comparable interest in a company, in any other legal person or in a partnership, the assets of which consist principally of, or of rights in, immovable property situated in a Contracting State or by shares or other rights which entitle its owner to a right of enjoyment of immovable property situated in a Contracting State, may be taxed in the Contracting State in which the immovable property is situated.

5) Vsi drugi elementi premoženja rezidenta države pogodbenice se obdavčijo samo v tej državi.

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

V. POGLAVJE  
METODE ZA ODPRAVO DVOJNEGA OBDAVČEVANJA

CHAPTER V  
METHODS FOR ELIMINATION OF DOUBLE TAXATION

24. člen

Article 24

ODPRAVA DVOJNEGA OBDAVČEVANJA

ELIMINATION OF DOUBLE TAXATION

Dvojno obdavčevanje se odpravi, kot sledi:

Double taxation shall be avoided as follows:

1) V Sloveniji:

(1) In Slovenia:

a) kadar rezident Slovenije dobi dohodek ali ima v lasti premoženje, ki se v skladu z določbami te konvencije lahko obdavči v Španiji, Slovenija dovoli:

a) Where a resident of Slovenia derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Spain, Slovenia shall allow:

i) kot odbitek od davka od dohodka tega rezidenta znesek, ki je enak davku od dohodka, plačanemu v Španiji;

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

ii) kot odbitek od davka od premoženja tega rezidenta znesek, ki je enak davku od premoženja, plačanemu v Španiji.

(ii) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in Spain.

Tak odbitek pa v nobenem primeru ne sme presegati tistega dela davka od dohodka ali premoženja, ki je bil izračunan pred odbitkom, pripisanim dohodku ali premoženju, odvisno od primera, ki se lahko obdavči v Španiji;

Such deduction in either case shall not, however, exceed that portion 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 Spain.

b) kadar je v skladu s katero koli določbo te konvencije dohodek, ki ga rezident Slovenije dobi, ali premoženje, ki ga ima v lasti, oproščeno davka v Sloveniji, lahko Slovenija pri izračunu zneska davka od preostalega dohodka ali premoženja takega rezidenta vseeno upošteva oproščeni dohodek ali premoženje.

b) Where in accordance with any provision of the Convention income derived or capital owned by a resident of Slovenia is exempt from tax in Slovenia, Slovenia 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.

2) V Španiji:

(2) In Spain:

V skladu z določbami in ob upoštevanju omejitev španske zakonodaje:

In accordance with the provisions and subject to the limitations of the laws of Spain:

a) kadar rezident Španije dobi dohodek ali ima v lasti dele premoženja, ki se v skladu z določbami te konvencije lahko obdavči v Sloveniji, Španija dovoli:

a) Where a resident of Spain derives income or owns elements of capital which, in accordance with the provisions of this Convention, may be taxed in Slovenia, Spain shall allow:

i) kot odbitek od davka od dohodka tega rezidenta znesek, ki je enak davku od dohodka, plačanemu v Sloveniji;

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

ii) kot odbitek od davka od premoženja tega rezidenta znesek, ki je enak davku od istega dela premoženja, plačanemu v Sloveniji;

(ii) as a deduction from the tax on the capital of that resident, an amount equal to the tax paid in Slovenia on the same elements of capital;

iii) odbitek osnovnega davka od dobička se prizna v skladu z notranjo špansko zakonodajo.

(iii) the deduction of the underlying corporation tax shall be given in accordance with the internal legislation of Spain.

Tak odbitek pa ne sme presegati tistega dela davka od dohodka ali premoženja, ki je bil izračunan pred odbitkom, pripisanim dohodku ali istim delom premoženja, odvisno od primera, ki se lahko obdavči v Sloveniji.

Such deduction 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 same elements of capital which may be taxed in Slovenia.

b) kadar je v skladu s katero koli določbo te konvencije dohodek, ki ga rezident Španije dobi, ali premoženje, ki ga ima v lasti, oproščeno davka v Španiji, lahko Španija pri izračunu zneska davka od preostalega dohodka ali premoženja takega rezidenta vseeno upošteva oproščeni dohodek ali premoženje.

b) Where in accordance with any provision of the Convention income derived or capital owned by a resident of Spain is exempt from tax in Spain, Spain 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.

VI. POGLAVJE  
POSEBNE DOLOČBE

## 25. člen

## ENAKO OBRAVNAVANJE

1) Državljeni države pogodbenice ne smejo biti v drugi državi pogodbenici zavezani kakršnemu koli obdavčevanju ali kakršni koli zahtevi v zvezi s tem, ki je drugačna ali bolj obremenjujoča kot so ali so lahko obdavčevanje in s tem povezane zahteve za državljane te druge države v enakih okoliščinah, še zlasti glede rezidentstva. Ta določba se ne glede na določbe 1. člena uporablja 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 tej drugi državi, kot je obdavčevanje podjetij te druge države, ki opravljajo enake dejavnosti. Ta določba se ne razlaga kot da zavezuje državo pogodbenico, da prizna rezidentom druge države pogodbenice kakršne koli osebne olajšave, oprostitve in zmanjšanja za davčne namene zaradi osebnega statusa ali družinskih obveznosti, ki jih priznava svojim rezidentom.

3) Razen če se uporabljajo določbe prvega odstavka 9. člena, sedmega odstavka 11. člena ali šestega odstavka 12. člena, se obresti, licenčnine in avtorski honorarji ter druga izplačila, ki jih plača podjetje države pogodbenice rezidentu druge države pogodbenice, pri določanju obdavčljivega dobička takega podjetja odbijejo pod istimi pogoji, kot če bi bili plačani rezidentu prve omenjene države. Podobno se tudi kakršni koli dolgovi podjetja države pogodbenice rezidentu druge države pogodbenice pri določanju obdavčljivega premoženja takega podjetja odbijejo pod istimi pogoji, kot če 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 kakršni koli zahtevi v zvezi s tem, ki je drugačna ali bolj obremenjujoča, kot so ali so lahko obdavčevanje in s tem povezane zahteve podobnih podjetij prve omenjene države.

5) Določbe tega člena se uporabljajo ne glede na določbe 2. člena za davke vseh vrst in opisov.

## 26. člen

## POSTOPEK SKUPNEGA DOGOVORA

1) Kadar oseba meni, da imajo ali bodo imela dejanja ene ali obeh držav pogodbenic zanjo za posledico obdavčevanje, ki ni v skladu z določbami te konvencije, lahko ne glede na sredstva, ki ji jih omogoča domača zakonodaja teh držav, predloži zadevo pristojnemu organu države pogodbenice, katere rezident je, ali če se njen primer nanaša na prvi odstavek 25. člena, tiste države pogodbenice, katere državljan je. Zadeva mora biti predložena v treh letih od prvega uradnega obvestila o dejanju, ki je imelo za posledico obdavčevanje, ki ni v skladu z določbami konvencije.

CHAPTER VI  
SPECIAL PROVISIONS

## Article 25

## 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 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 the 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 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 the 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 26

## 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 25, 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) Pristojni organ si, če se mu zdi pritožba upravičena in če sam ne more priti do zadovoljive rešitve, prizadeva razrešiti primer s skupnim dogovorom s pristojnim organom druge države pogodbenice z namenom izogniti se obdavčevanju, ki ni v skladu s konvencijo. Vsak dosežen dogovor se izvaja ne glede na roke v domači zakonodaji držav pogodbenic.

3) Pristojna organa držav pogodbenic si prizadevata s skupnim dogovorom razrešiti kakršne koli težave ali dvome, ki nastanejo pri razlagi ali uporabi konvencije. Prav tako se lahko medsebojno posvetujeta o odpravi dvojnega obdavčevanja v primerih, ki jih konvencija ne predvideva.

4) Pristojna organa držav pogodbenic lahko neposredno komunicirata med seboj, da bi dosegla dogovor v smislu prejšnjih odstavkov. Kadar se za doseg dogovora zdi priporočljiva ustna izmenjava mnenj, taka izmenjava lahko poteka prek komisije, ki je sestavljena iz predstavnikov pristojnih organov držav pogodbenic.

#### 27. člen

##### IZMENJAVA INFORMACIJ

1) Pristojna organa držav pogodbenic si izmenjujeta take informacije, ki so potrebne za izvajanje določb te konvencije ali notranje zakonodaje držav pogodbenic glede davkov, za katere se uporablja ta konvencija, kolikor obdavčevanje na njihovi podlagi ni v nasprotju s konvencijo. Izmenjava informacij ni omejena s 1. členom. Vsaka informacija, ki jo prejme država pogodbenica, se obravnava kot tajnost na isti način kot informacije, pridobljene po notranji zakonodaji te države, in se razkrije samo osebam ali organom (vključno s sodišči in upravnimi organi), udeleženim pri odmeri ali pobiranju, izterjavi ali pregonu ali pri odločanju o pritožbah glede davkov, za katere se uporablja ta konvencija. Te osebe ali organi uporabljajo informacije samo v te namene. Informacije lahko razkrijejo na sodnih obravnavah ali pri sodnih odločitvah.

2) V nobenem primeru se določbe prvega odstavka ne razlagajo, kot da nalagajo državi pogodbenici obveznost:

a) da izvaja upravne ukrepe, ki niso v skladu z zakonodajo in upravno prakso te ali druge države pogodbenice,

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

c) da priskrbi informacije, ki bi razkrile kakršno koli trgovinsko, poslovno, industrijsko, komercialno ali poklicno skrivnost ali trgovinske postopke, ali informacije, katerih razkritje bi bilo v nasprotju z javnim redom.

#### 28. člen

##### ČLANI DIPLOMATSKIH PREDSTAVNIŠTEV IN KONZULATOV

Nič v tej konvenciji ne vpliva na davčne ugodnosti članov diplomatskih predstavništev ali konzulatov po splošnih pravilih mednarodnega prava ali določbah posebnih sporazumov.

(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.

#### Article 27

##### EXCHANGE OF INFORMATION

(1) The competent authorities of the Contracting States shall exchange such information as is necessary 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 a Contracting State the obligation:

a) to carry out administrative measures at variance with the laws and 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 28

##### 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.

VII. POGLAVJE  
KONČNE DOLOČBE

## 29. člen

## ZAČETEK VELJAVNOSTI

1) Vladi držav pogodbenic druga drugo obvestita o dokončanju notranjih postopkov, ki so po njuni zakonodaji potrebni za začetek veljavnosti te konvencije.

2) Konvencija začne veljati na datum prejema zadnjega od obvestil iz prvega odstavka in njene določbe veljajo za davke od dohodka in premoženja, ki so nastali v katerem koli davčnem letu, ki se začne prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem je konvencija začela veljati.

## 30. člen

## PRENEHANJE VELJAVNOSTI

Ta konvencija velja, dokler je ena od držav pogodbenic ne odpove. Katera koli država pogodbenica lahko odpove konvencijo po diplomatski poti s pisnim obvestilom o odpovedi najmanj šest mesecev pred koncem katerega koli koledarskega leta po obdobju petih let od datuma začetka veljavnosti konvencije. V takem primeru konvencija preneha veljati za davke od dohodka ali premoženja, ki so nastali v katerem koli davčnem letu, ki se začne prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem je bilo dano obvestilo o odpovedi.

V dokaz navedenega sta podpisana, ki sta bila za to pravilno pooblaščenca, podpisala to konvencijo.

Sestavljeno v dveh izvornikih v Ljubljani dne 23. maja 2001 v slovenskem, španskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. V primeru razhajanj med besedili prevlada angleško besedilo.

Za Republiko Slovenijo      Za Kraljevino Španijo  
**Darko Končan** l.r.      **Ramón de Miguel y Egea** l.r.

## PROTOKOL

Ob podpisu Konvencije med Republiko Slovenijo in Kraljevino Španijo o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja sta se podpisana dogovorila za naslednje določbe, ki so sestavni del konvencije.

## I. K tretjemu odstavku 10. člena

Razume se, da izraz "dividende" vključuje dobiček od likvidacije družbe.

## II. K 10., 11., 12. in 13. členu

a) Ne glede na določbe te konvencije družba, ki je rezident države pogodbenice, v kateri imajo osebe, ki niso rezidenti te države, neposredno ali posredno več kot 50-odstotni delež delniškega kapitala, ni upravičena do olajšav, predvidenih v konvenciji v zvezi z dividendami, obrestmi, licenčninami in avtorskimi honorarji ter kapitalskim dobičkom ki nastane v drugi državi pogodbenici. Ta določba se ne uporablja, kadar omenjena družba opravlja dejanske posle, ki niso samo lastništvo delnic ali premoženja, v državi pogodbenici, katere rezident je.

CHAPTER VII  
FINAL PROVISIONS

## Article 29

## ENTRY INTO FORCE

(1) The Governments of the Contracting States shall notify each other that the internal procedures required by the law of each Contracting State for the entry into force of this Convention have been complied with.

(2) The Convention shall enter into force on the date of receipt of the later of the notifications referred to in paragraph 1 and its provisions shall have effect in respect of taxes on income and on capital relating to any tax year beginning on or after the first day of January in the calendar year next following that in which the Convention enters into force.

## Article 30

## TERMINATION

This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Convention, through diplomatic channels, by giving written notice of termination at least six months before the end of any calendar year following after the period of five years from the date on which the Convention enters into force. In such event, the Convention shall cease to have effect in respect of taxes on income or on capital relating to any tax year beginning on or after the first day of January in the calendar year next following that in which the notice of termination is given.

In witness whereof the undersigned, duly authorized thereto, have signed this Convention.

Done in duplicate in Ljubljana on the 23 day of May 2001, in the Slovenian, Spanish and English languages, all the texts being equally authentic. In case of divergence between any of the texts, the English text shall prevail.

For the Republic of Slovenia      For the Kingdom of Spain:  
**Darko Končan**, (s)      **Ramón de Miguel y Egea**, (s)

## PROTOCOL

At the moment of signing the Convention between the Republic of Slovenia and the Kingdom of Spain for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital, the undersigned have agreed upon the following provisions which shall be an integral part of the Convention.

## I. Ad Article 10, paragraph 3

It is understood that the term "dividends" includes profits on the liquidation of a company.

## II. Ad Articles 10, 11, 12 and 13

a) Notwithstanding the provisions of this Convention, a company resident in a Contracting State in which persons who are not residents of that State hold, directly or indirectly, a participation of more than 50 per cent of the share capital, shall not be entitled to the reliefs provided for by the Convention in respect of dividends, interest, royalties and capital gains arising in the other Contracting State. This provision shall not apply where the said Company is engaged in substantive business operations, other than the mere holding of shares or property, in the Contracting State of which it is a resident.



b) Družbi, ki po prejšnjem pododstavku ne bi bila upravičena do ugodnosti iz konvencije v zvezi z zgoraj omenjenimi deli dohodka, se še vedno lahko priznajo take ugodnosti, če se pristojna organa držav pogodbenic v skladu s 26. členom konvencije strinjata, da ustanovitev družbe in njeno poslovanje temeljita na zdravih poslovnih razlogih in tako pridobitev takih ugodnosti ni njen osnovni namen.

III. K tretjemu odstavku 17. člena

Razume se, da se obisk umetnikov in športnikov "pretežno" financira z javnimi sredstvi, kadar se 75 odstotkov ali več skupnih stroškov za prevoz, nastanitev in dnevnice financira s sredstvi te vrste.

IV. K 25. členu

Razume se, da določbe 25. člena državi pogodbenici ne preprečujejo uporabljati njeno notranjo zakonodajo, ki se nanaša na podkapitalizacijo.

V dokaz navedenega sta podpisana, ki sta bila za to pravilno pooblaščenca, podpisala ta protokol.

Sestavljeno v dveh izvornikih v Ljubljani dne 23. maja 2001 v slovenskem, španskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. V primeru razhajanj med besedili prevlada angleško besedilo.

Za Republiko Slovenijo  
**Darko Končan** l.r.

Za Kraljevino Španijo  
**Ramón de Miguel y Egea** l.r.

b) A company which under the preceding subparagraph would not be entitled to the benefits of the Convention in respect of the aforementioned items of income, could still be granted such benefits if the competent authorities of the Contracting States agree under Article 26 of the Convention that the establishment of the company and the conduct of its operations are founded on sound business reasons and thus do not have as its primary purpose the obtaining of such benefits.

III. Ad Article 17, paragraph 3

It is understood that the visit of artistes and sportsman is "substantially" supported by public funds when 75 per cent or more of the total expenses on transport, accommodation and daily allowance are financed by funds of such nature.

IV. Ad Article 25

It is understood that the provisions of Article 25 shall not prevent the application by a Contracting State of its domestic law concerning thin capitalisation.

In witness whereof the undersigned, duly authorized thereto, have signed this Protocol.

Done in duplicate in Ljubljana on the 23 day of May 2001, in the Slovenian, Spanish and English languages, all the texts being equally authentic. In case of divergence between any of the texts, the English text shall prevail.

For the Republic of Slovenia For the Kingdom of Spain:  
**Darko Končan, (s)** **Ramón de Miguel y Egea, (s)**

3. člen

Za izvajanje konvencije s protokolom skrbi Ministrstvo za finance Republike Slovenije.

4. člen

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

Št. 432-01/02-17/1

Ljubljana, dne 28. februarja 2002

Predsednik  
Državnega zbora  
Republike Slovenije  
**Borut Pahor** l. r.

**20. Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Velikim vojvodstvom Luksemburg o izogibanju dvojnega obdavčevanja v zvezi z davki od dohodka in premoženja s protokolom (BLUIDO)**

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 VELIKIM VOJVODSTVOM LUKSEMBURG O IZOGIBANJU DVOJNEGA OBDAVČEVANJA V ZVEZI Z DAVKI OD DOHODKA IN PREMOŽENJA S PROTOKOLOM (BLUIDO)**

Razglušam Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Velikim vojvodstvom Luksemburg o izogibanju dvojnega obdavčevanja v zvezi z davki od dohodka in premoženja s protokolom (BLUIDO), ki ga je sprejel Državni zbor Republike Slovenije na seji 28. februarja 2002.

Št. 001-22-18/02  
Ljubljana, 8. marca 2002

Predsednik  
Republike Slovenije  
**Milan Kučan** l. r.

**Z A K O N****O RATIFIKACIJI KONVENCIJE MED REPUBLIKO SLOVENIJO IN VELIKIM VOJVODSTVOM LUKSEMBURG O IZOGIBANJU DVOJNEGA OBDAVČEVANJA V ZVEZI Z DAVKI OD DOHODKA IN PREMOŽENJA S PROTOKOLOM (BLUIDO)**

## 1. člen

Ratificira se Konvencija med Republiko Slovenijo in Velikim vojvodstvom Luksemburg o izogibanju dvojnega obdavčevanja v zvezi z davki od dohodka in premoženja s protokolom, podpisana v Ljubljani dne 2. aprila 2001.

## 2. člen

Konvencija s protokolom se v izvorniku v slovenskem in angleškem jeziku glasi: \*

**K O N V E N C I J A  
MED REPUBLIKO SLOVENIJO  
IN VELIKIM VOJVODSTVOM LUKSEMBURG  
O IZOGIBANJU DVOJNEGA OBDAVČEVANJA  
V ZVEZI Z DAVKI OD DOHODKA IN  
PREMOŽENJA**

Republika Slovenija in Veliko vojvodstvo Luksemburg sta se v želji, da bi sklenila konvencijo o izogibanju dvojnega obdavčevanja v zvezi z davki od dohodka in premoženja, sporazumela, kot sledi:

## 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 od dohodka in premoženja, ki se uvedejo v imenu države pogodbenice ali njenih političnih enot ali lokalnih oblasti, ne glede na način njihove uvedbe.

2. Za davke od dohodka in premoženja se štejejo vsi davki, uvedeni na celoten dohodek, celotno premoženje ali na sestavine dohodka ali premoženja, vključno z davki od dobička iz odtujitve premičnin ali nepremičnin, davki na skupne zneske mezd ali plač, ki so jih izplačala podjetja, ter davki na zvišanje vrednosti kapitala.

**C O N V E N T I O N  
BETWEEN THE REPUBLIC OF SLOVENIA  
AND THE GRAND DUCHY OF LUXEMBOURG  
FOR THE AVOIDANCE OF DOUBLE TAXATION  
WITH RESPECT TO TAXES ON INCOME AND ON  
CAPITAL**

The Republic of Slovenia and the Grand Duchy of Luxembourg, desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income and on capital, have agreed as follows:

## 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.

\* Besedilo konvencije s protokolom v francoskem jeziku je na vpogled v Sektorju za mednarodnopravne zadeve Ministrstva za zunanje zadeve Republike Slovenije.

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

a) v Sloveniji:

i) davek od dobička pravnih oseb;

ii) davek od dohodka posameznikov, vključno z mezdami in plačami, dohodkom iz kmetijskih dejavnosti, dohodkom iz poslovanja, kapitalskimi dobički in dohodkom od nepremičnin in premičnin (dohodnina);

iii) davek od premoženja  
(v nadaljevanju "slovenski davek");

b) v Luksemburgu:

i) davek od dohodka posameznikov (l'impôt sur le revenu des personnes physiques);

ii) davek od dobička pravnih oseb (l'impôt sur le revenu des collectivités);

iii) davek od plačil direktorjem podjetij (l'impôt spécial sur les tantièmes);

iv) davek od premoženja (l'impôt sur la fortune);

v) lokalni davek od dohodka iz poslovanja (l'impôt commercial communal)

(v nadaljevanju "luksemburški davek").

4. Ta konvencija se uporablja tudi za kakršne koli enake ali vsebinsko podobne davke, ki se uvedejo po datumu podpisa konvencije dodatno k že obstoječim davkom ali namesto njih. Pristojna organa držav pogodbenic drug drugemu uradno obvestita o vseh bistvenih spremembah njihovih davčnih zakonodaj.

### 3. člen

#### SPLOŠNA OPREDELITEV IZRAZOV

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

a) izraz "Slovenija" pomeni Republiko Slovenijo, in ko se uporablja v zemljepisnem smislu, ozemlje Slovenije, vključno z morskim območjem, morskim dnom in podzemljem ob teritorialnem morju, če Slovenija lahko nad takim morskim območjem, morskim dnom in podzemljem izvaja svoje suverene pravice in jurisdikcijo v skladu s svojo notranjo zakonodajo in mednarodnim pravom;

b) izraz "Luksemburg" pomeni Veliko vojvodstvo Luksemburg, in ko se uporablja v zemljepisnem smislu, pomeni ozemlje Velikega vojvodstva Luksemburg;

c) izraz "oseba" vključuje posameznika, družbo in katero koli drugo telo, ki združuje več oseb;

d) izraz "družba" pomeni katero koli korporacijo ali kateri koli subjekt, ki se za davčne namene obravnava kot korporacija;

e) 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;

f) izraz "mednarodni promet" pomeni kakršen koli prevoz z ladjo, letalom ali cestnim vozilom, ki ga opravlja podjetje, ki ima sedež dejanske uprave v državi pogodbenici, razen če ladja, letalo ali cestno vozilo opravlja prevoze samo med kraji v drugi državi pogodbenici;

g) izraz "pristojni organ" pomeni:

i) za Slovenijo Ministrstvo za finance Republike Slovenije ali pooblaščenega predstavnika tega ministrstva;

ii) za Luksemburg ministra za finance ali njegovega pooblaščenega predstavnika;

h) izraz "državljan" pomeni:

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

ii) katero koli pravno osebo, osebno družbo ali združenje, katerih status izhaja iz veljavne zakonodaje v državi pogodbenici.

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

a) in Slovenia:

(i) the tax on profits of legal persons (davek od dobička pravnih oseb);

(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 (dohodnina);

(iii) the tax on property (davek od premoženja);  
(hereinafter referred to as "Slovenian tax");

b) in Luxembourg:

(i) the income tax on individuals (l'impôt sur le revenu des personnes physiques);

(ii) the corporation tax (l'impôt sur le revenu des collectivités);

(iii) the tax on fees of directors of companies (l'impôt spécial sur les tantièmes);

(iv) the capital tax (l'impôt sur la fortune);

(v) the communal trade tax (l'impôt commercial communal);

(hereinafter referred to as "Luxembourg tax").

4. The 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 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 Slovenia, including the sea area, sea-bed and subsoil adjacent to the territorial sea, if Slovenia may exercise its sovereign rights and jurisdiction over such sea area, seabed and subsoil in accordance with its domestic legislation and international law;

b) the term "Luxembourg" means the Grand Duchy of Luxembourg and, when used in a geographical sense, means the territory of the Grand Duchy of Luxembourg;

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

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

e) 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;

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

g) the term "competent authority" means:

(i) in Slovenia: the Ministry of Finance of the Republic of Slovenia or its authorized representative;

(ii) in Luxembourg: the Minister of Finance or his authorized representative;

h) 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.

2. Kadar koli država pogodbenica uporabi konvencijo, ima kateri koli izraz, ki v njej ni opredeljen, razen če sobesedilo zahteva drugače, pomen, ki ga ima takrat po pravu te države za namene davkov, za katere se konvencija uporablja, pri čemer kateri koli pomen po veljavni davčni zakonodaji te države prevlada nad pomenom izraza po drugi zakonodaji te države.

#### 4. člen REZIDENT

1. Za namene te konvencije izraz "rezident države pogodbenice" pomeni katero koli osebo, ki je po zakonodaji te države dolžna plačevati davke zaradi svojega stalnega prebivališča, prebivališča, sedeža uprave ali katerega koli drugega podobnega merila, in tudi vključuje to državo ali katero koli njeno politično enoto ali lokalno oblast. Ta izraz pa ne vključuje katere koli osebe, ki je dolžna plačevati davke v tej državi samo v zvezi z dohodki iz virov v tej državi ali premoženja v njej.

2. Kadar je zaradi določb prvega odstavka posameznik rezident obeh držav pogodbenic, se njegov status določi na naslednji način:

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

b) če ni mogoče opredeliti države, v kateri ima središče življenjskih interesov, ali če nima v nobeni od držav na razpolago stalnega prebivališča, se šteje samo za rezidenta države, v kateri ima običajno bivališče;

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

d) če je državljan obeh držav ali nobene od njiju, pristojna organa držav pogodbenic vprašanje rešita s skupnim dogovorom.

3. Kadar je zaradi določb prvega odstavka oseba, ki ni posameznik, rezident obeh držav pogodbenic, se šteje, da je samo rezident države, v kateri ima sedež dejanske uprave.

#### 5. člen STALNA POSLOVNA ENOTA

1. Za namene te konvencije izraz "stalna poslovna enota" pomeni stalno mesto poslovanja, prek katerega v celoti ali delno potekajo posli podjetja.

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

a) sedež uprave,  
b) podružnico,  
c) pisarno,  
d) tovarno,  
e) delavnico in  
f) rudnik, nahajališče nafte ali plina, kamnolom ali kateri koli drug kraj pridobivanja naravnih virov.

3. Gradbišče ali projekt gradnje ali montaže je stalna poslovna enota samo, če traja več kot dvanajst mesecev.

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

2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purpose of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

#### 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, and also includes that State and any political subdivision or local authority thereof. This term, however, 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 only 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 only 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 only 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 only 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 only of the State in which its place of effective management is situated.

#### 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. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.

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

a) uporabe prostorov samo za namen skladiščenja, razstavljanja ali dostave dobrin ali blaga, ki pripada podjetju;

b) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za namen skladiščenja, razstavljanja ali dostave;

c) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za namen predelave s strani drugega podjetja;

d) vzdrževanja stalnega mesta poslovanja samo za namen nakupa dobrin ali blaga ali zbiranja informacij za podjetje;

e) vzdrževanja stalnega mesta poslovanja samo za namen opravljanja kakršne koli druge dejavnosti pripravljalne ali pomožne narave za podjetje;

f) vzdrževanja stalnega mesta poslovanja samo za kakršno koli kombinacijo dejavnosti, omenjenih v pododstavkih a) do e), pod pogojem, da je splošna dejavnost stalnega mesta poslovanja, ki je posledica te kombinacije, pripravljalne ali pomožne narave.

5. Ne glede na določbe prvega in drugega odstavka, kadar oseba – ki ni zastopnik z neodvisnim statusom, za katerega se uporablja šesti odstavek – deluje v imenu podjetja ter ima in običajno uporablja v državi pogodbenici pooblastilo za sklepanje pogodb v imenu podjetja, se za to podjetje šteje, da ima stalno poslovno enoto v tej državi v zvezi s katerimi koli dejavnostmi, ki jih ta oseba prevzame za podjetje, razen če so dejavnosti take osebe omejene na tiste iz četrtega odstavka, zaradi katerih se to stalno mesto poslovanja po določbah tega odstavka ne bi štelo za stalno poslovno enoto, če bi se opravljale prek stalnega mesta poslovanja.

6. Ne šteje se, da ima podjetje stalno poslovno enoto v državi pogodbenici samo zato, ker opravlja posle v tej državi prek posrednika, splošnega komisionarja ali katerega koli drugega zastopnika z neodvisnim statusom, pod pogojem, da te osebe delujejo v okviru svojega rednega poslovanja.

7. Dejstvo, da družba, ki je rezident države pogodbenice, nadzoruje družbo, ki je rezident druge države pogodbenice ali opravlja posle v tej drugi državi (prek stalne poslovne enote ali drugače) ali je pod nadzorom take družbe, samo po sebi še ne pomeni, da je ena od družb stalna poslovna enota druge.

## 6. člen

### DOHODEK IZ NEPREMIČNIN

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

2. Izraz "nepremičnine" ima pomen, ki ga ima po pravu države pogodbenice, v kateri je zadevna nepremičnina. Izraz vedno vključuje premoženje, ki je sestavni del nepremičnin, živino in opremo, ki se uporablja v kmetijstvu in gozdarstvu, pravice, za katere veljajo določbe splošnega prava v zvezi z zemljiško lastnino, užitek na nepremičninah in pravice do spremenljivih ali stalnih plačil kot odškodnino za izkoriščanje ali pravico do izkoriščanja nahajališč rude, virov ter drugega naravnega bogastva; ladje, čolni in letala se ne štejejo za nepremičnine.

3. Določbe prvega odstavka se uporabljajo za dohodek, ki se ustvari z neposredno uporabo, dajanjem v najem ali katero koli drugo obliko uporabe nepremičnine.

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 carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (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. 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. Določbe prvega in tretjega odstavka se uporabljajo tudi za dohodek iz nepremičnin podjetja in dohodek iz nepremičnin, ki se uporabljajo 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 je prej omenjeno, se lahko dobiček podjetja obdavči v drugi državi, vendar samo toliko dobička, kot se pripíše tej stalni poslovni enoti.

2. Ob upoštevanju določb tretjega odstavka, kadar podjetje države pogodbenice posluje v drugi državi pogodbenici prek stalne poslovne enote v njej, se v vsaki državi pogodbenici tej stalni poslovni enoti pripíše dobiček, za katerega bi se lahko pričakovalo, da bi ga imela, če bi bila različno in ločeno podjetje, ki opravlja enake ali podobne dejavnosti pod istimi ali podobnimi pogoji ter povsem neodvisno posluje s podjetjem, katerega stalna poslovna enota je.

3. Pri določanju dobička stalne poslovne enote je dovoljeno odšteti stroške, ki nastanejo za namene stalne poslovne enote, vključno s poslovnimi in splošnimi upravnimi stroški, ki so tako nastali bodisi v državi, v kateri je stalna poslovna enota, ali drugje.

4. Če se v državi pogodbenici dobiček, ki se pripíše stalni poslovni enoti, običajno določi na podlagi porazdelitve vsega dobička podjetja na njegove dele, nič v drugem odstavku tej državi pogodbenici ne preprečuje določiti obdavčljivega dobička z običajno porazdelitvijo; sprejeta metoda porazdelitve pa mora biti taka, da je rezultat v skladu z načeli tega člena.

5. Stalni poslovni enoti se ne pripíše dobiček samo zato, ker nakupuje dobrine ali blago za podjetje.

6. Za namene prejšnjih odstavkov se dobiček, ki se pripíše stalni poslovni enoti, vsako leto določi po isti metodi, razen če je upravičen in zadosten razlog za nasprotno.

7. Kadar dobiček vključuje dohodkovne postavke, ki so posebej obravnavane v drugih členih te konvencije, določbe tega člena ne vplivajo na določbe tistih členov.

## 8. člen

## MEDNARODNI PREVOZ

1. Dobiček iz opravljanja ladijskih, letalskih ali cestnih prevozov v mednarodnem prometu se obdavči samo v državi pogodbenici, v kateri je sedež dejanske uprave podjetja.

2. Če je sedež dejanske uprave ladjarskega podjetja na krovu ladje, se šteje, da je sedež v državi pogodbenici, v kateri ima ladja matično pristanišče, ali če nima takega matičnega pristanišča, v državi pogodbenici, katere rezident je ladijski prevoznik.

3. Določbe prvega odstavka se uporabljajo tudi za dobiček iz udeležbe v interesnem združenju (pool), mešanem podjetju ali mednarodni prevozni agenciji.

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. 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 or road 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 from the participation in a pool, a joint business or an international operating agency.

9. člen  
POVEZANA PODJETJA

1. Kadar:

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

b) so iste osebe neposredno ali posredno udeležene pri upravljanju, nadzoru ali v kapitalu podjetja države pogodbenice in podjetja druge države pogodbenice in v obeh primerih obstajajo ali se uvedejo med podjetjema v njunih komercialnih ali finančnih odnosih pogoji, drugačni od tistih, ki bi obstajali med neodvisnimi podjetji, se kakršen koli dobiček, ki bi prirastel enemu od podjetij, če takšnih pogojev ne bi bilo, vendar prav zaradi takih pogojev ni prirastel, lahko vključi v dobiček tega podjetja in ustrezno obdavči.

2. Kadar država pogodbenica v dobiček podjetja te države vključuje – in ustrezno obdavči – dobiček, za katerega je že bilo obdavčeno podjetje druge države pogodbenice v tej drugi državi, in je tako vključen dobiček, ki bi prirastel podjetju prve omenjene države, če bi bili pogoji, ki obstajajo med podjetjema, taki, kot bi obstajali med neodvisnimi podjetji, ta druga država ustrezno prilagodi znesek davka, ki se v tej državi zaračuna od tega dobička. Pri določanju take prilagoditve je treba upoštevati druge določbe te konvencije, pristojna organa držav pogodbenic pa se po potrebi med seboj posvetujeta.

10. člen  
DIVIDENDE

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

2. Take dividende pa se lahko obdavčijo tudi v državi pogodbenici, katere rezident je družba, ki dividende plačuje, in v skladu z zakonodajo te države, če pa je upravičeni lastnik dividend rezident druge države pogodbenice, tako obračunani davek ne presega:

a) 5 odstotkov bruto zneska dividend, če je upravičeni lastnik družba, ki ima neposredno v lasti najmanj 25 odstotkov kapitala družbe, ki plačuje dividende;

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

Ta odstavek ne vpliva na obdavčenje družbe v zvezi z dobičkom, iz katerega se plačajo dividende.

3. Izraz "dividende", kot je uporabljen v tem členu, pomeni dohodek iz delnic, rudniških delnic, ustanoviteljskih delnic ali drugih pravic do udeležbe v dobičku, ki niso terjatve, in tudi dohodek iz drugih pravic v družbi, ki se davčno obravnava enako kot dohodek iz delnic po zakonodaji države, katere rezident je družba, ki dividende deli.

4. Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik dividend, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, katere rezident je družba, ki dividende plačuje, prek stalne poslovne enote v njej ali opravlja v tej drugi državi samostojne osebne storitve iz stalne baze v njej ter je delež, v zvezi s katerim se dividende plačajo, dejansko povezan s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

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

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.

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, mining shares, founders' 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 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. Kadar dobiček ali dohodek družbe, ki je rezident države pogodbenice, izhaja iz druge države pogodbenice, ta druga država ne sme uvesti nobenega davka na dividende, ki jih plača družba, razen če se te dividende plačajo rezidentu te druge države ali če je delež, v zvezi s katerim se take dividende plačajo, dejansko povezan s stalno poslovno enoto ali stalno bazo v tej drugi državi, niti ne sme uvesti davka od nerazdeljenega dobička na nerazdeljeni dobiček družbe, tudi če so plačane dividende ali nerazdeljeni dobiček v celoti ali delno sestavljeni iz dobička ali dohodka, ki nastane v taki drugi državi.

#### 11. člen OBRESTI

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

2. Take obresti pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in v skladu z zakonodajo te države, če pa je upravičeni lastnik obresti rezident druge države pogodbenice, tako zaračunani davek ne presega 5 odstotkov bruto zneska obresti.

3. Ne glede na določbe drugega odstavka so obresti, ki nastanejo v državi pogodbenici in jih prejema vlada druge države pogodbenice, vključno z njenimi lokalnimi oblastmi in centralno banko, oproščene davka v prvi omenjeni državi.

4. Izraz "obresti", kot je uporabljen v tem členu, pomeni dohodek iz vseh vrst terjatev ne glede na to, ali so zavarovane s hipoteko, in ne glede na to, ali imajo pravico do udeležbe v dolžnikovem dobičku, in še posebej dohodek iz državnih vrednostnih papirjev ter dohodek iz obveznic in zadolžnic, vključno s premijami in nagradami, ki pripadajo takim vrednostnim papirjem, obveznicam in zadolžnicam. Kazni zaradi zamude pri plačilu se za namene tega člena ne štejejo za obresti.

5. Določbe prvega, drugega in tretjega odstavka se ne uporabljajo, če upravičeni lastnik obresti, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, v kateri obresti nastanejo, prek stalne poslovne enote v njej ali opravlja v tej drugi državi samostojne osebne storitve iz stalne baze v njej ter je terjatev, v zvezi s katero se obresti plačajo, dejansko povezana s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

6. Šteje se, da obresti nastanejo v državi pogodbenici, če je plačnik rezident te države. Kadar pa ima oseba, ki plačuje obresti, ne glede na to, ali je rezident države pogodbenice, v državi pogodbenici stalno poslovno enoto ali stalno bazo, v zvezi s katero je nastala zadolžitev, za katero se plačajo obresti, ter take obresti krije taka stalna poslovna enota ali stalna baza, se šteje, da take obresti nastanejo v državi, v kateri je stalna poslovna enota ali stalna baza.

7. Kadar zaradi posebnega odnosa med plačnikom in upravičenim lastnikom ali med njima in drugo osebo znesek obresti glede na terjatev, za katero se plačajo, presega znesek, za katerega bi se sporazumela plačnik in upravičeni lastnik, če takega odnosa ne bi bilo, se določbe tega člena uporabljajo samo za zadnji omenjeni znesek. V takem primeru se presežni del plačil še naprej obdavčuje v skladu z zakonodajo vsake države pogodbenice, pri čemer je treba upoštevati druge določbe te konvencije.

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.

#### 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.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and derived by the Government of the other Contracting State including local authorities thereof and the Central bank shall be exempt from tax in the first-mentioned 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, 2 and 3 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 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 plačajo rezidentu druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

2. Take licenčnine in avtorski honorarji pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in v skladu z zakonodajo te države, če pa je upravičeni lastnik licenčnin in avtorskih honorarjev rezident druge države pogodbenice, tako zaračunani davek ne presega 5 odstotkov bruto zneska licenčnin in avtorskih honorarjev.

3. Izraz "licenčnine in avtorski honorarji", kot je uporabljen v tem členu, pomeni plačila vsake vrste, prejeta kot povračilo za uporabo ali pravico do uporabe kakršnih koli avtorskih pravic za literarno, umetniško ali znanstveno delo, vključno s kinematografskimi filmi, katerega koli patenta, blagovne znamke, vzorca ali modela, načrta, tajne formule ali postopka ali za informacije o industrijskih, komercialnih ali znanstvenih izkušnjah.

4. Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik licenčnin in avtorskih honorarjev, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, v kateri licenčnine in avtorski honorarji nastanejo, prek stalne poslovne enote v njej ali v tej drugi državi opravlja samostojne osebne storitve iz stalne baze v njej ter je pravica ali premoženje, v zvezi s katerim se licenčnine in avtorski honorarji plačajo, dejansko povezano s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

5. Šteje se, da so licenčnine in avtorski honorarji nastali v državi pogodbenici, kadar je plačnik rezident te države. Kadar pa ima oseba, ki plačuje licenčnine in avtorske honorarje, ne glede na to, ali je plačnik rezident države pogodbenice, v državi pogodbenici stalno poslovno enoto ali stalno bazo, v zvezi s katero je nastala obveznost za plačilo licenčnin in avtorskih honorarjev ter take licenčnine in avtorske honorarje krije taka stalna poslovna enota ali stalna baza, se šteje, da so take 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 njima in drugo osebo znesek licenčnin in avtorskih honorarjev glede na uporabo, pravico ali informacijo, za katero se plačujejo, presega znesek, za katerega bi se sporazumela plačnik in upravičeni lastnik, če takega odnosa ne bi bilo, se določbe tega člena uporabljajo samo za zadnji omenjeni znesek. V takem primeru se presežni del plačil še naprej obdavčuje v skladu z zakonodajo vsake države pogodbenice, pri čemer je treba upoštevati druge določbe te konvencije.

## 13. člen

## KAPITALSKI DOBIČEK

1. Dobiček, ki ga rezident države pogodbenice doseže z odtujitvijo nepremičnin, ki so omenjene v 6. členu in so v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

2. Dobiček iz odtujitve premičnin, ki so del poslovnega premoženja stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ali premičnin, ki se nanašajo na stalno bazo, ki jo ima rezident države pogodbenice na voljo v drugi državi pogodbenici za namen opravljanja samostojnih osebnih storitev, vključno z dobičkom iz odtujitve take stalne poslovne enote (same ali s celotnim podjetjem) ali take stalne baze, se lahko obdavči 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 5 per cent of the gross amount of the royalties.

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, any patent, trade mark, design or model, plan, secret formula or process, 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 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 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. 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 a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Dobiček iz odtujitve ladij, letal ali cestnih vozil, s katerimi se opravljajo prevozi v mednarodnem prometu, ali premičnin, ki se nanašajo na opravljanje prevozov s takimi ladjami, letali ali cestnimi vozili, se obdavči samo v državi pogodbenici, v kateri je sedež dejanske uprave podjetja.

4. Dobiček iz odtujitve kakršnega koli premoženja, ki ni premoženje, navedeno v prvem, drugem in tretjem odstavku, se obdavči samo v državi pogodbenici, katere rezident je oseba, ki odtuji premoženje.

#### 14. člen

##### SAMOSTOJNE OSEBNE STORITVE

1. Dohodek, ki ga dobi rezident države pogodbenice iz poklicnih storitev ali drugih samostojnih dejavnosti, se obdavči samo v tej državi, razen če ima stalno bazo, ki mu je redno na voljo v drugi državi pogodbenici za namen opravljanja njegovih dejavnosti. Če ima tako stalno bazo, se dohodek lahko obdavči v drugi državi, a samo toliko dohodka, kolikor se pripiše tej stalni bazi.

2. Izraz "poklicne storitve" vključuje še posebej 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., 19. in 20. člena se plače, mezde in drugi podobni prejemki, ki jih dobi rezident države pogodbenice iz zaposlitve, obdavčijo samo v tej državi, razen če se zaposlitev izvaja v drugi državi pogodbenici. Če se zaposlitev izvaja tako, se lahko tako dobljeni prejemki obdavčijo v tej drugi državi.

2. Ne glede na določbe prvega odstavka se prejemek, ki ga dobi rezident države pogodbenice iz zaposlitve, ki se izvaja v drugi državi pogodbenici, obdavči samo v prvi omenjeni državi, če:

- a) je prejemnik navzoč v drugi državi v obdobju ali obdobjih, ki ne presegajo skupno 183 dni v katerem koli obdobju dvanajstih mesecev, ki se začne ali konča v zadevnem koledarskem letu, in
- b) prejemek plača delodajalec, ki ni rezident druge države, oziroma je plačan v njegovem imenu in
- c) prejemka ne krije stalna poslovna enota ali stalna baza, ki jo ima delodajalec v drugi državi.

3. Ne glede na prejšnje določbe tega člena se prejemek, ki izhaja iz zaposlitve na ladiji, letalu ali cestnem vozilu, s katerim se opravljajo prevozi 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 dobi rezident države pogodbenice kot član upravnega odbora družbe, ki je rezident druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

3. Gains from the alienation of ships, aircraft or road vehicles operated in international traffic, or movable property pertaining to the operation of such ships, aircraft or road 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 unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

2. 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, 19 and 20, 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:

- a) the recipient is present 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 calendar 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. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship, aircraft or road 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 of a company which is a resident of the other Contracting State may be taxed in that other State.

17. člen  
UMETNIKI IN ŠPORTNIKI

1. Ne glede na določbe 14. in 15. člena se dohodek, ki ga dobi rezident države pogodbenice kot nastopajoči izvajalec, kot je gledališki, filmski, radijski ali televizijski umetnik ali glasbenik, ali kot športnik iz takšnih osebnih dejavnosti, ki jih izvaja v drugi državi pogodbenici, lahko obdavči v tej drugi državi.

2. Kadar dohodek iz osebnih dejavnosti, ki jih izvaja nastopajoči izvajalec ali športnik kot tak, ne priraste samemu nastopajočemu izvajalcu ali športniku, temveč drugi osebi, se ta dohodek kljub določbam 7., 14. in 15. člena lahko obdavči v državi pogodbenici, v kateri se izvajajo dejavnosti nastopajočega izvajalca ali športnika.

3. Ne glede na določbe prvega in drugega odstavka tega člena pa se dohodek, ki ga rezident države pogodbenice dobi iz osebnih storitev kot nastopajoči izvajalec ali športnik, obdavči samo v prvi omenjeni državi pogodbenici, če storitve v drugi državi pogodbenici izvaja v okviru programa kulturne ali športne izmenjave, ki ga odobrita obe državi pogodbenici.

18. člen  
POKOJNINE

1. V skladu z določbami drugega odstavka 19. člena se pokojnine in drugi podobni prejemki, ki se izplačujejo rezidentu države pogodbenice za preteklo zaposlitev, obdavčijo samo v tej državi.

2. Ne glede na določbe prvega odstavka se lahko pokojnine in druga plačila iz obveznega pokojninskega zavarovanja v skladu z zakonodajo o socialni varnosti države pogodbenice obdavčijo v tej državi.

19. člen  
DRŽAVNA SLUŽBA

1. a) Plače, mezde in drugi podobni prejemki razen pokojnin, ki jih plačuje država pogodbenica ali njena politična enota ali lokalna oblast posamezniku za storitve, ki jih opravi za to državo ali enoto ali oblast, se obdavčijo samo v tej državi.

b) Take plače, mezde in drugi podobni prejemki pa se obdavčijo samo v drugi državi pogodbenici, če se storitve opravljajo v tej državi in je posameznik rezident te države, ki:

- i) je državljan te države ali
- ii) ni postal rezident te države samo za namen opravljanja storitev.

2. a) Vsaka pokojnina, plačana iz skladov države pogodbenice ali njene politične enote ali lokalne oblasti posamezniku za storitve, opravljene za to državo ali enoto ali oblast, se obdavči samo v tej državi.

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

3. Določbe 15., 16., 17. in 18. člena se uporabljajo za plače, mezde in druge podobne prejemke ter za pokojnine za storitve, opravljene v zvezi s posli države pogodbenice ali njene politične enote ali lokalne oblasti.

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. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, however, income derived from personal activities by a resident of a Contracting State in his capacity of an entertainer or sportsman shall be taxable only in the first - mentioned Contracting State if the activities have been performed in the other Contracting State within the scope of cultural or sports exchange program approved by both Contracting States.

Article 18  
PENSIONS

1. 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.

2. Notwithstanding the provisions of paragraph 1, pensions and other payments made under the obligatory pension scheme in accordance with the social security legislation of a Contracting State may be taxed in that State.

Article 19  
GOVERNMENT SERVICE

1. a) Salaries, wages and other similar 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 authority shall be taxable only in that State.

b) However, such salaries, wages and other similar 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, 17 and 18 shall apply to salaries, wages and other similar remuneration, and to 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.

## 20. člen

## PROFESORJI IN RAZISKOVALCI

1. Rezident ene države pogodbenice, ki je na povabilo univerze, višje oziroma visoke šole, šole ali drugih priznanih izobraževalnih ustanov v drugi državi pogodbenici začasno navzoč v drugi državi za obdobje, ki ni daljše od dveh let od datuma prvega prihoda v drugo državo, samo z namenom poučevanja ali raziskovanja ali obojega v izobraževalni ustanovi, se v drugi državi ne obdavči za prejemke za tako poučevanje ali raziskovanje. Če je obisk daljši od dveh let, lahko druga država posameznika obdavči po svoji notranji zakonodaji za celotno trajanje obiska, razen če v posameznem primeru pristojna organa držav določita drugače.

2. Po prvem odstavku se oprostitev davka ne prizna za kakršne koli prejemke za raziskovanje, ki se izvaja v korist osebe, ki ni izobraževalna ustanova, ki je dala povabilo iz prvega odstavka.

## 21. člen

## ŠTUDENTI

Študent, pripravnik ali praktikant, ki je ali je bil tik pred obiskom države pogodbenice rezident druge države pogodbenice in je v prvi omenjeni državi navzoč samo z namenom svojega izobraževanja ali usposabljanja, se ne obdavči v tej prvi omenjeni državi za naslednje prejemke, ki jih prejme ali dobi za svoje vzdrževanje, izobraževanje ali usposabljanje:

- a) plačila iz virov zunaj prve omenjene države pogodbenice in
- b) podpore, štipendije ali nagrade, ki jih daje vlada katere koli države pogodbenice ali znanstvena, izobraževalna, kulturna ali neprofitna organizacija.

## 22. člen

## DRUGI DOHODKI

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

2. Določbe prvega odstavka se ne uporabljajo za dohodek, ki ni dohodek iz nepremičnin, kot so opredeljene v drugem odstavku 6. člena, če prejemnik takega dohodka, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici prek stalne poslovne enote v njej, ali v tej drugi državi opravlja samostojne osebne storitve iz stalne baze v njej in je pravica ali premoženje, za katero se plača dohodek, dejansko povezano s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

## 23. člen

## PREMOŽENJE

1. Premoženje, ki ga predstavljajo nepremičnine iz 6. člena v lasti rezidenta države pogodbenice in so v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

2. Premoženje, ki ga predstavljajo premičnine, ki so del poslovnega premoženja stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ali premičnine v zvezi s stalno bazo, ki je na voljo rezidentu države pogodbenice v drugi državi pogodbenici za opravljanje samostojnih osebnih storitev, se lahko obdavči v tej drugi državi.

## Article 20

## PROFESSORS AND RESEARCHERS

1. A resident of one of the Contracting States who, at the invitation of a university, college, school, or other recognized educational institutions situated in the other Contracting State, is temporarily present in the other State solely for the purpose of teaching, or engaging in research, or both, at the educational institution shall, for a period not exceeding two years from the date he first arrives in the other State, be exempt from tax by the other State on his remuneration for such teaching or research. If the visit exceeds two years, the other State may tax the individual under its national law for the entire period of the visit, unless in a particular case the competent authorities of the States agree otherwise.

2. No exemption shall be granted under paragraph 1 with respect to any remuneration for research carried on for the benefit of any person other than the educational institution that extended the invitation referred to in paragraph 1.

## Article 21

## STUDENTS

A student, business apprentice or trainee who is or was immediately before visiting a Contracting State a resident of the other State and who is present in the first -mentioned State solely for the purpose of his education or training shall be exempt from tax in that first -mentioned State on the following payments of income received or derived by him for the purpose of his maintenance, education or training:

- a) payments derived from sources outside the first-mentioned Contracting State, and
- b) grants, scholarships or awards supplied by the Government of either Contracting State, or a scientific, educational, cultural or non-profit making organization.

## Article 22

## 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.

## Article 23

## 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. Premoženje, ki ga predstavljajo ladje, letala in cestna vozila, s katerimi se opravljajo prevozi v mednarodnem prometu, in premoženje v zvezi z opravljanjem prevozov s takimi ladjami, letali in cestnimi vozili, se obdavči samo v državi pogodbenici, v kateri je sedež dejanske uprave podjetja.

4. Vsi drugi elementi premoženja rezidenta države pogodbenice se obdavčijo samo v tej državi.

#### 24. člen

##### METODE ZA ODPRAVO DVOJNEGA OBDAVČEVANJA

1. V Sloveniji se dvojno obdavčevanje odpravi, kot sledi:

a) kadar rezident Slovenije dobi dohodek ali ima v lasti premoženje, ki se v skladu z določbami te konvencije lahko obdavči v Luksemburgu, Slovenija dovoli:

i) kot odbitek od davka od dohodka tega rezidenta znesek, ki je enak davku od dohodka, plačanemu v Luksemburgu;

ii) kot odbitek od davka od premoženja tega rezidenta znesek, ki je enak davku od premoženja, plačanemu v Luksemburgu.

Tak odbitek pa v nobenem primeru ne sme presežati tistega dela davka od dohodka ali premoženja, ki je bil izračunan pred odbitkom, pripisanim dohodku ali premoženju, odvisno od primera, ki se lahko obdavči v Luksemburgu;

b) kadar je v skladu s katero koli določbo te konvencije dohodek, ki ga rezident Slovenije dobi, ali premoženje, ki ga ima v lasti, oproščeno davka v Sloveniji, lahko Slovenija pri izračunu zneska davka od preostalega dohodka ali premoženja takega rezidenta vseeno upošteva oproščeni dohodek ali premoženje.

2. V skladu z določbami luksemburške zakonodaje o odpravi dvojnega obdavčevanja (kar ne sme vplivati na splošno načelo) se dvojno obdavčevanje v Luksemburgu odpravi, kot sledi:

a) kadar rezident Luksemburga dobi dohodek ali ima v lasti premoženje, ki se v skladu z določbami te konvencije lahko obdavči v Sloveniji, Luksemburg v skladu z določbami pododstavka b) tak dohodek ali premoženje oprosti davka, vendar lahko pri izračunu višine davka od preostalega dohodka ali premoženja uporabi iste davčne stopnje, kot če dohodek ali premoženje ne bi bilo oproščeno davka;

b) kadar rezident Luksemburga dobi dohodek, ki se v skladu z določbami 10., 11., 12. in 17. člena lahko obdavči v Sloveniji, Luksemburg dovoli kot odbitek od davka od dohodka tega rezidenta znesek, ki je enak davku, plačanemu v Sloveniji. Tak odbitek pa ne sme presežati tistega dela davka, ki je bil izračunan pred odbitkom, pripisanim delom dohodka, dobljenim iz Slovenije;

c) določbe pododstavka a) se ne uporabljajo za dohodek, ki ga dobi, ali premoženje, ki ga ima v lasti rezident Luksemburga, kadar Slovenija uporablja določbe te konvencije za oprostitvev tega dohodka ali premoženja od davka ali kadar za ta dohodek uporablja določbe drugega odstavka 10. člena, drugega odstavka 11. člena ali drugega odstavka 12. člena.

3. Capital represented by ships, aircraft and road vehicles operated in international traffic and by movable property pertaining to the operation of such ships, aircraft and road 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 24

##### METHODS FOR ELIMINATION OF DOUBLE TAXATION

1. In Slovenia, double taxation shall be eliminated as follows:

a) Where a resident of Slovenia derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Luxembourg, Slovenia shall allow:

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

(ii) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in Luxembourg.

Such deduction in either case shall not, however, exceed that portion 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 Luxembourg.

b) Where in accordance with any provision of the Convention income derived or capital owned by a resident of Slovenia is exempt from tax in Slovenia, Slovenia 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.

2. Subject to the provisions of the law of Luxembourg regarding the elimination of double taxation (which shall not affect the general principle hereof), double taxation shall be eliminated in Luxembourg as follows:

a) Where a resident of Luxembourg derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Slovenia, Luxembourg shall, subject to the provisions of sub-paragraph b), exempt such income or capital from tax, but may, in order to calculate the amount of tax on the remaining income or capital of the resident, apply the same rates of tax as if the income or capital had not been exempted;

b) Where a resident of Luxembourg derives income which, in accordance with the provisions of Articles 10, 11, 12 and 17 may be taxed in Slovenia, Luxembourg shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Slovenia. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from Slovenia;

c) The provisions of sub-paragraph a) shall not apply to income derived or capital owned by a resident of Luxembourg where Slovenia applies the provisions of this Convention to exempt such income or capital from tax or applies the provisions of Articles 10(2), 11(2) or 12(2) to such income.

## 25. člen

## ENAKO OBRAVNAVANJE

1. Državljeni države pogodbenice ne smejo biti v drugi državi pogodbenici zavezani kakršnemu koli obdavčevanju ali kakršni koli zahtevi v zvezi s tem, ki je drugačna ali bolj obremenjujoča, kot so ali so lahko obdavčevanje in s tem povezane zahteve za državljane te druge države v enakih okoliščinah, še zlasti glede rezidentstva. Ta določba se ne glede na določbe 1. člena uporablja 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 tej drugi državi, kot je obdavčevanje podjetij te druge države, ki opravljajo enake dejavnosti. Ta določba se ne razlaga, kot da zavezuje državo pogodbenico, da prizna rezidentom druge države pogodbenice kakršne koli osebne olajšave, druge olajšave in znižanja za davčne namene zaradi osebnega stanja ali družinskih obveznosti, ki jih priznava svojim rezidentom.

3. Razen kadar se uporabljajo določbe prvega odstavka 9. člena, sedmega odstavka 11. člena ali šestega odstavka 12. člena, se obresti, licenčnine in avtorski honorarji ter druga izplačila, ki jih plača podjetje države pogodbenice rezidentu druge države pogodbenice, pri določanju obdavčljivega dobička takega podjetja odbijejo pod istimi pogoji, kot če bi bili plačani rezidentu prve omenjene države. Podobno se tudi kakršni koli dolgovi podjetja države pogodbenice rezidentu druge države pogodbenice pri določanju obdavčljivega premoženja takega podjetja odbijejo pod istimi pogoji, kot če 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 kakršni koli zahtevi v zvezi s tem, ki je drugačna ali bolj obremenjujoča, kot so ali so lahko obdavčevanje in s tem povezane zahteve za druga podobna podjetja prve omenjene države.

5. Določbe tega člena se uporabljajo ne glede na določbe 2. člena za davke vseh vrst in opisov.

## 26. člen

## POSTOPEK SKUPNEGA DOGOVORA

1. Kadar oseba meni, da imajo ali bodo imela dejanja ene ali obeh držav pogodbenic zanjo za posledico obdavčevanje, ki ni v skladu z določbami te konvencije, lahko ne glede na sredstva, ki ji jih omogoča domača zakonodaja teh držav, predloži zadevo pristojnemu organu države pogodbenice, katere rezident je, ali če se njen primer nanaša na prvi odstavek 25. člena, tiste države pogodbenice, katere državljan je. Zadeva mora biti predložena v treh letih od prvega uradnega obvestila o dejanju, ki je imelo za posledico obdavčevanje, ki ni v skladu z določbami konvencije.

2. Pristojni organ si, če se mu zdi pritožba upravičena in če sam ne more priti do zadovoljive rešitve, prizadeva razrešiti primer s skupnim dogovorom s pristojnim organom druge države pogodbenice z namenom izogniti se obdavčevanju, ki ni v skladu s konvencijo. Vsak dosežen dogovor se izvaja ne glede na roke v domači zakonodaji držav pogodbenic.

## Article 25

## 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 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 the 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 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 the 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 26

## 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 25, 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. Pristojna organa držav pogodbenic si prizadevata s skupnim dogovorom razrešiti kakršne koli težave ali dvome, ki nastanejo pri razlagi ali uporabi konvencije. Prav tako se lahko medsebojno posvetujeta o odpravi dvojnega obdavčevanja v primerih, ki jih konvencija ne predvideva.

4. Pristojna organa držav pogodbenic lahko neposredno komunicirata med seboj, vključno prek skupne komisije, ki jo sestavljata sama ali njuni predstavniki, da bi dosegla dogovor v smislu prejšnjih odstavkov.

#### 27. člen

##### IZMENJAVA INFORMACIJ

1. Pristojna organa držav pogodbenic si izmenjavata take informacije, ki so potrebne za izvajanje določb te konvencije ali notranje zakonodaje držav pogodbenic glede davkov, za katere se uporablja ta konvencija, kolikor obdavčevanje na njihovi podlagi ni v nasprotju s konvencijo. Izmenjava informacij ni omejena s 1. členom. Vsaka informacija, ki jo prejme država pogodbenica, se obravnava kot tajnost na isti način kot informacije, pridobljene po notranji zakonodaji te države, in se razkrije samo osebam ali organom (vključno s sodišči in upravnimi organi), udeleženim pri odmeri ali pobiranju, izterjavi ali pregonu ali pri odločanju o pritožbah glede davkov, za katere se uporablja konvencija. Te osebe ali organi uporabljajo informacije samo v te namene. Informacije lahko razkrijejo na sodnih obravnavah ali pri sodnih odločitvah.

2. V nobenem primeru se določbe prvega odstavka ne razlagajo, kot da nalagajo državi pogodbenici obveznost:

a) da izvaja upravne ukrepe, ki niso v skladu z zakonodajo in upravno prakso te ali druge države pogodbenice,

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

c) da priskrbi informacije, ki bi razkrile kakršno koli trgovinsko, poslovno, industrijsko, komercialno ali poklicno skrivnost ali trgovinske postopke, ali informacije, katerih razkritje bi bilo v nasprotju z javnim redom.

#### 28. člen

##### ČLANI DIPLOMATSKIH PREDSTAVNIŠTEV IN KONZULATOV

Nič v tej konvenciji ne vpliva na davčne ugodnosti članov diplomatskih predstavništva ali konzulatov po splošnih pravilih mednarodnega prava ali določbah posebnih sporazumov.

#### 29. člen

##### IZVZETJE DoločENIH DRUŽB

Ta konvencija se ne uporablja za holdinge (sociétés holding) v smislu posebne luksemburške zakonodaje, kot sta trenutno zakon (loi) z dne 31. julija 1929 in uredba (arrêté grand-ducal) z dne 17. decembra 1938. Prav tako se ne uporablja za dohodek, ki ga rezident Slovenije dobi iz teh družb, ali za deleže ali druge pravice v teh družbah, ki jih ima taka oseba v lasti.

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, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

#### Article 27

##### EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary 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 a Contracting State the obligation:

a) to carry out administrative measures at variance with the laws and 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 28

##### 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 29

##### EXCLUSION OF CERTAIN COMPANIES

This Convention shall not apply to holding companies (sociétés holding) within the meaning of special Luxembourg laws, currently the Act (loi) of 31 July 1929 and the Decree (arrêté grand-ducal) of 17 December 1938. Neither shall it apply to income derived from such companies by a resident of Slovenia nor to shares or other rights in such companies owned by such a person.

**30. člen**  
**ZAČETEK VELJAVNOSTI**

1. Državi pogodbenici druga drugo po diplomatski poti pisno obvestita, da so končani postopki, ki so po njuni zakonodaji potrebni za začetek veljavnosti te konvencije. Konvencija začne veljati na datum prejema zadnjega uradnega obvestila.

2. Ta konvencija se uporablja:

a) v zvezi z davki, zadržanimi pri viru, za dohodke, dobljene prvega januarja ali po njem v koledarskem letu, ki sledi letu, v katerem začne veljati konvencija;

b) v zvezi z drugimi davki od dohodka in davki od premoženja za davke, ki se obračunajo za katero koli davčno leto z začetkom prvega januarja ali po njem v koledarskem letu, ki sledi letu, v katerem začne veljati konvencija.

**31. člen**  
**PRENEHANJE VELJAVNOSTI**

Ta konvencija velja, dokler je država pogodbenica ne odpove. Katera koli država pogodbenica lahko konvencijo odpove po diplomatski poti s pisnim obvestilom o odpovedi najmanj šest mesecev pred koncem katerega koli koledarskega leta, ki sledi obdobju petih let od datuma začetka veljavnosti konvencije. V takem primeru se konvencija preneha uporabljati:

a) v zvezi z davki, zadržanimi pri viru, za dohodke, dobljene prvega januarja ali po njem v koledarskem letu, ki sledi letu, v katerem je bilo dano obvestilo o odpovedi;

b) v zvezi z drugimi davki od dohodka in davki od premoženja za davke, ki se obračunajo za katero koli davčno leto z začetkom prvega januarja ali po njem v koledarskem letu, ki sledi letu, v katerem je bilo dano obvestilo o odpovedi.

V DOKAZ NAVEDENEGA sta pooblaščenca držav pogodbenic, ki sta bila za to pravilno pooblaščenca, podpisala to konvencijo.

SESTAVLJENO v dveh izvornikih v Ljubljani dne 2. aprila 2001 v slovenskem, francoskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna.

Za Republiko Slovenijo  
**Dimitrij Rupel** l.r.

Za Veliko vojvodstvo Luksemburg  
**Lydia Polfer** l.r.

**Article 30**  
**ENTRY INTO FORCE**

1. The Contracting States shall notify each other in writing, through diplomatic channels, that the procedures required by its law for the entry into force of this Convention have been satisfied. The Convention shall enter into force on the date of receipt of the last notification.

2. This Convention shall be applicable:

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

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

**Article 31**  
**TERMINATION**

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving written notice of termination at least six months before the end of any calendar year following after the period of five years from the date on which the Convention enters into force. In such event, the Convention shall cease to have effect:

a) in respect of taxes withheld at source, to income derived on or after 1 January in the calendar year next following the year in which the notice is given;

b) in respect of other taxes on income, and taxes on capital, to taxes chargeable for any taxable year beginning on or after 1 January in the calendar year next following the year in which the notice is given.

IN WITNESS WHEREOF the Plenipotentiaries of the two Contracting States, duly authorized thereto, have signed this Convention.

DONE in duplicate in Ljubljana on the 2<sup>nd</sup> day of April 2001, in the Slovenian, French and English languages, all the texts being equally authentic.

For the Republic of Slovenia  
**Dimitrij Rupel** (s)

For the Grand Duchy of Luxembourg  
**Lydia Polfer** (s)



## PROTOKOL

Ob podpisu konvencije o izogibanju dvojnega obdavčevanja v zvezi z davki od dohodka in premoženja, ki je bila danes sklenjena med Republiko Slovenijo in Velikim vojvodstvom Luksemburg, sta se pooblaščenca držav pogodbenic, ki sta bila za to pravilno pooblaščenca, dogovorila, da so naslednje določbe sestavni del konvencije.

V zvezi z 10. členom

Razume se, da izraz "dividende" vključuje tudi delež dobička vlagatelja v trgovskem, industrijskem, rudarskem ali obrtniškem podjetju, ki se plača sorazmerno dobičku in na podlagi vloženega kapitala, kakor tudi obresti in plačila iz obveznic, kadar se poleg fiksne obrestne mere prizna pravica do dodatnih obresti, ki se spreminjajo glede na razdeljeni dobiček.

V DOKAZ NAVEDENEGA sta pooblaščenca držav pogodbenic, ki sta bila za to pravilno pooblaščenca, podpisala ta protokol.

SESTAVLJENO v dveh izvornikih v Ljubljani dne 2. aprila 2001 v slovenskem, francoskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna.

Za Republiko Slovenijo  
Dimitrij Rupel l.r.

Za Veliko vojvodstvo Luksemburg  
Lydia Polfer l.r.

## PROTOCOL

At the moment of signing the Convention for the avoidance of double taxation with respect to taxes on income and on capital, this day concluded between the Republic of Slovenia and the Grand Duchy of Luxembourg, the Plenipotentiaries of the two Contracting States, duly authorized thereto, have agreed that the following provisions shall form an integral part of the Convention.

With reference to Article 10

It is understood that the term "dividends" will also include the investor's share of the profit in a commercial, industrial, mining or craft undertaking, paid proportionally to the profits and by virtue of his capital outlay, as well as interest and payments on bonds, where, over and above the fixed rate of interest, a right of assignment is granted for supplementary interest varying according to the unretained earnings.

IN WITNESS WHEREOF the Plenipotentiaries of the two Contracting States, duly authorized thereto, have signed this Protocol.

DONE in duplicate in Ljubljana on the 2<sup>nd</sup> day of April 2001, in the Slovenian, French and English languages, all the texts being equally authentic.

For the Republic of Slovenia  
Dimitrij Rupel (s)

For the Grand Duchy of Luxembourg  
Lydia Polfer (s)

## 3. člen

Za izvajanje konvencije s protokolom skrbi Ministrstvo za finance.

## 4. člen

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

Št. 432-01/02-18/1

Ljubljana, dne 28. februarja 2002

Predsednik  
Državnega zbora  
Republike Slovenije  
**Borut Pahor l. r.**

**21. Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Kraljevino Dansko o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja s protokolom (BDKIDO)**

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 KRALJEVINO DANSKO O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA IN PREMOŽENJA S PROTOKOLOM (BDKIDO)**

Razglašam Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Kraljevino Dansko o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja s protokolom (BDKIDO), ki ga je sprejel Državni zbor Republike Slovenije na seji 28. februarja 2002.

Št. 001-22-23/02  
Ljubljana, 8. marca 2002

Predsednik  
Republike Slovenije  
**Milan Kučan** l. r.

**Z A K O N****O RATIFIKACIJI KONVENCIJE MED REPUBLIKO SLOVENIJO IN KRALJEVINO DANSKO O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA IN PREMOŽENJA S PROTOKOLOM (BDKIDO)**

## 1. člen

Ratificira se Konvencija med Republiko Slovenijo in Kraljevino Dansko o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja s protokolom, podpisana v Kopenhagenu dne 2. maja 2001.

## 2. člen

Konvencija s protokolom se v izvorniku v slovenskem in angleškem jeziku glasi: \*

**K O N V E N C I J A**  
**MED REPUBLIKO SLOVENIJO**  
**IN KRALJEVINO DANSKO**  
**O IZOGIBANJU DVOJNEGA OBDAVČEVANJA**  
**IN PREPREČEVANJU DAVČNIH UTAJ**  
**V ZVEZI Z DAVKI OD DOHODKA**  
**IN PREMOŽENJA**

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

Vlada Republike Slovenije in Vlada Kraljevine Danske sta se  
v želji, da bi sklenili konvencijo o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja,  
sporazumeli, kot sledi:

The Government of the Republic of Slovenia and the Government of the Kingdom of Denmark  
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:

## 1. člen

**OSEBE, ZA KATERE SE UPORABLJA KONVENCIJA**

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

## Article 1

**PERSONS COVERED**

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

## 2. člen

**DAVKI, ZA KATERE SE UPORABLJA KONVENCIJA**

1. Ta konvencija se uporablja za davke od dohodka in premoženja, ki se uvedejo v imenu države pogodbenice ali njenih političnih enot ali lokalnih oblasti, ne glede na način njihove uvedbe.

## 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.

\* Besedilo konvencije s protokolom v danskem jeziku je na vpogled v Sektorju za mednarodnopravne zadeve Ministrstva za zunanje zadeve Republike Slovenije.

2. Za davke od dohodka in premoženja se štejejo vsi davki, uvedeni na celoten dohodek, celotno premoženje ali na sestavine dohodka ali premoženja, vključno z davki od dobička iz odtujitve premoženja ali nepremičnin, davki od celotnega zneska mezd ali plač, ki jih izplačujejo podjetja, ter davki od povečanja premoženja.

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

a) v Sloveniji:

i) davek od dobička pravnih oseb;

ii) davek od dohodka posameznikov, vključno z mezdami in plačami, dohodkom iz kmetijskih dejavnosti, dohodkom iz poslovanja, kapitalskimi dobički in dohodkom iz nepremičnin in premoženja (dohodnina);

iii) davek od premoženja

(v nadaljevanju "slovenski davek");

b) na Danskem:

i) davek državi od dohodka (indkomsskatten til staten);

ii) davek lokalnim skupnostim od dohodka (den kommunale indkomstskat);

iii) davek lokalnim okrajem od dohodka (den amtskommunale indkomstskat);

iv) davki, uvedeni po zakonu o davku od predhodnih meritev, raziskav ali črpanja ogljikovodikov (skatter i henhold til kulbrinteskatteloven);

v) davek od vrednosti nepremičnin (ejendomsværdiskatten)

(v nadaljevanju "danski davek").

4. Ta konvencija se uporablja tudi za kakršnekoli enake ali vsebinsko podobne davke, ki se uvedejo po datumu podpisa konvencije dodatno k že obstoječim davkom ali namesto njih. Ob koncu vsakega leta pristojna organa držav pogodbenic drug drugega uradno obvestita o vseh bistvenih spremembah svoje davčne zakonodaje.

### 3. člen

#### SPLOŠNA OPREDELITEV IZRAZOV

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

a) izraza "država pogodbenica" in "druga država pogodbenica" pomenita Slovenijo ali Dansko, kot zahteva sobesedilo;

b) izraz "Slovenija" pomeni Republiko Slovenijo, in ko se uporablja v zemljepisnem smislu, pomeni ozemlje Slovenije, vključno z morskim območjem, morskim dnem in podzemljem ob teritorialnem morju, na katerem lahko Slovenija izvaja svoje suverene pravice in jurisdikcijo nad takim morskim območjem, morskim dnem in podzemljem v skladu s svojo notranjo zakonodajo in mednarodnim pravom;

c) izraz "Danska" pomeni Kraljevino Dansko, vključno z vsemi območji zunaj teritorialnega morja Danske, ki so bila v skladu z mednarodnim pravom opredeljena ali se lahko kasneje opredelijo po danskih zakonih za območje, nad katerim lahko Danska izvaja suverene pravice v zvezi z iskanjem in izkoriščanjem naravnih virov morskega dna ali njegovega podzemlja in morja nad njim ter v zvezi z drugimi dejavnostmi za raziskovanje in ekonomsko izkoriščanje območja; izraz ne vključuje Ferskih otokov in Grenlandije;

d) izraz "oseba" vključuje posameznika, družbo in katerokoli drugo telo, ki združuje več oseb;

e) izraz "družba" pomeni katerokoli korporacijo ali katerikoli subjekt, ki se za davčne namene obravnava kot korporacija;

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 (davek od dobička pravnih oseb);

(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 (dohodnina);

(iii) the tax on property (davek od premoženja);

(hereinafter referred to as "Slovenian tax");

b) in Denmark:

(i) the income tax to the State (indkomsskatten til staten);

(ii) the income tax to the municipalities (den kommunale indkomstskat);

(iii) the income tax to the county municipalities (den amtskommunale indkomstskat);

(iv) taxes imposed under the Hydrocarbon Tax Act (skatter i henhold til kulbrinteskatteloven);

(v) the tax on real property value (ejendomsværdiskatten);

(hereinafter referred to as "Danish tax").

4. The 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. At the end of each year the competent authorities of the Contracting States shall notify each other of 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 terms "a Contracting State" and "the other Contracting State" mean Slovenia or Denmark, as the context requires;

b) the term "Slovenia" means Republic of Slovenia, when used in a geographical sense means territory of Slovenia including the sea area, sea bed and subsoil adjacent to the territorial sea, on which Slovenia may exercise its sovereign rights and jurisdiction over such sea area, sea bed and subsoil in accordance with its domestic legislation and international law;

c) the term "Denmark" means the Kingdom of Denmark including any area outside the territorial sea of Denmark which in accordance with international law has been or may hereafter be designated under Danish laws as an area within which Denmark may exercise sovereign rights with respect to the exploration and exploitation of the natural resources of the sea-bed or its subsoil and the superjacent waters and with respect to other activities for the exploration and economic exploitation of the area; the term does not comprise the Faroe Islands and Greenland;

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 "mednarodni promet" pomeni kakršenkoli prevoz z ladjo ali letalom, ki ga opravlja podjetje države pogodbenice, razen če ladja ali letalo opravlja prevoz samo med kraji v drugi državi pogodbenici;

h) izraz "pristojni organ" pomeni:

i) na Danskem ministra za obdavčevanje ali njegovega pooblaščenega predstavnika;

ii) v Sloveniji Ministrstvo za finance Republike Slovenije ali pooblaščenega predstavnika tega ministrstva;

i) izraz "državljan" pomeni:

i) kateregakoli posameznika, ki ima državljanstvo države pogodbenice;

ii) katerokoli pravno osebo, osebno družbo ali združenje, katerih status izhaja iz veljavne zakonodaje v državi pogodbenici.

2. Kadarkoli država pogodbenica uporabi konvencijo, ima katerikoli izraz, ki v njej ni opredeljen, razen če sobesedilo zahteva drugače, pomen, ki ga ima takrat po pravu te države za namene davkov, za katere se konvencija uporablja, pri čemer katerikoli pomen po veljavni davčni zakonodaji te države prevlada nad pomenom izraza po drugi zakonodaji te države.

#### 4. člen REZIDENT

1. Za namene te konvencije izraz "rezident države pogodbenice" pomeni katerokoli osebo, ki je po zakonodaji te države dolžna plačevati davke zaradi svojega stalnega prebivališča, prebivališča, sedeža uprave ali kateregakoli drugega podobnega merila, in tudi vključuje to državo in katerokoli njeno politično enoto ali lokalno oblast. Ta izraz pa ne vključuje katerekoli osebe, ki je dolžna plačevati davke v tej državi samo v zvezi z dohodkom iz virov v tej državi ali premoženja v njej.

2. Kadar je zaradi določb prvega odstavka posameznik rezident obeh držav pogodbenic, se njegov status določi na naslednji način:

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

b) če ni mogoče opredeliti države, v kateri ima središče življenjskih interesov, ali če nima v nobeni od držav na razpolago stalnega prebivališča, se šteje samo za rezidenta države, v kateri ima običajno bivališče;

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

d) če je državljan obeh držav ali nobene od njiju, pristojna organa držav pogodbenic vprašanje rešita s skupnim dogovorom.

3. Kadar je zaradi določb prvega odstavka oseba, ki ni posameznik, rezident obeh držav pogodbenic, se šteje, da je samo rezident države, v kateri ima 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 "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

h) the term "competent authority" means:

(i) in Denmark: The Minister for Taxation or his authorized representative;

(ii) in Slovenia: The Ministry of Finance of the Republic of Slovenia or its authorized representative;

i) 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.

2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

#### 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, and also includes that State and any political subdivision or local authority thereof. This term, however, 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 only 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 only 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 only 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 only 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 only 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, prek katerega v celoti ali delno potekajo posli podjetja.

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

- a) sedež uprave,
- b) podružnico,
- c) pisarno,
- d) tovarno,
- e) delavnico in
- f) rudnik, nahajališče nafte ali plina, kamnolom ali katerikoli drug kraj pridobivanja naravnih virov.

3. Gradbišče ali projekt gradnje ali montaže je stalna poslovna enota samo, če traja več kot dvanajst mesecev.

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

a) uporabe prostorov samo za namen skladiščenja, razstavljanja ali dostave dobrin ali blaga, ki pripada podjetju;

b) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za namen skladiščenja, razstavljanja ali dostave;

c) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za namen predelave s strani drugega podjetja;

d) vzdrževanja stalnega mesta poslovanja samo za namen nakupa dobrin ali blaga za podjetje ali zbiranja informacij za podjetje;

e) vzdrževanja stalnega mesta poslovanja samo za namen opravljanja katerekoli druge dejavnosti pripravljalne ali pomožne narave za podjetje;

f) vzdrževanja stalnega mesta poslovanja samo za kakršnokoli kombinacijo dejavnosti, omenjenih v pododstavkih od a) do e), pod pogojem, da je splošna dejavnost stalnega mesta poslovanja, ki je posledica te kombinacije, pripravljalne ali pomožne narave.

5. Ne glede na določbe prvega in drugega odstavka, kadar oseba – ki ni zastopnik z neodvisnim statusom, za katerega se uporablja šesti odstavek – deluje v imenu podjetja ter ima in običajno uporablja v državi pogodbenici pooblastilo za sklepanje pogodb v imenu podjetja, se za to podjetje šteje, da ima stalno poslovno enoto v tej državi v zvezi s katerikoli dejavnostmi, ki jih ta oseba prevzame za podjetje, razen če so dejavnosti take osebe omejene na tiste iz četrtega odstavka, zaradi katerih se to stalno mesto poslovanja po določbah tega odstavka ne bi štelo za stalno poslovno enoto, če bi se opravljale prek stalnega mesta poslovanja.

6. Ne šteje se, da ima podjetje stalno poslovno enoto v državi pogodbenici samo zato, ker opravlja posle v tej državi prek posrednika, splošnega komisionarja ali kateregakoli drugega zastopnika z neodvisnim statusom, pod pogojem, da te osebe delujejo v okviru svojega rednega poslovanja.

7. Dejstvo, da družba, ki je rezident države pogodbenice, nadzoruje družbo, ki je rezident druge države pogodbenice ali opravlja posle v tej drugi državi (prek stalne poslovne enote ali drugače) ali je pod nadzorom take družbe, samo po sebi še ne pomeni, da je ena od družb stalna poslovna enota druge.

## 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. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.

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 carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs 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. 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.

## 6. člen

## DOHODEK IZ NEPREMIČNIN

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

2. Izraz "nepremičnine" ima pomen, ki ga ima po pravu države pogodbenice, v kateri je zadevna nepremičnina. Izraz vedno vključuje premoženje, ki je sestavni del nepremičnin, živino in opremo, ki se uporablja v kmetijstvu in gozdarstvu, pravice, za katere veljajo določbe splošnega prava v zvezi z zemljiško lastnino, užitek na nepremičninah in pravice do spremenljivih ali stalnih plačil kot odškodnino za izkoriščanje ali pravico do izkoriščanja nahajališč rud, virov ter drugega naravnega bogastva; ladje, čolni in letala se ne štejejo za nepremičnine.

3. Določbe prvega odstavka se uporabljajo za dohodek, ki se ustvari z neposredno uporabo, dajanjem v najem ali vsako drugo obliko uporabe nepremičnine.

4. Določbe prvega in tretjega odstavka se uporabljajo tudi za dohodek iz nepremičnin podjetja in dohodek iz nepremičnin, ki se uporabljajo 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 je prej omenjeno, se lahko dobiček podjetja obdavči v drugi državi, vendar samo toliko dobička, kot se pripíše tej stalni poslovni enoti.

2. Ob upoštevanju določb tretjega odstavka, kadar podjetje države pogodbenice posluje v drugi državi pogodbenici prek stalne poslovne enote v njej, se v vsaki državi pogodbenici tej stalni poslovni enoti pripíše dobiček, za katerega bi se lahko pričakovalo, da bi ga imela, če bi bila različno in ločeno podjetje, ki opravlja enake ali podobne dejavnosti pod istimi ali podobnimi pogoji ter povsem neodvisno posluje s podjetjem, katerega stalna poslovna enota je.

3. Pri določanju dobička stalne poslovne enote je dovoljeno odšteti stroške, ki nastanejo za namene stalne poslovne enote, vključno s poslovnimi in splošnimi upravnimi stroški, ki so tako nastali bodisi v državi, v kateri je stalna poslovna enota, ali drugje.

4. Če se v državi pogodbenici dobiček, ki se pripíše stalni poslovni enoti, običajno določi na podlagi porazdelitve vsega dobička podjetja na njegove dele, nič v drugem odstavku tej državi pogodbenici ne preprečuje določiti obdavčljivega dobička z običajno porazdelitvijo; sprejeta metoda porazdelitve pa mora biti taka, da je rezultat v skladu z načeli tega člena.

5. Stalni poslovni enoti se ne pripíše dobiček samo zato, ker nakupuje dobrine ali blago za podjetje.

6. Za namene prejšnjih odstavkov se dobiček, ki se pripíše stalni poslovni enoti, vsako leto določi po isti metodi, razen če obstaja upravičen in zadosten razlog za nasprotno.

## 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. 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. Kadar dobiček vključuje dohodkovne postavke, ki so posebej obravnavane v drugih členih te konvencije, določbe tega člena ne vplivajo na določbe tistih členov.

## 8. člen

## POMORSKI IN LETALSKI PREVOZ

1. Dobiček, ki ga podjetje države pogodbenice doseže iz opravljanja ladijskih ali letalskih prevozov v mednarodnem prometu, se obdavči samo v tej državi.

2. Dobiček, ki ga podjetje države pogodbenice doseže iz uporabe, vzdrževanja ali najema zabojnikov (vključno s priklopniki, vlekami in sorodno opremo za prevoz zabojnikov), uporabljenih za prevoz dobrin ali blaga v mednarodnem prometu, če so taka uporaba, vzdrževanje ali najem priložnostni glede na opravljanje ladijskih ali letalskih prevozov v mednarodnem prometu, se obdavči samo v tej državi.

3. Določbe prvega odstavka se uporabljajo tudi za dobiček iz udeležbe v interesnem združenju (pool), mešanem podjetju ali mednarodni prevozni agenciji.

4. Za dobiček danskega, norveškega in švedskega konzorcija za letalski prevoz Scandinavian Airlines System (SAS) se določbe prvega, drugega in tretjega odstavka uporabljajo samo za tisti del dobička, ki ustreza udeležbi SAS Danmark A/S, danskega partnerja Scandinavian Airlines System, v tem konzorciju.

## 9. člen

## POVEZANA PODJETJA

1. Kadar:

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

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

in v obeh primerih obstajajo ali se uvedejo med podjetjema v njunih komercialnih ali finančnih odnosih pogoji, drugačni od tistih, ki bi obstajali med neodvisnimi podjetji, se kakršenkoli dobiček, ki bi prirastel enemu od podjetij, če takih pogojev ne bi bilo, vendar prav zaradi takih pogojev ni prirastel, lahko vključi v dobiček tega podjetja in ustrezno obdavči.

2. Kadar država pogodbenica v dobiček podjetja te države vključuje – in ustrezno obdavči – dobiček, za katerega je že bilo obdavčeno podjetje druge države pogodbenice v tej drugi državi, in je tako vključen dobiček dobiček, ki bi prirastel podjetju prve omenjene države, če bi bili pogoji, ki obstajajo med podjetjema, taki, kot bi ostajali med neodvisnimi podjetji, ta druga država ustrezno prilagodi znesek davka, ki se v tej državi zaračuna od tega dobička. Pri določanju take prilagoditve je treba upoštevati druge določbe te konvencije, pristojna organa držav pogodbenic pa se po potrebi med seboj posvetujeta.

## 10. člen

## DIVIDENDE

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

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

## SHIPPING AND AIR TRANSPORT

1. Profits derived by an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

2. Profits derived by an enterprise of a Contracting State from the use, maintenance or rental of containers (including trailers, barges and related equipment for the transport of containers) used for the transport of goods or merchandise in international traffic where such use, maintenance or rental is incidental to the operation of ships or aircraft in international traffic, shall be taxable only in that State.

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

4. With respect to profits derived by Danish, Norwegian and Swedish air transport consortium the Scandinavian Airlines System (SAS), the provisions of paragraphs 1, 2 and 3 shall apply only to such proportion of the profits as corresponds to the participation held in that consortium by SAS Danmark A/S, the Danish partner of Scandinavian Airlines System.

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

## 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. Take dividende pa se lahko obdavčijo tudi v državi pogodbenici, katere rezident je družba, ki dividende plačuje, in v skladu z zakonodajo te države, če pa je upravičeni lastnik dividend rezident druge države pogodbenice, tako obračunani davek ne presega:

a) 5 odstotkov bruto zneska dividend, če je upravičeni lastnik družba, ki ima v svoji lasti neposredno vsaj 25 odstotkov kapitala družbe, ki plačuje dividende, če jih ima neprekinjeno v lasti najmanj eno leto in se dividende v tem času napovedo, in

b) v primeru Danske 5 odstotkov bruto zneska dividend, če je upravičeni lastnik družba, ki je rezident Danske in je družbenik v danski osebni družbi, in ima sama neposredno v lasti vsaj 25 odstotkov kapitala družbe, ki plačuje dividende, če jih ima neprekinjeno v lasti najmanj eno leto in se dividende v tem času napovedo;

c) 5 odstotkov bruto zneska dividend, če je upravičeni lastnik dividend ter upravičeni in neposredni lastnik delnic ali drugih pravic v družbi, ki so podlaga za pravico do dividend, priznani pokojninski sklad, omenjen v protokolu k tej konvenciji;

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

Pristojna organa držav pogodbenic se sporazumno dogovorita o načinu uporabe teh omejitev.

Ta odstavek ne vpliva na obdavčenje družbe v zvezi z dobičkom, iz katerega se plačajo dividende.

3. Izraz "dividende", kot je uporabljen v tem členu, pomeni dohodek iz delnic, rudniških delnic, ustanoviteljskih delnic ali drugih pravic do udeležbe v dobičku, ki niso terjatve, in tudi dohodek iz drugih pravic v družbi, ki se davčno obravnava enako kot dohodek iz delnic po zakonodaji države, katere rezident je družba, ki dividende deli.

4. Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik dividend, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, katere rezident je družba, ki dividende plačuje, prek stalne poslovne enote v njej ali opravlja v tej drugi državi samostojne osebne storitve iz stalne baze v njej ter je delež, v zvezi s katerim se dividende plačajo, dejansko povezan s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. oziroma 14. člena, odvisno od primera.

5. Kadar dobiček ali dohodek družbe, ki je rezident države pogodbenice, izhaja iz druge države pogodbenice, ta druga država ne sme uvesti nobenega davka na dividende, ki jih plača družba, razen če se te dividende plačajo rezidentu te druge države ali če je delež, v zvezi s katerim se take dividende plačajo, dejansko povezan s stalno poslovno enoto ali stalno bazo v tej drugi državi, niti ne sme uvesti davka od nerazdeljenega dobička na nerazdeljeni dobiček družbe, tudi če so plačane dividende ali nerazdeljeni dobiček v celoti ali delno sestavljeni iz dobička ali dohodka, ki nastane v taki drugi državi.

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 where such holding is being possessed for an uninterrupted period of no less than one year and the dividends are declared within that period; and

b) in the case of Denmark, 5 per cent of the gross amount of the dividends if the beneficial owner is a company, being a resident of Denmark, which is a partner in a Danish partnership, and alone holds directly at least 25 per cent of the capital of the company paying the dividends where such holding is being possessed for an uninterrupted period of no less than one year and the dividends are declared within that period;

c) 5 per cent of the gross amount of the dividends if the beneficial owner of the dividends and the beneficial and direct owner of the shares or other corporate rights giving right to the dividends is a recognized pension fund referred to in the Protocol to this Convention;

d) 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, mining shares, founders' 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 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 se izplačajo rezidentu druge države pogodbenice, se lahko obdavčijo v tej drugi državi, če je tak rezident upravičeni lastnik obresti.

2. Take obresti pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in v skladu z zakonodajo te države, če pa je upravičeni lastnik obresti rezident druge države pogodbenice, tako zaračunani davek ne presega 5 odstotkov bruto zneska obresti. Pristojna organa držav pogodbenic se sporazumno dogovorita o načinu uporabe te omejitve.

3. Izraz "obresti", kot je uporabljen v tem členu, pomeni dohodek iz vseh vrst terjatev ne glede na to, ali so zavarovane s hipoteko, in ne glede na to, ali imajo pravico do udeležbe v dolžnikovem dobičku, in še posebej dohodek iz državnih vrednostnih papirjev ter dohodek iz obveznic ali zadolžnic, vključno s premijami in nagradami, ki pripadajo takim vrednostnim papirjem, obveznicam ali zadolžnicam. Kazni zaradi zamude pri plačilu se za namen tega člena ne štejejo za obresti.

4. Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik obresti, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, v kateri obresti nastanejo, prek stalne poslovne enote v njej ali opravlja v tej drugi državi pogodbenici samostojne osebne storitve iz stalne baze v njej ter je terjatev, v zvezi s katero se obresti plačajo, dejansko povezana s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. oziroma 14. člena, odvisno od primera.

5. Šteje se, da obresti nastanejo v državi pogodbenici, če je plačnik ta država, politična enota, lokalna oblast ali rezident te države. Kadar pa ima oseba, ki plačuje obresti, ne glede na to, ali je rezident države pogodbenice, v državi pogodbenici stalno poslovno enoto ali stalno bazo, v zvezi s katero je nastala zadolžitev, za katero se plačajo obresti, ter take obresti krije taka stalna poslovna enota ali stalna baza, se šteje, da take obresti nastanejo v državi, v kateri je stalna poslovna enota ali stalna baza.

6. Kadar zaradi posebnega odnosa med plačnikom in upravičenim lastnikom ali med njima in drugo osebo znesek obresti glede na terjatev, za katero se plačajo, presega znesek, za katerega bi se sporazumela plačnik in upravičeni lastnik, če takega odnosa ne bi bilo, se določbe tega člena uporabljajo samo za zadnji omenjeni znesek. V takem primeru se presežni del plačil še naprej obdavčuje v skladu z zakonodajo vsake države pogodbenice, pri čemer je treba upoštevati druge določbe te konvencije.

12. člen  
LICENČNINE IN AVTORSKI HONORARJI

1. Licenčnine in avtorski honorarji, ki nastanejo v državi pogodbenici in katerih upravičeni lastnik je rezident druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

2. Take licenčnine in avtorski honorarji pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in v skladu z zakonodajo te države, če pa je upravičeni lastnik licenčnin in avtorskih honorarjev rezident druge države pogodbenice, tako zaračunani davek ne presega 5 odstotkov bruto zneska takih licenčnin in avtorskih honorarjev. Pristojna organa držav pogodbenic se sporazumno dogovorita o načinu uporabe te omejitve.

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 if such resident is the beneficial owner of the interest.

2. However, such interest 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 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. 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.

4. 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.

5. 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.

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 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.

Article 12  
ROYALTIES

1. Royalties arising in a Contracting State and beneficially owned by 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 5 per cent of the gross amount of such royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Izraz "licenčnine in avtorski honorarji", kot je uporabljen v tem členu, pomeni plačila vsake vrste, prejeta kot povračilo za uporabo ali pravico do uporabe kakršnihkoli avtorskih pravic za literarno, umetniško ali znanstveno delo, vključno s kinematografskimi filmi, kateregakoli patenta, blagovne znamke, vzorca ali modela, načrta, tajne formule ali postopka ali za informacije o industrijskih, komercialnih ali znanstvenih izkušnjah.

4. Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik licenčnin in avtorskih honorarjev, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, v kateri licenčnine in avtorski honorarji nastanejo, prek stalne poslovne enote v njej ali v tej drugi državi opravlja samostojne osebne storitve iz stalne baze v njej ter je pravica ali premoženje, v zvezi s katerim se licenčnine in avtorski honorarji plačajo, dejansko povezano s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. oziroma 14. člena, odvisno od primera.

5. Šteje se, da so licenčnine in avtorski honorarji nastali v državi pogodbenici, kadar je plačnik ta država, politična enota, lokalna oblast ali rezident te države. Kadar pa ima oseba, ki plačuje licenčnine in avtorske honorarje, ne glede na to, ali je rezident države pogodbenice, v državi pogodbenici stalno poslovno enoto ali stalno bazo, v zvezi s katero je nastala obveznost za plačilo licenčnin in avtorskih honorarjev ter take licenčnine in avtorske honorarje krije taka stalna poslovna enota ali stalna baza, se šteje, da so take 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 njima in neko drugo osebo znesek licenčnin in avtorskih honorarjev glede na uporabo, pravico ali informacijo, za katero se plačujejo, presega znesek, za katerega bi se sporazumela plačnik in upravičeni lastnik, če takega odnosa ne bi bilo, se določbe tega člena uporabljajo samo za zadnji omenjeni znesek. V takem primeru se presežni del plačil še naprej obdavčuje v skladu z zakonodajo vsake države pogodbenice, pri čemer je treba upoštevati druge določbe te konvencije.

### 13. člen KAPITALSKI DOBIČEK

1. Dobiček, ki ga rezident države pogodbenice doseže z odtujitvijo nepremičnin, ki so omenjene v 6. členu in so v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

2. Dobiček iz odtujitve premičnin, ki so del poslovnega premoženja stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ali premičnin, ki se nanašajo na stalno bazo, ki jo ima rezident države pogodbenice na voljo v drugi državi pogodbenici za namen opustitve samostojnih osebnih storitev, vključno z dobičkom iz odtujitve take stalne poslovne enote (same ali s celotnim podjetjem) ali take stalne baze, se lahko obdavči v tej drugi državi.

3. Dobiček, ki ga podjetje države pogodbenice doseže z odtujitvijo ladij ali letal, s katerimi se opravljajo prevozi v mednarodnem prometu, ali premičnin, vključno z zabojniki, omenjenimi v 8. členu, ki se nanašajo na opravljanje prevozov s takimi ladjami ali letali, se obdavči samo v tej državi.

4. Dobiček iz odtujitve kakršnegakoli premoženja, ki ni premoženje, navedeno v prvem, drugem in tretjem odstavku, se obdavči samo v državi pogodbenici, katere rezident je oseba, ki odtuji premoženje.

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, any patent, trade mark, design or model, plan, secret formula or process, 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 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. 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 a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic or movable property including containers referred to in Article 8 pertaining to the operation of such ships or aircraft shall be taxable only in that State.

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.

5. Za dobiček danskega, norveškega in švedskega konzorcija za letalski prevoz Scandinavian Airlines System (SAS) se določbe tretjega odstavka uporabljajo samo za tisti del dobička, ki ustreza udeležbi SAS Danmark A/S, danskega partnerja Scandinavian Airlines System, v tem konzorciju.

6. Kadar oseba, ki je rezident države pogodbenice, postane rezident druge države pogodbenice in prva omenjena država pogodbenica obdavči domnevni kapitalski dobiček na premoženje te osebe v času spremembe bivališča, potem se – ob naknadni odtujitvi tega premoženja – kapitalski dobiček na to premoženje, dosežen do časa spremembe bivališča, ne obdavči v drugi državi pogodbenici.

7. Določbe četrtega odstavka ne vplivajo na pravice katerekoli države pogodbenice, da v skladu s svojo zakonodajo odmeri davek od dobička iz odtujitve delnic ali drugih pravic v družbi, ki ga doseže posameznik, ki je rezident druge države pogodbenice in je bil rezident prve omenjene države kadarkoli v času petih let pred odtujitvijo delnic ali drugih pravic v družbi.

#### 14. člen

##### SAMOSTOJNE OSEBNE STORITVE

1. Dohodek, ki ga dobi rezident države pogodbenice iz poklicnih storitev ali drugih samostojnih dejavnosti, se obdavči samo v tej državi, razen če ima stalno bazo, ki mu je redno na voljo v drugi državi pogodbenici za namen opravljanja njegovih dejavnosti. Če ima tako stalno bazo, se dohodek lahko obdavči v drugi državi, a samo toliko dohodka, kolikor se pripiše tej stalni bazi.

2. Izraz "poklicne storitve" vključuje še posebej 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., 19. in 20. člena se plače, mezde in drugi podobni prejemki, ki jih dobi rezident države pogodbenice iz zaposlitve, obdavčijo samo v tej državi, razen če se zaposlitev izvaja v drugi državi pogodbenici. Če se zaposlitev izvaja tako, se lahko tako dobljeni prejemki obdavčijo v tej drugi državi.

2. Ne glede na določbe prvega odstavka se prejemek, ki ga dobi rezident države pogodbenice iz zaposlitve, ki se izvaja v drugi državi pogodbenici, obdavči samo v prvi omenjeni državi, če:

a) je prejemnik navzoč v drugi državi v obdobju ali obdobjih, ki ne presegajo skupno 183 dni v kateremkoli obdobju dvanajstih mesecev, ki se začne ali konča v zadevnem davčnem letu, in

b) prejemek plača delodajalec, ki je rezident prve omenjene države, oziroma se plača v njegovem imenu in

c) prejemka ne krije stalna poslovna enota ali stalna baza, ki jo ima delodajalec v drugi državi.

3. Ne glede na prejšnje določbe tega člena se prejemek, ki izhaja iz zaposlitve na ladji, s katero podjetje države pogodbenice opravlja prevoze v mednarodnem prometu, obdavči samo v tej državi.

5. With respect to gains derived by Danish, Norwegian and Swedish air transport consortium the Scandinavian Airlines System (SAS), the provisions of paragraph 3 shall apply only to such proportion of the gains as corresponds to the participation held in that consortium by SAS Danmark A/S, the Danish partner of Scandinavian Airlines System.

6. Where a person who is a resident of a Contracting State becomes a resident of the other Contracting State, and the first-mentioned Contracting State taxes deemed capital gains on property of that person at the time of change of residence, then - in the case of subsequent alienation of such property - capital gains on such property as derived up to the time of change of residence shall not be taxed in the other Contracting State.

7. The provisions of paragraph 4 shall not affect the right of either of the Contracting States to levy, according to its law, a tax on gains from the alienation of shares or other corporate rights derived by an individual who is a resident of the other Contracting State and has been a resident of the first-mentioned State at any time during the five years immediately preceding the alienation of the shares or other corporate rights.

#### 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 unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

2. 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, 19 and 20, 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:

a) the recipient is present 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 a resident of the first-mentioned 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. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship operated in international traffic by an enterprise of a Contracting State shall be taxable only in that State.

4. Ne glede na prejšnje določbe tega člena se prejemek, ki izhaja iz zaposlitve na letalu, s katerim podjetje države pogodbenice opravlja prevoze v mednarodnem prometu, lahko obdavči v tej državi.

16. člen  
PLAČILA DIREKTORJEM

Plačila direktorjem in druga podobna plačila, ki jih dobi rezident države pogodbenice kot član upravnega odbora družbe, ki je rezident druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

17. člen  
UMETNIKI IN ŠPORTNIKI

1. Ne glede na določbe 14. in 15. člena se dohodek, ki ga dobi rezident države pogodbenice kot nastopajoči izvajalec, kot je gledališki, filmski, radijski ali televizijski umetnik ali glasbenik, ali kot športnik iz takšnih osebnih dejavnosti, ki jih izvaja v drugi državi pogodbenici, lahko obdavči v tej drugi državi.

2. Kadar dohodek iz osebnih dejavnosti, ki jih izvaja nastopajoči izvajalec ali športnik kot tak, ne priraste samemu nastopajočemu izvajalcu ali športniku, temveč drugi osebi, se ta dohodek kljub določbam 7., 14. in 15. člena lahko obdavči v drugi državi pogodbenici, v kateri se izvajajo dejavnosti nastopajočega izvajalca ali športnika.

3. Določbe prvega in drugega odstavka se ne uporabljajo za dohodek, dosežen z dejavnostmi, ki jih izvajajo nastopajoči izvajalci ali športniki v državi pogodbenici, če se obisk v tej državi v celoti ali pretežno financira z javnimi sredstvi ene ali obeh držav pogodbenic ali njenih političnih enot ali lokalnih oblasti. V takem primeru se dohodek obdavči samo v državi pogodbenici, katere rezident je nastopajoči izvajalec ali športnik.

18. člen  
POKOJNINE, PLAČILA IZ NASLOVA SOCIALNE VARNOSTI IN PODOBNA PLAČILA

1. Plačila, ki jih prejema posameznik, ki je rezident države pogodbenice, na podlagi zakonodaje o socialni varnosti druge države pogodbenice ali na podlagi drugega podobnega načrta iz sredstev, ki jih je oblikovala ta druga država ali njena politična enota ali lokalna oblast, se lahko obdavčijo v tej drugi državi.

2. V skladu z določbami prvega odstavka tega člena in drugega odstavka 19. člena se pokojnine in drugi prejemki, povezani s preteklo zaposlitvijo, ter katerikoli drugi pokojninski prejemki, ki nastanejo v državi pogodbenici in se plačajo rezidentu druge države pogodbenice, obdavčijo samo v drugi državi pogodbenici, razen če:

a) je bil prejemnik rezident prve omenjene države in

b) i) so se prispevki, ki jih je upravičenec plačeval v pokojninski načrt, odbili v skladu z določbami glede pokojninskih načrtov, priznanih za davčne namene v državi pogodbenici, v kateri je pokojninski načrt vzpostavljen, ali

ii) upravičenec pokojninskega načrta ni bil obdavčen od prispevkov, ki jih je plačal delodajalec v skladu z določbami glede pokojninskih načrtov, priznanih za davčne namene v državi pogodbenici, v kateri je pokojninski načrt vzpostavljen, ali

iii) gre za kombinacijo i) in ii).

V takih primerih se pokojnine lahko obdavčijo v prvi omenjeni državi; tako zaračunani davek pa ne sme preseči 23 odstotkov pokojnin.

4. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard an aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that State.

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 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 to income derived from activities performed in a Contracting State by artistes or sportsmen if the visit to that State is wholly or mainly supported by public funds of one or both of the Contracting States or political subdivisions or local authorities thereof. In such case, the income is taxable only in the Contracting State in which the artiste or sportsman is a resident.

Article 18  
PENSIONS, SOCIAL SECURITY PAYMENTS AND SIMILAR PAYMENTS

1. Payments received by an individual, being a resident of a Contracting State, under the social security legislation of the other Contracting State, or under any other similar scheme out of funds created by that other State or a political subdivision or a local authority thereof, may be taxed in that other State.

2. Subject to the provisions of paragraph 1 of this Article and paragraph 2 of Article 19, pensions and other remuneration in connection with past employment and any other pension distributions arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in the other Contracting State, unless:

a) the recipient was a resident of the first-mentioned State; and

b) (i) the contributions paid by the beneficiary to the pension scheme were deductible according to the provisions regarding pension schemes recognized for tax purposes in the Contracting State where the pension scheme is established; or

(ii) the beneficiary of the pension scheme was not taxable on the contributions paid by an employer according to provisions regarding pension schemes recognized for tax purposes in the Contracting State where the pension scheme is established; or

(iii) a combination of (i) and (ii).

In such case, the pensions may be taxed in the first-mentioned State; the tax so charged shall, however, not exceed 23 per cent of the pensions.

Pokojnine, ki nastanejo v državi pogodbenici in se plačajo rezidentom druge države pogodbenice, ki so prejeli take pokojnine pred začetkom veljavnosti te konvencije, pa se obdavčijo samo v tej drugi državi.

3. Šteje se, da so pokojninski prejemki nastali v državi pogodbenici samo, če se plačujejo iz pokojninskega načrta, vzpostavljenega v tej državi.

4. Izraz "pokojninski načrti, priznani za davčne name-ne" vključuje naslednje programe in vse enake ali v bistvu podobne programe, uvedene po dnevu podpisa konvencije:

- a) po danski zakonodaji načrte, opredeljene v prvem delu zakona o obdavčevanju pokojnin,
- b) v primeru Slovenije po ustrezni zakonodaji.

#### 19. člen DRŽAVNA SLUŽBA

1. a) Plače, mezde in drugi podobni prejemki razen pokojnin, ki jih plačuje država pogodbenica ali njena politična enota ali lokalna oblast posamezniku za storitve, ki jih opravi za to državo ali enoto ali oblast, se obdavčijo samo v tej državi.

b) Take plače, mezde in drugi podobni prejemki pa se obdavčijo samo v drugi državi pogodbenici, če se storitve opravljajo v tej državi in je posameznik rezident te države, ki:

- i) je državljan te države ali
- ii) ni postal rezident te države izključno za namen opravljanja storitev.

2. a) Vsaka pokojnina, plačana iz skladov države pogodbenice ali njene politične enote ali lokalne oblasti posamezniku za storitve, opravljene za to državo ali politično enoto ali oblast, se obdavči samo v tej državi.

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

3. Določbe 15., 16., 17. in 18. člena se ne uporabljajo za plače, mezde in druge podobne prejemke ter za pokojnine, za storitve, opravljene v zvezi s posli, ki jih opravlja država pogodbenica ali njena politična enota ali lokalna oblast.

#### 20. člen PROFESORJI IN UČITELJI

1. Prejemki, ki jih profesor ali učitelj, ki je rezident ene od držav pogodbenic in obišče drugo državo pogodbenico za obdobje, ki ne presega dve leti, z namenom poučevanja ali nadaljevanja študija ali raziskavanja na univerzi, višji ali visoki šoli, šoli ali drugi izobraževalni ustanovi, prejema za te dejavnosti, se obdavčijo samo v prvi omenjeni državi.

2. Ta člen se ne uporablja za prejemke, ki jih profesor ali učitelj prejme za izvajanje raziskav, če se raziskave izvajajo predvsem v zasebno korist določene osebe ali oseb.

#### 21. člen ŠTUDENTI

1. Plačila, ki jih študent ali praktikant, ki je ali je bil tik pred obiskom države pogodbenice rezident druge države pogodbenice in je v prvi omenjeni državi pogodbenici navzoč samo z namenom svojega izobraževanja ali usposabljanja, prejme za svoje vzdrževanje, izobraževanje ali usposabljanje, se ne obdavčijo v tej državi pod pogojem, da taka plačila nastanejo iz virov zunaj te države.

However, pensions arising in a Contracting State and paid to residents of the other Contracting State who were receiving such pensions before this Convention became effective, shall be taxable only in that other State.

3. Pension distributions shall be deemed to arise in a Contracting State only if paid by a pension scheme established in that State.

4. The term "A pension schemes recognized for tax purposes" shall include the following provisions and any identical or substantially similar provisions which are imposed after the date of signature of the Convention:

- a) Under the laws of Denmark, qualified schemes under Part I of the Law on Taxation of Pensions;
- b) In the case of Slovenia, under respective legislation.

#### Article 19 GOVERNMENT SERVICE

1. a) Salaries, wages and other similar 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 authority shall be taxable only in that State.

b) However, such salaries, wages and other similar 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, 17 and 18 shall apply to salaries, wages and other similar remuneration, and to 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 PROFESSORS AND TEACHERS

1. Remuneration which a professor or a teacher, who is a resident of one of the Contracting States and who visits the other Contracting State for a period not exceeding two years for the purpose of teaching or carrying out advanced study or research at a university, college, school or other educational institution, receives for those activities, shall be taxable only in the first-mentioned State.

2. This Article shall not apply to remuneration which a professor or a teacher receives for conducting research if the research is undertaken primarily for the private benefit of a specific person or persons.

#### Article 21 STUDENTS

1. 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.

2. Glede podpor, štipendij ali prejemkov iz zaposlitve, ki jih ne opredeljuje prvi odstavek tega člena, je študent ali praktikant med takim izobraževanjem ali usposabljanjem upravičen do enakih oprostitvev, olajšav ali znižanj za davke, kot jih imajo v enakih okoliščinah državljani države pogodbenice, v kateri je na obisku.

## 22. člen

DEJAVNOSTI V ZVEZI S PREDHODNIMI MERITVAMI,  
RAZISKAVAMI ALI ČRANJEM OGLJIKOVODIKOV

1. Ne glede na določbe 5. in 14. člena se šteje, da rezident države pogodbenice, ki opravlja dejavnosti v zvezi s predhodnimi meritvami, raziskavami ali črpanjem ogljikovodikov, ki se nahajajo v drugi državi pogodbenici, glede teh dejavnosti posluje v tej drugi državi prek stalne poslovne enote ali opravlja samostojne osebne storitve iz stalne baze v njej.

2. Določbe prvega odstavka se ne uporabljajo, če se dejavnosti opravljajo v obdobju ali obdobjih, ki skupno ne presegajo 30 dni v kateremkoli obdobju dvanajstih mesecev. Vendar se za namene tega odstavka šteje, da dejavnosti, ki jih opravlja podjetje, povezano z drugimi podjetji v smislu 9. člena, opravljajo podjetja, s katerimi je povezano, če so te dejavnosti v bistvu enake kot tiste, ki jih opravljajo zadnje omenjena podjetja.

3. Ne glede na določbe prvega in drugega odstavka se dejavnosti na vrtni ploščadi, ki se opravljajo pred obalo, štejejo za stalno poslovno enoto samo, če se dejavnosti opravljajo v obdobju ali obdobjih, ki skupno ne presegajo 365 dni v kateremkoli obdobju osemnajstih mesecev. Vendar se za namene tega odstavka šteje, da dejavnosti, ki jih opravlja podjetje, povezano z drugim podjetjem v smislu 9. člena, opravljajo podjetja, s katerimi je povezano, če so te dejavnosti v bistvu enake kot tiste, ki jih opravlja zadnje omenjeno podjetje.

4. Ne glede na določbe prvega in drugega odstavka se dobiček podjetja države pogodbenice iz prevozov zalog ali osebja z ladjami ali letali na kraj, kjer se v drugi državi pogodbenici opravljajo dejavnosti pred obalo v zvezi s predhodnimi meritvami, raziskavami ali črpanjem ogljikovodikov, ali iz delovanja vlačilcev in podobnih plovil v zvezi s takšnimi dejavnostmi obdavči samo v prvi omenjeni državi.

5. Plače, mezde in drugi podobni prejemki, ki jih dobi posameznik, ki je rezident države pogodbenice, iz zaposlitve, ki se izvaja na ladji ali letalu, vlačilcu ali plovilu iz četrtega odstavka, se obdavčijo v skladu z določbami tretjega in četrtega odstavka 15. člena.

6. Ne glede na določbe 13. člena se kapitalski dobiček od vrtnih ploščadi, ki se uporabljajo za dejavnosti iz tretjega odstavka, za katerega se šteje, da ga doseže rezident države pogodbenice, ko dejavnosti niso več obdavčene v drugi državi pogodbenici, oprosti davka v tej drugi državi. Za namene tega odstavka izraz "kapitalski dobiček" pomeni znesek, za katerega tržna vrednost v trenutku prenosa presega preostalo vrednost v tem trenutku, povečano za odšteto amortizacijo.

2. In respect of grants, scholarships and remuneration from employment not covered by paragraph 1 of this Article, a student or business apprentice shall be entitled during such education or training to the same exemptions, reliefs or reductions in respect of taxes as are available to the nationals in the same circumstances of the Contracting State which he is visiting.

## Article 22

ACTIVITIES IN CONNECTION WITH PRELIMINARY  
SURVEYS, EXPLORATION OR EXTRACTION OF  
HYDROCARBONS

1. Notwithstanding the provisions of Articles 5 and 14, a resident of a Contracting State who carries on activities in connection with preliminary surveys, exploration or extraction of hydrocarbons situated in the other Contracting State shall be deemed to be carrying on in respect of such activities a business in that other State through a permanent establishment or to be performing independent personal services from a fixed base situated therein.

2. The provisions of paragraph 1 shall not apply where the activities are carried on for a period or periods not exceeding 30 days in the aggregate in any twelve month period. However, for the purpose of this paragraph, activities carried on by an enterprise associated with another enterprises within the meaning of Article 9 shall be deemed to be carried on by the enterprises with which it is associated if the activities in question are substantially the same as those carried on by the last-mentioned enterprises.

3. Notwithstanding the provisions of paragraphs 1 and 2, drilling rig activities carried on offshore shall constitute a permanent establishment only if the activities are carried on for a period or periods exceeding 365 days in the aggregate in any eighteen month period. However, for the purpose of this paragraph, activities carried on by an enterprise associated with another enterprise within the meaning of Article 9 shall be deemed to be carried on by the enterprise with which it is associated if the activities in question are substantially the same as those carried on by the last-mentioned enterprise.

4. Notwithstanding the provisions of paragraphs 1 and 2, profits derived by an enterprise of a Contracting State from the transport by ships or aircraft of supplies or personnel to a location where offshore activities in connection with preliminary surveys, exploration or extraction of hydrocarbons are being carried on in the other Contracting State, or from the operation of tugboats and similar vessels in connection with such activities, shall be taxable only in the first-mentioned State.

5. Salaries, wages and other similar remuneration derived by an individual who is a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft, tugboat or vessel covered by paragraph 4 shall be taxed in accordance with the provisions of paragraphs 3 and 4 of Article 15.

6. Notwithstanding the provisions of Article 13, capital gains on drilling rigs used for activities, as mentioned in paragraph 3, which are deemed to be derived by a resident of a Contracting State when the activities cease to be subject to tax in the other Contracting State, shall be exempt from tax in that other State. For the purpose of this paragraph, the term "capital gains" means the amount by which the market value at the moment of transfer exceeds the residual value at that moment, as increased by any depreciation taken.

23. člen  
DRUGI DOHODKI

1. Deli dohodka rezidenta države pogodbenice, ki nastanejo kjerkoli in niso obravnavani v predhodnih členih te konvencije, se obdavčijo samo v tej državi.

2. Določbe prvega odstavka se ne uporabljajo za dohodek, ki ni dohodek iz nepremičnin, kot so opredeljene v drugem odstavku 6. člena, če prejemnik takega dohodka, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici prek stalne poslovne enote v njej ali opravlja v tej drugi državi samostojne osebne storitve prek stalne baze v njej in je pravica ali premoženje, za katero se plača dohodek, dejansko povezano s to stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

24. člen  
OBDAVČITEV PREMOŽENJA

1. Premoženje, ki ga predstavljajo nepremičnine iz 6. člena v lasti rezidenta države pogodbenice in so v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

2. Premoženje, ki ga predstavljajo premičnine, ki so del poslovnega premoženja stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ali premičnine v zvezi s stalno bazo, ki je na voljo rezidentu države pogodbenice v drugi državi pogodbenici za opravljanje samostojnih osebnih storitev, se lahko obdavči v tej drugi državi.

3. Premoženje, ki ga predstavljajo ladje ali letala, s katerimi podjetje države pogodbenice opravlja prevoze v mednarodnem prometu, in premičnine, vključno z zabojniki iz 8. člena, v zvezi z opravljanjem prevozov s takimi ladjami ali letali, se obdavči samo v tej državi.

4. Vsi drugi elementi premoženja rezidenta države pogodbenice se obdavčijo samo v tej državi.

25. člen  
METODE ZA ODPRAVO DVOJNEGA OBDAVČEVANJA

Dvojno obdavčevanje se odpravi, kot sledi:

1. V Sloveniji:

a) kadar rezident Slovenije dobi dohodek ali ima v lasti premoženje, ki se v skladu z določbami te konvencije lahko obdavči na Danskem, Slovenija dovoli:

i) kot odbitek od davka od dohodka tega rezidenta znesek, ki je enak davku od dohodka, plačanemu na Danskem;

ii) kot odbitek od davka od premoženja tega rezidenta znesek, ki je enak davku od premoženja, plačanemu na Danskem.

Tak odbitek v nobenem primeru ne sme presežati tistega dela davka od dohodka ali premoženja, ki je bil izračunan pred odbitkom, pripisanim dohodku ali premoženju, odvisno od primera, ki se lahko obdavči na Danskem;

b) kadar je v skladu s katerokoli določbo te konvencije dohodek, ki ga rezident Slovenije dobi, ali premoženje, ki ga ima v lasti, oproščeno davka v Sloveniji, lahko Slovenija pri izračunu davka od preostalega dohodka ali premoženja takega rezidenta vseeno upošteva oproščeni dohodek ali premoženje.

Article 23  
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.

Article 24  
TAXATION OF 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 or aircraft operated in international traffic by an enterprise of a Contracting State and by movable property including containers referred to in Article 8 pertaining to the operation of such ships or aircraft shall be taxable only in that State.

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

Article 25  
METHODS FOR ELIMINATION OF DOUBLE TAXATION

Double taxation shall be eliminated as follows:

1. In Slovenia:

a) Where a resident of Slovenia derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Denmark, Slovenia shall allow:

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

(ii) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in Denmark.

Such deduction in either case shall not, however, exceed that portion 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 Denmark;

b) Where in accordance with any provision of the Convention income derived or capital owned by a resident of Slovenia is exempt from tax in Slovenia, Slovenia 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.

## 2. Na Danskem:

a) v skladu z določbami pododstavka c), kadar rezident Danske dobi dohodek ali ima v lasti premoženje, ki se po določbah te konvencije lahko obdavči v Sloveniji, Danska dovoli:

i) kot odbitek od davka od dohodka tega rezidenta znesek, ki je enak davku od dohodka, plačanemu v Sloveniji;

ii) kot odbitek od davka od premoženja tega rezidenta znesek, ki je enak davku od premoženja, plačanemu v Sloveniji;

b) tak odbitek v nobenem primeru ne sme presežati tistega dela davka od dohodka ali premoženja, ki je bil izračunan pred odbitkom, pripisanim dohodku ali premoženju, odvisno od primera, ki se lahko obdavči v Sloveniji;

c) kadar rezident Danske dobi dohodek ali ima v lasti premoženje, ki se po določbah te konvencije obdavči samo v Sloveniji, lahko Danska vključi ta dohodek ali premoženje v davčno osnovo, pri tem pa kot odbitek od davka od dohodka ali premoženja dovoli tisti del davka od dohodka ali premoženja, ki se pripiše, odvisno od primera, dohodku, dobljenemu v Sloveniji, ali premoženju, ki ga ima v lasti v Sloveniji.

## 26. člen

## ENAKO OBRAVNAVANJE

1. Državljeni države pogodbenice ne smejo biti v drugi državi pogodbenici zavezani kakršnemukoli obdavčevanju ali kakršnikoli zahtevi v zvezi s tem, ki je drugačna ali bolj obremenjujoča, kot so ali so lahko obdavčevanje in s tem povezane zahteve za državljane te druge države v enakih okoliščinah, še zlasti glede rezidentstva. Ta določba se ne glede na določbe 1. člena uporablja tudi za osebe, ki niso rezidenti ene ali obeh držav pogodbenic.

2. Osebe brez državljanstva, ki so rezidenti države pogodbenice, v nobeni državi pogodbenici ne smejo biti zavezane kakršnemukoli obdavčevanju ali kakršnikoli zahtevi v zvezi s tem, ki je drugačna ali bolj obremenjujoča, kot so ali so lahko obdavčevanje in s tem povezane zahteve za državljane te države v enakih okoliščinah, še zlasti glede rezidentstva.

3. Obdavčevanje stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ne sme biti manj ugodno v tej drugi državi, kot je obdavčevanje podjetij te druge države, ki opravljajo enake dejavnosti. Ta določba se ne razlaga, kot da zavezuje državo pogodbenico, da priznava rezidentom druge države pogodbenice kakršnekoli osebne olajšave, odbitke in zmanjšanja za davčne namene zaradi osebnega statusa ali družinskih obveznosti, ki jih priznava svojim rezidentom.

4. Razen če se uporabljajo določbe prvega odstavka 9. člena, šestega odstavka 11. člena ali šestega odstavka 12. člena, se obresti, licenčnine in avtorski honorarji ter druga izplačila, ki jih plača podjetje države pogodbenice rezidentu druge države pogodbenice, pri določanju obdavčljivega dobička takega podjetja odbijejo pod istimi pogoji, kot če bi bili plačani rezidentu prve omenjene države. Podobno se tudi kakršnikoli dolgovi podjetja države pogodbenice rezidentu druge države pogodbenice pri določanju obdavčljivega premoženja takega podjetja odbijejo pod istimi pogoji, kot da bi bili pogodbeno dogovorjeni z rezidentom prve omenjene države.

## 2. In Denmark:

a) Subject to the provisions of subparagraph c), where a resident of Denmark derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Slovenia, Denmark shall allow:

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

(ii) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in Slovenia;

b) 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 Slovenia;

c) where a resident of Denmark derives income or owns capital which, in accordance with the provisions of this Convention, shall be taxable only in Slovenia, Denmark may include this income or capital in the tax base, but shall allow as a deduction from the income tax or capital tax that part of the income tax or capital tax which is attributable, as the case may be, to the income derived or the capital owned in Slovenia.

## Article 26

## 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. Stateless persons who are residents of a Contracting State shall not be subjected in either 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 the State concerned in the same circumstances, in particular with respect to residence, are or may be subjected.

3. 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 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.

4. Except where the provisions of paragraph 1 of Article 9, paragraph 6 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 the 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.



5. 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 kakršnekoli obdavčevanju ali kakršnikoli zahtevi v zvezi s tem, ki je drugačna ali bolj obremenjujoča, kot so ali so lahko obdavčevanje in s tem povezane zahteve drugih podobnih podjetij prve omenjene države.

6. Določbe tega člena se uporabljajo ne glede na določbe 2. člena za davke vseh vrst in opisov.

#### 27. člen

##### POSTOPEK SKUPNEGA DOGOVORA

1. Kadar oseba meni, da dejanja ene ali obeh držav pogodbenic imajo ali bodo imela zanjo za posledico obdavčevanje, ki ni v skladu s določbami te konvencije, lahko ne glede na sredstva, ki ji jih omogoča domača zakonodaja teh držav, predloži zadevo pristojnemu organu države pogodbenice, katere rezident je, ali če se njen primer nanaša na prvi odstavek 26. člena, tiste države pogodbenice, katere državljan je. Zadeva mora biti predložena v treh letih od prvega uradnega obvestila o dejanju, ki je imelo za posledico obdavčevanje, ki ni v skladu z določbami te konvencije.

2. Pristojni organ si, če se mu zdi pritožba upravičena in če sam ne more priti do zadovoljive rešitve, prizadeva razrešiti primer s skupnim dogovorom s pristojnim organom druge države pogodbenice z namenom izogniti se obdavčevanju, ki ni v skladu s to konvencijo. Vsak dosežen dogovor se izvaja ne glede na roke v domači zakonodaji držav pogodbenic.

3. Pristojna organa držav pogodbenic si prizadevata s skupnim dogovorom razrešiti kakršnekoli težave ali dvome, ki nastanejo pri razlagi ali uporabi te konvencije. Prav tako se lahko med seboj posvetujeta o odpravi dvojnega obdavčevanja v primerih, ki jih konvencija ne predvideva.

4. Pristojna organa držav pogodbenic se zato, da bi razrešila vprašanja, ki nastanejo zaradi različnih državnih standardov, ki določajo davčno osnovo, ali zaradi drugih razlogov med seboj posvetujeta z namenom omiliti ali odpraviti težave, ki nastanejo zaradi razlik v njuni davčni zakonodaji, zlasti glede osebnih družb, in izogniti se neobdavčevanju ali dvojnemu obdavčevanju ter sprejeti ukrepe proti mednarodni utaji davkov in izogibanju obdavčevanja.

5. Pristojna organa držav pogodbenic lahko neposredno komunicirata med seboj, vključno prek skupne komisije, ki jo sestavljata sama ali njuni predstavniki, da bi dosegla dogovor v smislu prejšnjih odstavkov.

5. 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 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 the first-mentioned State are or may be subjected.

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

#### Article 27

##### 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 26, 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 shall, in order to resolve questions which arise from different national standards determining the tax basis or from other reasons, consult together with a view to mitigating or eliminating difficulties which arise from differences in their respective tax laws, in particular in regard to partnerships, and with a view to avoiding non-taxation or double taxation and taking measures against international tax evasion and avoidance.

5. The competent authorities of the Contracting States may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

## 28. člen

## IZMENJAVA INFORMACIJ

1. Pristojna organa držav pogodbenic si izmenjujeta take informacije, ki so potrebne za izvajanje določb te konvencije ali notranje zakonodaje držav pogodbenic glede davkov, za katere se uporablja ta konvencija, kolikor obdavčevanje na njihovi podlagi ni v nasprotju s konvencijo. Izmenjava informacij ni omejena s 1. členom. Vsaka informacija, ki jo prejme država pogodbenica, se obravnava kot tajnost na isti način kot informacije, pridobljene po notranji zakonodaji te države, in se razkrije samo osebam ali organom (vključno s sodišči in upravnimi organi), udeleženi pri odmeri ali pobiranju, izterjavi ali pregonu ali odločanju o pritožbah glede davkov iz te konvencije. Te osebe ali organi uporabljajo informacije samo v te namene. Informacije lahko razkrijejo na sodnih obravnavah ali pri sodnih odločitvah.

2. V nobenem primeru se določbe prvega odstavka ne razlagajo, kot da nalagajo državi pogodbenici obveznost:

a) da izvaja upravne ukrepe, ki niso v skladu z zakonodajo in upravno prakso te ali druge države pogodbenice;

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

c) da priskrbi informacije, ki bi razkrile kakršnokoli trgovinsko, poslovno, industrijsko, komercialno ali poklicno skrivnost ali trgovinske postopke, ali informacije, katerih razkritje bi nasprotovalo javnemu redu.

## 29. člen

## ČLANI DIPLOMATSKIH MISIJ IN KONZULARNIH PREDSTAVNIŠTEV

Nič v tej konvenciji ne vpliva na davčne ugodnosti članov diplomatskih misij ali konzularnih predstavništva po splošnih pravilih mednarodnega prava ali določbah posebnih sporazumov.

## 30. člen

## OZEMELJSKA RAZŠIRITEV

1. Ta konvencija se lahko razširi bodisi v celoti ali s potrebnimi spremembami na katerikoli del ozemlja Danske, ki je izrecno izključen iz uporabe konvencije in ki nalaga davke, ki so pretežno podobni davkom, za katere se uporablja konvencija. Vsaka taka razširitev začne veljati od datuma in v skladu s spremembami in pogoji, vključno s pogoji glede prenehanja veljavnosti, kot lahko določita in se dogovorita državi pogodbenici v notah, ki se izmenjata po diplomatski poti, ali na kakšen drug način v skladu z njunimi notranjepravnimi postopki.

2. Odpoved konvencije ene od držav pogodbenic v skladu z 32. členom na način, določen v tem členu, velja, razen če se državi pogodbenici drugače dogovorita, tudi glede uporabe konvencije na kateremkoli delu ozemlja Danske, na katerega je bila razširjena na podlagi tega člena.

## Article 28

## EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary 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) concerned with 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 a Contracting State the obligation:

a) to carry out administrative measures at variance with the laws and 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 29

## 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 30

## TERRITORIAL EXTENSION

1. This Convention may be extended, either in its entirety or with any necessary modifications, to any part of the territory of Denmark which is specifically excluded from the application of the Convention and which imposes taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures.

2. Unless otherwise agreed by both Contracting States, the termination of the Convention by one of them under Article 32 shall also terminate, in the manner provided for in that Article, the application of the Convention to any part of the territory of Denmark to which it has been extended under this Article.

## 31. člen

## ZAČETEK VELJAVNOSTI

1. Vladi držav pogodbenic druga drugo obvestita, da so izpolnjeni notranjepravni pogoji za začetek veljavnosti te konvencije.

2. Konvencija začne veljati na datum kasnejšega od uradnih obvestil iz prvega odstavka in njene določbe veljajo za davke za davčno leto, ki sledi letu, v katerem začne veljati konvencija, in za naslednja davčna leta.

3. Konvencija med Socialistično federativno republiko Jugoslavijo in Kraljevino Dansko o izogibanju dvojnemu obdavčevanju dohodka in premoženja, ki je bila podpisana 19. marca 1981 in jo je Republika Slovenija nasledila z izmenjavo not z dne 28. julija 1993 in 8. oktobra 1993 med Ministrstvom za zunanje zadeve Republike Slovenije in Ministrstvom za zunanje zadeve Kraljevine Danske, preneha veljati med Republiko Slovenijo in Kraljevino Dansko z začetkom veljavnosti te konvencije in njene določbe prenehajo veljati na datum začetka veljavnosti te konvencije.

## 32. člen

## PRENEHANJE VELJAVNOSTI

Ta konvencija velja, dokler je država pogodbenica ne odpove. Katerakoli država pogodbenica lahko konvencijo odpove po diplomatski poti z uradnim obvestilom o odpovedi najmanj šest mesecev pred koncem kateregakoli koledarskega leta, ki sledi obdobju petih let od leta, v katerem konvencija začne veljati. V takem primeru konvencija preneha veljati za davke za davčno leto, ki neposredno sledi tistemu, v katerem je dano obvestilo o odpovedi, in naslednja davčna leta.

V DOKAZ NAVEDENEGA sta podpisana, ki sta ju za to njihuni vladi pravilno pooblastili, podpisala to konvencijo.

Sestavljeno v dveh izvornikih v dne Kopenhagenu dne 2. maja 2001 v slovenskem, danskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. V primeru razhajanj med besedili prevlada angleško besedilo.

Za Vlado  
Republike Slovenije  
**dr. Dimitrij Rupel** l.r.

Za Vlado  
Kraljevine Danske  
**Mogens Lykketoft** l.r.

## Article 31

## ENTRY INTO FORCE

1. The Governments of 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 in respect of taxes for the fiscal year immediately following that in which the Convention enters into force and subsequent fiscal years.

3. The Convention between the Socialist Federal Republic of Yugoslavia and the Kingdom of Denmark for the Avoidance of Double Taxation with Respect to Taxes on Income and on Capital signed on 19 March 1981, to which the Republic of Slovenia has succeeded by an exchange of notes of 28 July 1993 and 8 October 1993 between the Ministry for Foreign Affairs of the Republic of Slovenia and the Ministry of Foreign Affairs of the Kingdom of Denmark, shall terminate in relations between the Republic of Slovenia and the Kingdom of Denmark upon the entry into force of this Convention, and its provisions shall cease to have effect on the date when this Convention becomes effective.

## Article 32

## TERMINATION

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving written notice of termination at least six months before the end of any calendar year following after a period of five years from the year in which the Convention enters into force. In such event, the Convention shall cease to have effect in respect of the taxes for the fiscal year immediately following that in which the notice of termination is given and subsequent fiscal years.

IN WITNESS WHEREOF the undersigned, duly authorized thereto by their respective Governments, have signed this Convention.

DONE in duplicate at Copenhagen on the 2<sup>nd</sup> day of May 2001, in the Slovenian, Danish and English languages, all the texts being equally authentic. In case of divergence between any of the texts, the English text shall prevail.

For the Government  
of the Republic of Slovenia  
**Dr Dimitrij Rupel**, (s)

For the Government  
of the Kingdom of Denmark  
**Mogens Lykketoft**, (s)

## PROTOKOL

Ob današnjem podpisu Konvencije o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja, ki sta jo sklenili Vlada Republike Slovenije in Vlada Kraljevine Danske, sta se podpisana sporazumela o naslednjih dodatnih določbah, ki so sestavni del te konvencije.

Za namen pododstavka c) drugega odstavka 10. člena se razume, da se:

v primeru Danske kot priznan pokojninski sklad štejejo:

a) Dodatni pokojninski sklad trga dela (Arbejdsmarkedets Tillægspension) iz prvega pododstavka, št. 8), tretjega odstavka danskega zakona o obdavčevanju podjetij in

b) pokojninski skladi, določeni v prvem pododstavku, št. 9), tretjega odstavka danskega zakona o obdavčevanju podjetij, in

c) Kapitalski pokojninski sklad zaposlenih (Lønmodtagernes Dyrtdsfond) iz prvega pododstavka, št. 13), tretjega odstavka danskega zakona o obdavčevanju podjetij,

v primeru Slovenije kot priznan pokojninski sklad šteje katerikoli pokojninski sklad, ki je priznan in nadzorovan v skladu z zakonskimi določbami.

V DOKAZ NAVEDENEGA sta podpisana, ki sta ju za to njuni vladi pravilno pooblastili, podpisala ta protokol.

Sestavljeno v dveh izvornikih v Kopenhagnu dne 2. maja 2001 v slovenskem, danskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. V primeru razhajanj med besedili prevlada angleško besedilo.

Za Vlado  
Republike Slovenije  
**dr. Dimitrij Rupel** l.r.

Za Vlado  
Kraljevine Danske  
**Mogens Lykketoft** l.r.

## PROTOCOL

At the signing today of the Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital concluded between the Government of the Republic of Slovenia and the Government of the Kingdom of Denmark, the undersigned have agreed upon the following additional provisions which shall form an integral part of the said Convention.

For the purposes of subparagraph c) of paragraph 2 of Article 10, it is understood that

in the case of Denmark, as a recognized pension fund shall be regarded:

a) the Labour Market Supplementary Pension Fund (Arbejdsmarkedets Tillægspension) as mentioned in subparagraph 1, no. 8), of paragraph 3 of the Danish Company Taxation Act; and

b) pension funds as defined in subparagraph 1, no. 9), of paragraph 3 of the Danish Company Taxation Act; and

c) the Employees Capital Pension Fund (Lønmodtagernes Dyrtdsfond) as mentioned in subparagraph 1, no. 13), of paragraph 3 of the Danish Company Taxation Act;

in the case of Slovenia, as a recognized pension fund shall be regarded any pension fund recognized and controlled according to statutory provisions.

IN WITNESS WHEREOF the undersigned, duly authorized thereto by their respective Governments, have signed this Protocol.

DONE in duplicate at Copenhagen on the 2<sup>nd</sup> day of May 2001, in the Slovenian, Danish and English languages, all the texts being equally authentic. In case of divergence between any of the texts, the English text shall prevail.

For the Government  
of the Republic of Slovenia  
**Dr Dimitrij Rupel, (s)**

For the Government  
of the Kingdom of Denmark  
**Mogens Lykketoft, (s)**

## 3. člen

Za izvajanje konvencije s protokolom skrbi Ministrstvo za finance.

## 4. člen

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

Št. 432-01/02-20/1  
Ljubljana, dne 28. februarja 2002

Predsednik  
Državnega zbora  
Republike Slovenije  
**Borut Pahor** l. r.

**22. Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Helensko republiko o izogibanju dvojnega obdavčevanja v zvezi z davki od dohodka in premoženja (BGRIDO)**

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 HELENSKO REPUBLIKO O IZOGIBANJU DVOJNEGA OBDAVČEVANJA V ZVEZI Z DAVKI OD DOHODKA IN PREMOŽENJA (BGRIDO)**

Razgllašam Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Helensko republiko o izogibanju dvojnega obdavčevanja v zvezi z davki od dohodka in premoženja (BGRIDO), ki ga je sprejel Državni zbor Republike Slovenije na seji 28. februarja 2002.

Št. 001-22-22/02  
Ljubljana, 8. marca 2002

Predsednik  
Republike Slovenije  
**Milan Kučan** l. r.

**Z A K O N****O RATIFIKACIJI KONVENCIJE MED REPUBLIKO SLOVENIJO IN HELENSKO REPUBLIKO O IZOGIBANJU DVOJNEGA OBDAVČEVANJA V ZVEZI Z DAVKI OD DOHODKA IN PREMOŽENJA (BGRIDO)**

## 1. člen

Ratificira se Konvencija med Republiko Slovenijo in Helensko republiko o izogibanju dvojnega obdavčevanja v zvezi z davki od dohodka in premoženja, podpisana v Atenah 5. junija 2001.

## 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**  
**HELENSKO REPUBLIKO**  
**O IZOGIBANJU DVOJNEGA OBDAVČEVANJA**  
**V ZVEZI Z DAVKI OD DOHODKA IN**  
**PREMOŽENJA**

Republika Slovenija  
in  
Helenska republika

sta se v želji, da bi sklenili konvencijo o izogibanju dvojnega obdavčevanja v zvezi z davki od dohodka in premoženja,  
sporazumeli, kot sledi:

**I. POGLAVJE**  
**PODROČJE UPORABE KONVENCIJE**

## 1. člen

**OSEBE, ZA KATERE SE UPORABLJA KONVENCIJA**

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

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

The Republic of Slovenia  
and  
the Hellenic Republic

desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income and on capital,  
have agreed as follows:

**CHAPTER I**  
**SCOPE OF THE CONVENTION**

## Article 1

**PERSONAL SCOPE**

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

\* Besedilo konvencije v grškem jeziku je na vpogled v Sektorju za mednarodnopravne zadeve Ministrstva za zunanje zadeve Republike Slovenije.

## 2. člen

## DAVKI, ZA KATERE SE UPORABLJA KONVENCIJA

1. Ta konvencija se uporablja za davke od dohodka in premoženja, ki se uvedejo v imenu pogodbenice ali njenih političnih enot ali lokalnih oblasti, ne glede na način njihove uvedbe.

2. Za davke od dohodka in premoženja se štejejo vsi davki, uvedeni na celoten dohodek, celotno premoženje ali na sestavine dohodka ali premoženja, vključno z davki od dobička iz odtujitve premičnin ali nepremičnin ter davki na zvišanje vrednosti kapitala.

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

- a) v Helenski republiki:
  - i) davek od dohodka in premoženja fizičnih oseb;
  - ii) davek od dohodka in premoženja pravnih oseb (v nadaljevanju "grški davek");
- b) v Republiki Sloveniji:
  - i) davek od dobička pravnih oseb;
  - ii) davek od dohodka posameznikov, vključno z mezdami in plačami, dohodkom iz kmetijskih dejavnosti, dohodkom iz poslovanja, kapitalskimi dobički in dohodkom iz nepremičnin in premičnin;
  - iii) davek od premoženja (v nadaljevanju "slovenski davek").

Ta konvencija se uporablja tudi za kakršne koli enake ali vsebinsko podobne davke, ki se uvedejo po datumu podpisa konvencije dodatno k obstoječim davkom ali namesto njih. Pristojna organa držav pogodbenic drug drugega uradno obvestita o vseh bistvenih spremembah njihovih davčnih zakonodaj.

II. POGLAVJE  
OPREDELITEV IZRAZOV

## 3. člen

## SPLOŠNA OPREDELITEV IZRAZOV

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

- a) izraza "država pogodbenica" in "druga država pogodbenica" pomenita Helensko republiko ali Republiko Slovenijo, kot zahteva sobesedilo;
- b) izraz "Helenska republika" pomeni ozemlje Helenske republike ter del morja, morskega dna in njegovega podzemlja pod Sredozemskim morjem, nad katerimi ima Helenska republika v skladu z mednarodnim pravom suverene pravice do iskanja, izkoriščanja ali pridobivanja naravnih virov teh območij;
- c) izraz "Slovenija" pomeni Republiko Slovenijo, in ko se uporablja v zemljepisnem smislu, ozemlje Slovenije, vključno z morskim območjem, morskim dnem in podzemljem ob teritorialnem morju, če lahko Slovenija nad takim morskim območjem, morskim dnem in podzemljem izvaja svoje suverene pravice in jurisdikcijo v skladu s svojo notranjo zakonodajo in mednarodnim pravom;
- d) izraz "oseba" vključuje posameznika, družbo in katero koli drugo telo, ki združuje več oseb;
- e) izraz "družba" pomeni katero koli korporacijo ali kateri koli subjekt, ki se za davčne namene obravnava kot korporacija;
- 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;

## 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, as well as taxes on capital appreciation.

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

- a) In the case of the Hellenic Republic:
  - i) the income and capital tax on natural persons;
  - ii) the income and capital tax on legal persons; (hereinafter referred to as "Hellenic tax").
- b) In the case of the Republic of 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").

4. The 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 significant changes, which have been made in their respective taxation laws.

CHAPTER II  
DEFINITIONS

## Article 3

## GENERAL DEFINITIONS

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

- a) the terms: "a Contracting State" and "the other Contracting State" mean the Hellenic Republic or the Republic of Slovenia as the context requires.
- b) the term "Hellenic Republic" comprises the territory of the Hellenic Republic and the part of the sea, the sea-bed and its subsoil under the Mediterranean Sea, over which the Hellenic Republic, in accordance with international law, has sovereign rights for the purpose of exploration, extraction or exploitation of the natural resources of such areas.
- c) the term "Slovenia" means the Republic of Slovenia and, when used in a geographical sense, means the territory of Slovenia, including the sea area, sea-bed and subsoil adjacent to the territorial sea, if Slovenia may exercise its sovereign rights and jurisdiction over such sea area, sea-bed and subsoil in accordance with its domestic legislation and international law.
- 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) 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) izraz "državljan" pomeni:

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

ii) katero koli pravno osebo, osebno družbo ali združenje, katerih status izhaja iz veljavne zakonodaje v državi pogodbenici;

h) izraz "mednarodni promet" pomeni kakršen koli prevoz z ladjo ali letalom, razen če ladja ali letalo opravlja prevoze samo med kraji v drugi državi pogodbenici;

i) izraz "pristojni organ" pomeni:

i) v Helenski republiki ministra za finance ali njegovega pooblaščenega predstavnika;

ii) v Republiki Sloveniji Ministrstvo za finance Republike Slovenije ali pooblaščenega predstavnika tega ministrstva.

2. Ko država pogodbenica uporablja konvencijo, ima kateri koli izraz, ki v njej ni opredeljen, razen če sobesedilo zahteva drugače, pomen, ki ga ima takrat po pravu te države za namene davkov, za katere se konvencija uporablja, pri čemer kateri koli pomen po veljavni davčni zakonodaji te države prevlada nad pomenom izraza po drugi zakonodaji te države.

#### 4. člen

##### REZIDENT

1. Za namene te konvencije izraz "rezident države pogodbenice" pomeni katero koli osebo, ki je po zakonodaji te države dolžna plačevati davke zaradi svojega stalnega prebivališča, prebivališča, sedeža uprave ali katerega koli drugega podobnega merila, in tudi vključuje to državo ali katero koli njeno politično enoto ali lokalno oblast. Ta izraz pa ne vključuje katere koli osebe, ki je dolžna plačevati davke v tej državi samo v zvezi z dohodki iz virov v tej državi ali premoženja v njej.

2. Kadar je zaradi določb prvega odstavka posameznik rezident obeh držav pogodbenic, se njegov status določi na naslednji način:

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

b) če ni mogoče opredeliti države, v kateri ima središče življenjskih interesov, ali če nima v nobeni od držav na razpolago stalnega prebivališča, se šteje samo za rezidenta države, v kateri ima običajno bivališče;

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

d) če je državljan obeh držav ali nobene od njiju, pristojna organa držav pogodbenic vprašanje rešita s skupnim dogovorom.

3. Kadar je zaradi določb prvega odstavka oseba, ki ni posameznik, rezident obeh držav pogodbenic, se šteje, da je samo rezident države pogodbenice, v kateri ima sedež dejanske uprave.

#### 5. člen

##### STALNA POSLOVNA ENOTA

1. Za namene te konvencije izraz "stalna poslovna enota" pomeni stalno mesto poslovanja, prek katerega v celoti ali delno potekajo posli podjetja.

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 or aircraft, except when the ship or aircraft is operated solely between places in a Contracting State;

i) the term "competent authority" means:

i) in the Hellenic Republic, the Minister of Finance or his authorized representative,

ii) in the Republic of Slovenia, the Ministry of Finance of the Republic of Slovenia or its 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 that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

#### 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, and also includes that State and any political subdivision or local authority thereof. This term, however, 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 only 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 (center of vital interests);

b) if the State in which he has his center 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 only 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 only 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 Contracting State in which its place of effective management is situated.

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

- a) sedež uprave,
- b) podružnico,
- c) pisarno,
- d) tovarno,
- e) delavnico in
- f) rudnik, nahajališča nafte ali plina, kamnolom ali kateri koli drug kraj pridobivanja naravnih virov.

3. Gradbišče ali projekt gradnje ali montaže je stalna poslovna enota samo, če traja več kot devet (9) mesecev.

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

a) uporabe prostorov samo za namen skladiščenja, razstavljanja ali dostave dobrin ali blaga, ki pripada podjetju;

b) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za namen skladiščenja, razstavljanja ali dostave;

c) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za namen predelave s strani drugega podjetja;

d) vzdrževanja stalnega mesta poslovanja samo za namen nakupa dobrin ali blaga za podjetje ali zbiranja informacij za podjetje;

e) vzdrževanja stalnega mesta poslovanja samo za namen opravljanja kakršne koli druge dejavnosti pripravljalne ali pomožne narave za podjetje;

f) vzdrževanja stalnega mesta poslovanja samo za kakršno koli kombinacijo dejavnosti, omenjenih v pododstavkih a) do e), pod pogojem, da je splošna dejavnost stalnega mesta poslovanja, ki je posledica te kombinacije, pripravljalne ali pomožne narave.

5. Ne glede na določbe prvega in drugega odstavka, kadar oseba – ki ni zastopnik z neodvisnim statusom, za katerega se uporablja šesti odstavek – deluje v imenu podjetja ter ima in običajno uporablja v državi pogodbenici pooblastilo za sklepanje pogodb v imenu podjetja, se za to podjetje šteje, da ima stalno poslovno enoto v tej državi v zvezi s katerimi koli dejavnostmi, ki jih ta oseba prevzame za podjetje, razen če so dejavnosti te osebe omejene na tiste iz četrtega odstavka, zaradi katerih se to stalno mesto poslovanja po določbah tega odstavka ne bi štelo za stalno poslovno enoto, če bi se opravljale prek stalnega mesta poslovanja.

6. Ne šteje se, da ima podjetje stalno poslovno enoto v državi pogodbenici samo zato, ker opravlja posle v tej državi prek posrednika, splošnega komisionarja ali katerega koli drugega zastopnika z neodvisnim statusom, pod pogojem, da te osebe delujejo v okviru svojega rednega poslovanja.

7. Dejstvo, da družba, ki je rezident države pogodbenice, nadzoruje družbo, ki je rezident druge države pogodbenice ali opravlja posle v tej drugi državi (prek stalne poslovne enote ali drugače) ali je pod nadzorom take družbe, samo po sebi še ne pomeni, da je ena od družb stalna poslovna enota druge.

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 wells, a quarry or any other place of extraction of natural resources.

3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than nine (9) months.

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 carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) to e), provided that the overall activity of the fixed place of business resulting from the 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. 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.



III. POGLAVJE  
OBDAVČEVANJE DOHODKA6. člen  
DOHODEK IZ NEPREMIČNIN

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

2. Izraz "nepremičnine" ima pomen, ki ga ima po pravu države pogodbenice, v kateri je ta nepremičnina. Izraz vedno vključuje premoženje, ki je sestavni del nepremičnin, živino in opremo, ki se uporablja v kmetijstvu in gozdarstvu, pravice, za katere veljajo določbe splošnega prava v zvezi z zemljiško lastnino, užitek na nepremičninah in pravice do spremenljivih ali stalnih plačil kot odškodnino za izkoriščanje ali pravico do izkoriščanja nahajališč rude, virov ter drugega naravnega bogastva; ladje, čolni in letala se ne štejejo za nepremičnine.

3. Določbe prvega odstavka se uporabljajo za dohodek, ki se ustvari z neposredno uporabo, dajanjem v najem ali katero koli drugo obliko uporabe nepremičnine.

4. Določbe prvega in tretjega odstavka se uporabljajo tudi za dohodek iz nepremičnin podjetja in dohodek iz nepremičnin, ki se uporabljajo 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 je prej omenjeno, se lahko dobiček podjetja obdavči v drugi državi, vendar samo toliko dobička, kot se pripiše tej stalni poslovni enoti.

2. Ob upoštevanju določb tretjega odstavka, kadar podjetje države pogodbenice posluje v drugi državi pogodbenici prek stalne poslovne enote v njej, se v vsaki državi pogodbenici tej stalni poslovni enoti pripiše dobiček, za katerega bi se lahko pričakovalo, da bi ga imela, če bi bila različno in ločeno podjetje, ki opravlja enake ali podobne dejavnosti pod istimi ali podobnimi pogoji ter povsem neodvisno posluje s podjetjem, katerega stalna poslovna enota je.

3. Pri določanju dobička stalne poslovne enote je dovoljeno odšteti stroške, ki nastanejo za namene stalne poslovne enote, vključno s poslovnimi in splošnimi upravnimi stroški, ki so tako nastali bodisi v državi, v kateri je stalna poslovna enota, ali drugje.

4. Če se v državi pogodbenici dobiček, ki se pripiše stalni poslovni enoti, običajno določi na podlagi porazdelitve vsega dobička podjetja na njegove dele, nič v drugem odstavku tej državi pogodbenici ne preprečuje določiti obdavčljivega dobička z običajno porazdelitvijo; sprejeta metoda porazdelitve pa mora biti taka, da je rezultat v skladu z načeli tega člena.

5. Stalni poslovni enoti se ne pripiše dobiček samo zato, ker nakupuje dobrine ali blago za podjetje.

CHAPTER III  
TAXATION OF INCOMEArticle 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. 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. Za namene prejšnjih odstavkov se dobiček, ki se pripiše stalni poslovni enoti, vsako leto določi po isti metodi, razen če obstaja upravičen in zadosten razlog za nasprotno.

7. Kadar dobiček vključuje dohodkovne postavke, ki so posebej obravnavane v drugih členih te konvencije, določbe tega člena ne vplivajo na določbe tistih členov.

## 8. člen

## LADIJSKI IN LETALSKI PREVOZ

1. Dobiček iz opravljanja ladijskih prevozov v mednarodnem prometu se obdavči samo v državi pogodbenici, v kateri so ladje registrirane ali ki je izdala dokumente zanje.

2. Dobiček iz opravljanja letalskih prevozov v mednarodnem prometu se obdavči samo v državi pogodbenici, v kateri je sedež dejanske uprave podjetja.

3. Določbe prvega in drugega odstavka se uporabljajo tudi za dobiček iz udeležbe v interesnem združenju (pool), mešanem podjetju ali mednarodni prevoznici agenciji.

## 9. člen

## POVEZANA PODJETJA

1. Kadar:

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

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

in v obeh primerih obstajajo ali se uvedejo med podjetjema v njunih komercialnih ali finančnih odnosih pogoji, drugačni od tistih, ki bi obstajali med neodvisnimi podjetji, se kakršen koli dobiček, ki bi prirastel enemu od podjetij, če takih pogojev ne bi bilo, vendar prav zaradi takih pogojev ni prirastel, lahko vključi v dobiček tega podjetja in ustrezno obdavči.

2. Kadar država pogodbenica v dobiček podjetja te države vključuje – in ustrezno obdavči – dobiček, za katerega je že bilo obdavčeno podjetje druge države pogodbenice v tej drugi državi, in je tako vključeni dobiček dobiček, ki bi prirastel podjetju prve omenjene države, če bi bili pogoji, ki obstajajo med podjetjema, taki, kot bi obstajali med neodvisnimi podjetji, ta druga država ustrezno prilagodi znesek davka, ki se v tej državi zaračuna od tega dobička. Pri določanju take prilagoditve je treba upoštevati druge določbe te konvencije, pristojna organa držav pogodbenic pa se po potrebi med seboj posvetujeta.

## 10. člen

## DIVIDENDE

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

2. Take dividende pa se lahko obdavčijo tudi v državi pogodbenici, katere rezident je družba, ki dividende plačuje, in v skladu z zakonodajo te države, če pa je prejemnik upravičen lastnik dividend, tako obračunani davek ne presega 10 odstotkov bruto zneska dividend.

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

## SHIPPING AND AIR TRANSPORT

1. Profits derived from the operation of ships engaged in international traffic shall be taxable only in the Contracting State in which the ships are registered or by which they are documented.

2. Profits derived from the operation of aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

3. The provisions of paragraph 1 and 2 shall also apply to profits 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 the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

## 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 recipient is the beneficial owner of the dividends the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.

Pristojna organa držav pogodbenic se sporazumno dogovorita o načinu uporabe te omejitve.

Ta odstavek ne vpliva na obdavčenje družbe v zvezi z dobičkom, iz katerega se plačajo dividende.

3. Izraz "dividende", kot je uporabljen v tem členu, pomeni dohodek iz delnic, "jouissance" delnic ali "jouissance" pravic, rudniških delnic, ustanoviteljskih delnic ali drugih pravic do udeležbe v dobičku, ki niso terjatve, in tudi dohodek iz drugih pravic v družbi, ki se davčno obravnava enako kot dohodek iz delnic po zakonodaji države, katere rezident je družba, ki dividende deli.

4. Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik dividend, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, katere rezident je družba, ki dividende plačuje, prek stalne poslovne enote v njej ali opravlja v tej drugi državi samostojne osebne storitve iz stalne baze v njej, ter je delež, v zvezi s katerim se dividende plačajo, dejansko povezan s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

5. Kadar dobiček ali dohodek družbe, ki je rezident države pogodbenice, izhaja iz druge države pogodbenice, ta druga država ne sme uvesti nobenega davka na dividende, ki jih plača družba, razen če se te dividende plačajo rezidentu te druge države ali če je delež, v zvezi s katerim se take dividende plačajo, dejansko povezan s stalno poslovno enoto ali stalno bazo v tej drugi državi, niti ne sme uvesti davka od nerazdeljenega dobička na nerazdeljeni dobiček družbe, tudi če so plačane dividende ali nerazdeljeni dobiček v celoti ali delno sestavljeni iz dobička ali dohodka, ki nastane v taki drugi državi.

#### 11. člen OBRESTI

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

2. Take obresti pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in v skladu z zakonodajo te države, če pa je prejemnik upravičeni lastnik obresti, tako zaračunani davek ne presega 10 odstotkov bruto zneska obresti. Pristojna organa držav pogodbenic se sporazumno dogovorita o načinu uporabe te omejitve.

3. Izraz "obresti", kot je uporabljen v tem členu, pomeni dohodek iz vseh vrst terjatev ne glede na to, ali so zavarovane s hipoteko, in ne glede na to, ali imajo pravico do udeležbe v dolžnikovem dobičku, in še posebej dohodek iz državnih vrednostnih papirjev ter dohodek iz obveznic ali zadolžnic, vključno s premijami in nagradami, ki pripadajo takim vrednostnim papirjem, obveznicam ali zadolžnicam, kakor tudi vsak dohodek, ki se po davčni zakonodaji države pogodbenice, v kateri takšen dohodek nastane, obravnava kot obresti. Kazni zaradi zamude pri plačilu se za namen tega člena ne štejejo za obresti.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

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, "jouissance" shares or "jouissance" rights, mining shares, founders' 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 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 undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

#### 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 recipient is the beneficial owner of the interest the tax so charged shall not exceed 10 per cent of the gross amount of the interest. The competent authorities of the Contracting State shall by mutual agreement settle the mode of application of this limitation.

3. 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 as well as any income that is treated as interest under the taxation law of the Contracting State in which such income arises. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

4. Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik obresti, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, v kateri obresti nastanejo, prek stalne poslovne enote v njej ali opravlja v tej drugi državi samostojne osebne storitve iz stalne baze v njej ter je terjatev, v zvezi s katero se obresti plačajo, dejansko povezana s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

5. Šteje se, da obresti nastanejo v državi pogodbenici, kadar je plačnik rezident te države. Kadar pa ima oseba, ki plačuje obresti, ne glede na to ali je rezident države pogodbenice, v državi pogodbenici stalno poslovno enoto ali stalno bazo, v zvezi s katero je nastala zadolžitev, za katero se plačajo obresti ter take obresti krije taka stalna poslovna enota ali stalna baza, se šteje, da take obresti nastanejo v državi, v kateri je stalna poslovna enota ali stalna baza.

6. Kadar zaradi posebnega odnosa med plačnikom in upravičenim lastnikom ali med njima in drugo osebo znesek obresti glede na terjatev, za katero se plačajo, presega znesek, za katerega bi se sporazumela plačnik in upravičeni lastnik, če takega odnosa ne bi bilo, se določbe tega člena uporabljajo samo za zadnji omenjeni znesek. V takem primeru se presežni del plačil še naprej obdavčuje v skladu z zakonodajo vsake države pogodbenice, pri čemer je treba upoštevati druge določbe te konvencije.

#### 12. člen

##### LICENČNINE IN AVTORSKI HONORARJI

1. Licenčnine in avtorski honorarji, ki nastanejo v državi pogodbenici in se plačajo rezidentu druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

2. Take licenčnine in avtorski honorarji pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in v skladu z zakonodajo te države, če pa je prejemnik upravičeni lastnik licenčnin in avtorskih honorarjev, tako zaračunani davek ne presega 10 odstotkov bruto zneska licenčnin in avtorskih honorarjev. Pristojna organa držav pogodbenic se sporazumno dogovorita o načinu uporabe te omejitve.

3. Izraz "licenčnine in avtorski honorarji", kot je uporabljen v tem členu, pomeni plačila vsake vrste, prejeta kot povračilo za uporabo ali pravico do uporabe kakršnih koli avtorskih pravic za literarno, umetniško ali znanstveno delo, vključno s kinematografskimi filmi in filmi ali trakovi za televizijsko ali radijsko predvajanje, katerega koli patenta, blagovne znamke, vzorca ali modela, načrta, tajne formule ali postopka ali za uporabo ali pravico do uporabe industrijske, komercialne ali znanstvene opreme ali za informacije o industrijskih, komercialnih ali znanstvenih izkušnjah.

4. Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik licenčnin in avtorskih honorarjev, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, v kateri licenčnine in avtorski honorarji nastanejo, prek stalne poslovne enote v njej ali v tej drugi državi opravlja samostojne osebne storitve iz stalne baze v njej ter je pravica ali premoženje, v zvezi s katerim se licenčnine in avtorski honorarji plačajo, dejansko povezano s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

4. 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.

5. Interest shall be deemed to arise in a Contracting State when the payer is 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.

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 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 payment shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

#### 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 recipient is the beneficial owner of the royalties 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 applications 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 for the use of, or the right to use, 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. Šteje se, da so licenčnine in avtorski honorarji nastali v državi pogodbenici, kadar je plačnik rezident te države. Kadar pa ima oseba, ki plačuje licenčnine in avtorske honorarje, ne glede na to, ali je rezident države pogodbenice, v državi pogodbenici stalno poslovno enoto ali stalno bazo, v zvezi s katero je nastala obveznost za plačilo licenčin in avtorskih honorarjev ter take licenčnine in avtorske honorarje krije taka stalna poslovna enota ali stalna baza, se šteje, da so take 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 njima in drugo osebo znesek licenčin in avtorskih honorarjev glede na uporabo, pravico ali informacijo, za katero se plačujejo, presega znesek, za katerega bi se sporazumela plačnik in upravičeni lastnik, če takega odnosa ne bi bilo, se določbe tega člena uporabljajo samo za zadnji omenjeni znesek. V takem primeru se presežni del plačil še naprej obdavčuje v skladu z zakonodajo vsake države pogodbenice, pri čemer je treba upoštevati druge določbe te konvencije.

### 13. člen

#### KAPITALSKI DOBIČEK

1. Dobiček, ki ga rezident države pogodbenice doseže z odtujitvijo nepremičnin, ki so omenjene v 6. členu in so v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

2. Dobiček iz odtujitve premičnin, ki so del poslovnega premoženja stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ali premičnin, ki se nanašajo na stalno bazo, ki jo ima rezident države pogodbenice na voljo v drugi državi pogodbenici za namen opravljanja samostojnih osebnih storitev, vključno z dobičkom iz odtujitve take stalne poslovne enote (same ali s celotnim podjetjem) ali take stalne baze, se lahko obdavči v tej drugi državi.

3. Dobiček iz odtujitve ladij ali letal, s katerimi se opravljajo prevozi v mednarodnem prometu, ali premičnin, ki se nanašajo na opravljanje prevozov s takimi ladjami ali letali, se obdavči samo v državi pogodbenici, v kateri se obdavči dobiček iz takih ladij ali letal v skladu z določbami 8. člena.

4. Dobiček iz odtujitve kakršnega koli premoženja, ki ni premoženje, navedeno v prvem, drugem in tretjem odstavku, se obdavči samo v državi pogodbenici, katere rezident je oseba, ki odtuji premoženje.

### 14. člen

#### SAMOSTOJNE OSEBNE STORITVE

1. Dohodek, ki ga dobi rezident države pogodbenice iz poklicnih storitev ali drugih samostojnih dejavnosti, se obdavči samo v tej državi, razen če ima stalno bazo, ki mu je redno na voljo v drugi državi pogodbenici za namen opravljanja njegovih dejavnosti. Če ima tako stalno bazo, se dohodek lahko obdavči v drugi državi, a samo toliko dohodka, kolikor se pripiše tej stalni bazi.

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

5. Royalties shall be deemed to arise in a Contracting State where the payer is 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 obligation to pay the royalties was incurred and the royalties are borne by that permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

5. 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. 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 a 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 or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which the profits of such ships or aircraft are taxable according to the provisions of Article 8.

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 unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

2. 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.

## 15. člen

## ODVISNE OSEBNE STORITVE

1. V skladu z določbami 16., 18., 19. in 20. člena se plače, mezde in drugi prejemki, ki jih dobi rezident države pogodbenice iz zaposlitve, obdavčijo samo v tej državi, razen če se zaposlitev izvaja v drugi državi pogodbenici. Če se zaposlitev izvaja tako, se lahko tako pridobljeni prejemki obdavčijo v tej drugi državi.

2. Ne glede na določbe prvega odstavka se prejemek, ki ga dobi rezident države pogodbenice iz zaposlitve, ki se izvaja v drugi državi pogodbenici, obdavči samo v prvi omenjeni državi, če:

a) je prejemnik navzoč v drugi državi v obdobju ali obdobjih, ki ne presegajo skupno 183 dni v katerem koli obdobju dvanajstih mesecev, ki se začne ali konča v zadevnem davčnem letu;

b) prejemek plača delodajalec, ki ni rezident druge države, oziroma se plača v njegovem imenu in

c) prejemka ne krije stalna poslovna enota ali stalna baza, ki jo ima delodajalec v drugi državi.

3. Ne glede na prejšnje določbe tega člena se prejemek, ki izhaja iz zaposlitve na ladji ali letalu, s katerim se opravljajo prevozi v mednarodnem prometu, lahko obdavči v državi pogodbenici, v kateri se v skladu z določbami 8. člena obdavči dobiček iz opravljanja ladijskih ali letalskih prevozov.

## 16. člen

## PLAČILA DIREKTORJEM

Plačila direktorjem in druga podobna plačila, ki jih dobi rezident države pogodbenice kot član upravnega odbora družbe, ki je rezident druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

## 17. člen

## UMETNIKI IN ŠPORTNIKI

1. Ne glede na določbe 14. in 15. člena se dohodek, ki ga dobi rezident države pogodbenice kot nastopajoči izvajalec, kot je gledališki, filmski, radijski ali televizijski umetnik ali glasbenik, ali kot športnik iz takšnih osebnih dejavnosti, ki jih izvaja v drugi državi pogodbenici, lahko obdavči v tej drugi državi.

2. Kadar dohodek iz osebnih dejavnosti, ki jih izvaja nastopajoči izvajalec ali športnik kot tak, ne priraste samemu nastopajočemu izvajalcu ali športniku, temveč drugi osebi, se ta dohodek kljub določbam 7., 14. in 15. člena lahko obdavči v državi pogodbenici, v kateri se izvajajo dejavnosti nastopajočega izvajalca ali športnika.

3. Ne glede na določbe prvega in drugega odstavka tega člena pa se dohodek, ki ga rezident države pogodbenice dobi iz osebnih storitev kot nastopajoči izvajalec ali športnik, obdavči samo v prvi omenjeni državi pogodbenici, če storitve v drugi državi pogodbenici izvaja v okviru programa kulturne ali športne izmenjave, ki ga odobrita državi pogodbenici.

## Article 15

## DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19 and 20, 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:

a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in a period of twelve months commencing or ending in the fiscal year concerned

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. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, may be taxed in the Contracting State in which the profits from the operation of the ship or aircraft are taxable according to the provisions of Article 8.

## 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 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. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, however, income derived from personal activities by a resident of a Contracting State in his capacity of a performer or sportsman shall be taxable only in the first-mentioned Contracting State if the activities have been performed in the other Contracting State within the scope of cultural or sports exchange program approved by both Contracting States.

18. člen  
POKOJNINE

V skladu z določbami drugega odstavka 19. člena se pokojnine in drugi podobni prejemki, ki se izplačujejo rezidentu države pogodbenice za preteklo zaposlitev, obdavčijo samo v tej državi.

19. člen  
DRŽAVNA SLUŽBA

1. a) Plače, mezde in drugi podobni prejemki razen pokojnin, ki jih plačuje država pogodbenica ali njena politična enota ali lokalna oblast posamezniku za storitve, ki jih opravi za to državo ali enoto ali oblast, se obdavčijo samo v tej državi.

b) Take plače, mezde in drugi podobni prejemki pa se obdavčijo samo v drugi državi pogodbenici, če se storitve opravljajo v tej državi in je posameznik rezident te države, ki:

- i) je državljan te države ali
- ii) ni postal rezident te države samo za namen opravljanja storitev.

2. a) Vsaka pokojnina, plačana iz skladov države pogodbenice ali njene politične enote ali lokalne oblasti posamezniku za storitve, opravljene za to državo ali enoto ali oblast, se obdavči samo v tej državi.

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

3. Določbe 15., 16., 17. in 18. člena se uporabljajo za plače, mezde in druge podobne prejemke ter za pokojnine za storitve, opravljene v zvezi s posli države pogodbenice ali njene politične enote ali lokalne oblasti.

20. člen  
PROFESORJI IN ŠTUDENTI

1. Prejemki, ki jih rezident države pogodbenice v obdobju, ki ne presega dve leti, prejema za študij ali raziskovanje na višji stopnji ali za poučevanje na univerzi, raziskovalni ustanovi ali drugi podobni ustanovi za visokošolsko ali višješolsko izobraževanje v drugi državi pogodbenici, se ne obdavčijo v tej drugi državi.

2. Plačila, ki jih študent ali pripravnik, ki je ali je bil tik pred obiskom države pogodbenice rezident druge države pogodbenice in je v prvi omenjeni državi pogodbenici navzoč samo z namenom svojega izobraževanja ali usposabljanja, prejme za svoje vzdrževanje, izobraževanje ali usposabljanje, se ne obdavčijo v tej državi pod pogojem, da taka plačila nastanejo iz virov zunaj te države.

3. Glede podpor, štipendij in prejemkov iz zaposlitve, ki niso zajeti v drugem odstavku tega člena, je študent ali pripravnik med takim izobraževanjem ali usposabljanjem za obdobje, ki ne presega pet obdavčljivih let od datuma prihoda v drugo državo pogodbenico, upravičen do enakih oprostitvev, olajšav ali znižanj za davke, kot jih imajo rezidenti države pogodbenice, v kateri je na obisku.

21. člen  
DRUGI DOHODKI

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

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 SERVICES

1. a) Salaries, wages and other similar 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 authority shall be taxable only in that State.

b) However, such salaries, wages and other similar 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, 17 and 18 shall apply to salaries, wages and other similar remuneration and to 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  
PROFESSORS AND STUDENTS

1. Remuneration which a resident of a Contracting State receives for undertaking study or research at a high level or for teaching, during a period not exceeding two years, at a university, research institute or other similar establishment for highest or higher education in the other Contracting State, shall not be taxable in that other State.

2. 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 Contracting 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.

3. In respect of grants, scholarships and remuneration from employment not covered by paragraph 2 of this Article, a student or business apprentice shall be entitled during such education or training for a period not exceeding 5 taxable years from the date of the arrival in the other Contracting State to the same exemptions, reliefs or reductions in respect of taxes as are available to the residents of the Contracting State he is visiting.

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. Določbe prvega odstavka se ne uporabljajo za dohodek, ki ni dohodek iz nepremičnin, kot so opredeljene v drugem odstavku 6. člena, če prejemnik takega dohodka, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici prek stalne poslovne enote v njej ali v tej drugi državi opravlja samostojne osebne storitve iz stalne baze v njej in je pravica ali premoženje, za katero se plača dohodek, dejansko povezano s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

#### IV. POGLAVJE OBDAVČEVANJE PREMOŽENJA

##### 22. člen PREMOŽENJE

1. Premoženje, ki ga predstavljajo nepremičnine iz 6. člena v lasti rezidenta države pogodbenice in so v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

2. Premoženje, ki ga predstavljajo premičnine, ki so del poslovnega premoženja stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ali premičnine v zvezi s stalno bazo, ki je na voljo rezidentu države pogodbenice v drugi državi pogodbenici za opravljanje samostojnih osebnih storitev, se lahko obdavči v tej drugi državi.

3. Premoženje, ki ga predstavljajo ladje ali letala, s katerimi se opravljajo prevozi v mednarodnem prometu, in premičnine v zvezi z opravljanjem prevozov s takimi ladjami in letali, se obdavči samo v državi pogodbenici, v kateri se obdavči dobiček iz teh ladij ali letal v skladu z določbami 8. člena.

4. Vsi drugi elementi premoženja rezidenta države pogodbenice se obdavčijo samo v tej državi.

#### V. POGLAVJE METODE ZA ODPRAVO DVOJNEGA OBDAVČEVANJA

##### 23. člen ODPRAVA DVOJNEGA OBDAVČEVANJA

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

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

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

Tak odbitek v nobenem primeru ne sme presežati tistega dela davka od dohodka ali premoženja, ki je bil izračunan pred odbitkom, pripisanim dohodku ali premoženju, odvisno od primera, ki se lahko obdavči v tej drugi državi.

2. Kadar je v skladu s katero koli določbo te konvencije dohodek, ki ga rezident Slovenije dobi, ali premoženje, ki ga ima v lasti, oproščeno davka v Sloveniji, lahko Slovenija pri izračunu davka od preostalega dohodka ali premoženja takega rezidenta vseeno upošteva oproščeni dohodek ali premoženje.

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.

#### CHAPTER IV TAXATION OF CAPITAL

##### 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 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 or aircraft operated in international traffic and by movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the profits from the aforesaid ships or aircraft are taxable according to the provisions of Article 8.

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

#### CHAPTER V METHODS FOR ELIMINATION OF DOUBLE TAXATION

##### 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 Slovenia is exempt from tax in Slovenia, Slovenia 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.



## 3. V Helenski republiki:

a) kadar družba, ki je rezident Slovenije, plača dividende rezidentu Helenske republike, se pri odbitku iz prvega odstavka upošteva (poleg davka, ki se odbije v skladu z določbami prvega odstavka) davek, ki ga družba plača od dobička, iz katerega se plačajo dividende;

b) kadar se v skladu s slovensko zakonodajo odobri oprostitev ali zmanjšanje davkov iz te konvencije zaradi spodbujanja gospodarskega razvoja v tej državi, se za davek, ki bi bil plačan, če take oprostitev ali zmanjšanja ne bi bilo, šteje, da je bil plačan za namene prvega odstavka.

VI. POGLAVJE  
POSEBNE DOLOČBE

## 24. člen

## ENAKO OBRAVNAVANJE

1. Državljanji države pogodbenice ne smejo biti v drugi državi pogodbenici zavezani kakršnemu koli obdavčevanju ali kakršni koli zahtevi v zvezi s tem, ki je drugačna ali bolj obremenjujoča, kot so ali so lahko obdavčevanje in s tem povezane zahteve za državljane te druge države v enakih okoliščinah, še zlasti glede rezidentstva. Te določbe se ne glede na določbe 1. člena uporabljajo tudi za osebe, ki niso rezidenti ene ali obeh držav pogodbenic.

2. Osebe brez državljanstva, ki so rezidenti države pogodbenice, v nobeni državi pogodbenici ne smejo biti zavezane kakršnemu koli obdavčevanju ali kakršni koli zahtevi v zvezi s tem, ki je drugačna ali bolj obremenjujoča, kot so ali so lahko obdavčevanje in s tem povezane zahteve za državljane te države v enakih okoliščinah.

3. Obdavčevanje stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ne sme biti manj ugodno v tej drugi državi, kot je obdavčevanje podjetij te druge države, ki opravljajo enake dejavnosti. Ta določba se ne razlaga, kot da zavezuje državo pogodbenico, da prizna rezidentom druge države pogodbenice kakršne koli osebne olajšave, druge olajšave in znižanja za davčne namene zaradi osebnega stanja ali družinskih obveznosti, ki jih priznava svojim rezidentom.

4. Razen kadar se uporabljajo določbe prvega odstavka 9. člena, šestega odstavka 11. člena ali šestega odstavka 12. člena, se obresti, licenčnine in avtorski honorarji ter druga izplačila, ki jih plača podjetje države pogodbenice rezidentu druge države pogodbenice, pri določanju obdavčljivega dobička takega podjetja odbijejo pod istimi pogoji, kot če bi bili plačani rezidentu prve omenjene države.

Podobno se tudi kakršni koli dolgovi podjetja države pogodbenice rezidentu druge države pogodbenice pri določanju obdavčljivega premoženja takega podjetja odbijejo pod istimi pogoji, kot če bi bili pogodbeno dogovorjeni z rezidentom prve omenjene države.

5. 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 kakršni koli zahtevi v zvezi s tem, ki je drugačna ali bolj obremenjujoča, kot so ali so lahko obdavčevanje in s tem povezane zahteve do drugih podobnih podjetij prve omenjene države.

6. Določbe tega člena se uporabljajo ne glede na določbe 2. člena za davke vseh vrst in opisov.

## 3. In the Hellenic Republic:

a) Where dividends paid by a company, which is a resident of Slovenia to a resident of the Hellenic Republic, the credit, in paragraph 1, shall take into account (in addition to any tax creditable under the provisions of paragraph 1) the tax payable by the company in respect of the profits out of which dividends are paid.

b) Where, in accordance with the law of Slovenia, an exemption from, or a reduction of taxes covered by this Convention is granted for the purpose of encouraging economic development in that State the tax which would have been paid but for such exemption or reduction shall be deemed to have been paid for the purposes of paragraph 1.

CHAPTER VI  
SPECIAL PROVISIONS

## 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. These provisions shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which national of the State concerned in the same circumstances are or may be subjected.

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

4. Except where the provisions of paragraph 1 of Article 9, paragraph 6 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 the 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.

5. 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 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 the first-mentioned State are or may be subjected.

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

## 25. člen

## POSTOPEK SKUPNEGA DOGOVORA

1. Kadar oseba meni, da imajo ali bodo imela dejanja ene ali obeh držav pogodbenic zanjo za posledico obdavčevanje, ki ni v skladu z določbami te konvencije, lahko ne glede na sredstva, ki ji jih omogoča domača zakonodaja teh držav, predloži zadevo pristojnemu organu države pogodbenice, katere rezident je, ali če se njen primer nanaša na prvi odstavek 24. člena, tiste države pogodbenice, katere državljan je. Zadeva mora biti predložena v treh letih od prvega uradnega obvestila o dejanju, ki je imelo za posledico obdavčevanje, ki ni v skladu z določbami te konvencije.

2. Pristojni organ si, če se mu zdi pritožba upravičena in če sam ne more priti do zadovoljive rešitve, prizadeva rešiti primer s skupnim dogovorom s pristojnim organom druge države pogodbenice z namenom izogniti se obdavčevanju, ki ni v skladu s konvencijo. Vsak dosežen dogovor se izvaja ne glede na roke v domači zakonodaji držav pogodbenic.

3. Pristojna organa držav pogodbenic si prizadevata s skupnim dogovorom razrešiti kakršne koli težave ali dvome, ki nastanejo pri razlagi ali uporabi konvencije. Prav tako se lahko medsebojno posvetujeta o odpravi dvojnega obdavčevanja v primerih, ki jih konvencija ne predvideva.

4. Pristojna organa držav pogodbenic lahko neposredno komunicirata med seboj, da bi dosegla dogovor v smislu prejšnjih odstavkov, vključno prek skupne komisije, ki jo sestavljata sama ali njuni predstavniki.

## 26. člen

## IZMENJAVA INFORMACIJ

1. Pristojna organa držav pogodbenic si izmenjavata take informacije, ki so potrebne za izvajanje določb te konvencije ali notranje zakonodaje držav pogodbenic glede davkov, za katere se uporablja ta konvencija, kolikor obdavčevanje na njihovi podlagi ni v nasprotju s konvencijo. Izmenjava informacij ni omejena s 1. členom. Vsaka informacija, ki jo prejme država pogodbenica, se obravnava kot tajnost na isti način kot informacije, pridobljene po notranji zakonodaji te države, in se razkrije samo osebam ali organom (vključno s sodišči in upravnimi organi), udeleženi pri odmeri ali pobiranju, izterjavi ali pregonu ali pri odločanju o pritožbah glede davkov, za katere se uporablja konvencija. Te osebe ali organi uporabljajo informacije samo v te namene. Informacije lahko razkrijejo na sodnih obravnavah ali pri sodnih odločitvah.

2. V nobenem primeru se določbe prvega odstavka ne razlagajo, kot da nalagajo državam pogodbenicama obveznost:

a) da izvajata upravne ukrepe, ki niso v skladu z zakonodajo in upravno prakso te ali druge države pogodbenice,

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

c) da priskrbita informacije, ki bi razkrile kakršno koli trgovinsko, poslovno, industrijsko, komercialno ali poklicno skrivnost ali trgovinske postopke, ali informacije, katerih razkritje bi bilo v nasprotju z javnim redom.

## 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 endeavor, 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 endeavor to resolve by mutual agreement any difficulties of 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, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

## Article 26

## EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary 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 a Contracting State the obligation:

a) to carry out administrative measures at variance with the laws and 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).

## 27. člen

ČLANI DIPLOMATSKIH PREDSTAVNIŠTEV IN  
KONZULATOV

Nič v tej konvenciji ne vpliva na davčne ugodnosti članov diplomatskih predstavništav ali konzulatov po splošnih pravilih mednarodnega prava ali določbah posebnih sporazumov.

VII. POGLAVJE  
KONČNE DOLOČBE

## 28. člen

## ZAČETEK VELJAVNOSTI

1. Ta konvencija se ratificira in listini o ratifikaciji se izmenjata, kakor hitro je to mogoče, v Ljubljani.

2. Konvencija začne veljati ob izmenjavi listin o ratifikaciji in njene določbe veljajo za dobljeni dohodek ali premoženje v lasti prvi dan januarja v koledarskem letu, ki sledi letu, v katerem začne veljati ta konvencija, ali po njem.

3. Z dnem začetka veljavnosti te konvencije med Helensko republiko in Republiko Slovenijo preneha veljati Sporazum med Socialistično federativno republiko Jugoslavijo in Kraljevino Grčijo o vzajemni oprostitvi davka od dohodka iz mednarodnega pomorskega in zračnega prometa, podpisan v Atenah 15. aprila 1967.

## 29. člen

## PRENEHANJE VELJAVNOSTI

Ta konvencija velja, dokler je država pogodbenica ne odpove. Katera koli država pogodbenica lahko konvencijo odpove po diplomatski poti s pisnim obvestilom o odpovedi tridesetega junija ali pred tem v katerem koli koledarskem letu po petih letih od datuma začetka veljavnosti konvencije. V takem primeru se konvencija preneha uporabljati za dobljeni dohodek ali za premoženje v lasti prvi dan januarja v koledarskem letu, ki sledi letu, v katerem je dano obvestilo, ali po njem.

V DOKAZ NAVEDENEGA sta pooblaščenca držav pogodbenic, ki sta bila za to pravilno pooblaščenca, podpisala to konvencijo.

SESTAVLJENO v dveh izvirkih v Atenah dne 5. junija 2001 v slovenskem, grškem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. V primeru razhajanj med besedili prevlada angleško besedilo.

Za Republiko Slovenijo  
**Renata Vitez** l.r.

Za Helensko republiko  
**Ioannis Zafirooulos** l.r.

## 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.

CHAPTER VII  
FINAL PROVISIONS

## Article 28

## ENTRY INTO FORCE

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Ljubljana as soon as possible.

2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect on income derived, or on capital owned, on or after the first day of January of the calendar year next following that in which the Convention enters into force.

3. The 'Agreement between the Kingdom of Greece and the Socialist Federal Republic of Yugoslavia for the mutual exemption from taxes on income derived from the operation of ships and aircraft in international traffic' signed at Athens on the 15<sup>th</sup> April 1967, shall cease to have effect in the relations between the Hellenic Republic and the Republic of Slovenia as from the date on which this Convention is effective.

## Article 29

## TERMINATION

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving written notice of termination on or before the thirtieth day of June in a calendar year after the fifth year from the date of entry into force of the Convention. In such event, the Convention shall cease to have effect on income derived, or on capital owned, on or after the first day of January of the calendar year next following that in which the notice is given.

IN WITNESS WHEREOF the Plenipotentiaries of the two Contracting States, duly authorized thereto, have signed this Convention.

DONE in duplicate in Athens on the 5<sup>th</sup> day of June 2001, in the Slovenian, Greek and English languages, all the texts being equally authentic. In case of divergence between any of the texts, the English text shall prevail.

For the Republic of Slovenia  
**Renata Vitez**, (s)

For the Hellenic Republic  
**Ioannis Zafirooulos**, (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. 432-01/02-19/1

Ljubljana, dne 28. februarja 2002

Predsednik  
Državnega zbora  
Republike Slovenije  
**Borut Pahor** l. r.

- Obvestilo o začetku veljavnosti mednarodne pogodbe

### **OBVESTILO o začetku veljavnosti mednarodne pogodbe**

Dne 25. januarja 2002 je začel veljati Sporazum med Vlado Republike Slovenije in Svetom ministrov Bosne in Hercegovine o sodelovanju v kulturi, izobraževanju in znanosti, sklenjen v Ljubljani dne 19. oktobra 1999 in objavljen v Uradnem listu Republike Slovenije - Mednarodne pogodbe, št. 17/00 (Uradni list Republike Slovenije, št. 69/00).

Ministrstvo  
za zunanje zadeve  
Republike Slovenije

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## **VSEBINA**

- |   |     |
|---|-----|
| 19. Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Kraljevino Španijo o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja s protokolom (BESIDO) | 285 |
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