

33. Zakon o ratifikaciji Sporazuma med Vlado Republike Slovenije in Vlado Republike Finske o mednarodnem cestnem prevozu potnikov in blaga (BFIMCP)

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 SPORAZUMA MED VLADO REPUBLIKE SLOVENIJE IN VLADO REPUBLIKE FINSKE O MEDNARODNEM CESTNEM PREVOZU POTNIKOV IN BLAGA (BFIMCP)

Razgllašam Zakon o ratifikaciji Sporazuma med Vlado Republike Slovenije in Vlado Republike Finske o mednarodnem cestnem prevozu potnikov in blaga (BFIMCP), ki ga je sprejel Državni zbor Republike Slovenije na seji 25. marca 2004.

Št. 001-22-26/04
Ljubljana, dne 2. aprila 2004

Predsednik
Republike Slovenije
dr. Janez Drnovšek l. r.

ZAKON

O RATIFIKACIJI SPORAZUMA MED VLADO REPUBLIKE SLOVENIJE IN VLADO REPUBLIKE FINSKE O MEDNARODNEM CESTNEM PREVOZU POTNIKOV IN BLAGA (BFIMCP)

1. člen

Ratificira se Sporazum med Vlado Republike Slovenije in Vlado Republike Finske o mednarodnem cestnem prevozu potnikov in blaga, podpisan 29. maja 2002 v Bukarešti.

2. člen

Besedilo sporazuma se v izvirniku v slovenskem in angleškem jeziku glasi:*

SPORAZUM

med Vlado Republike Slovenije in Vlado Republike Finske o mednarodnem cestnem prevozu potnikov in blaga

Vlada Republike Slovenije in Vlada Republike Finske, v nadaljnjem besedilu pogodbenici, sta se

v prizadevanju, da bi prispevali k razvoju trgovinskih in gospodarskih odnosov med državama,

odločeni, da v okviru tržnega gospodarstva spodbujata sodelovanje v cestnem prevozu

v skrbi za varstvo okolja in ljudi, racionalno uporabo energije, varnost na cesti in izboljšanje delovnih razmer voznikov,

z namenom, da bi se razvili različni načini prevoza,

AGREEMENT

between the Government of the Republic of Slovenia and the Government of the Republic of Finland on International Transport of Passengers and Goods by Road

The Government of the Republic of Slovenia and the Government of the Republic of Finland, hereinafter called the Contracting Parties:

Anxious to contribute to the development of trade and economic relations between their countries;

Determined to promote cooperation in road transport within the framework of the market economy;

Concerned about environment and people protection, the rational use of energy, road safety and the improvement of drivers' working conditions;

Aiming towards the development of transport intermodality;

* Besedilo sporazuma v finskem jeziku je na vpogled v Sektorju za mednarodnopravne zadeve Ministrstva za zunanje zadeve.

ob priznavanju medsebojne koristi in interesa sporazuma o cestnem prevozu
sporazumeli in odločili, kot sledi:

I. DEL – SPLOŠNE DOLOČBE

1. člen

Obseg

1. Ta sporazum se uporablja za cestni prevoz, ki ga opravljajo prevozniki, katerih sedež podjetja je na ozemlju pogodbenice, z vozili, registriranimi na tem ozemlju, pri čemer sta odhodni in namembni kraj na omenjenem ozemlju in gre za tranzit čez to ozemlje in čez ozemlje druge pogodbenice.

2. Ta sporazum ne vpliva na pravice in obveznosti, ki izhajajo iz drugih mednarodnih obvez obeh pogodbenic.

2. člen

Opredelitev pojmov

V tem sporazumu:

1. **"prevoznik"** pomeni vsako fizično ali pravno osebo, ki ima sedež na ozemlju ene od pogodbenic in je registrirana za opravljanje mednarodnega prevoza potnikov ali blaga;

2. **"vozilo"** pomeni motorno vozilo, ki je registrirano na ozemlju ene od pogodbenic in je po svoji konstrukciji in opre-
mi namenjeno za prevoz potnikov ali blaga;

3. **"prevoz"** pomeni vožnjo s polnim ali praznim vozilom, tudi če se vozilo, priklopnik ali polpriklopnik na delu potovanja prevaža z vlakom ali ladjo;

4. **"kabotaža"** pomeni prevoz potnikov ali blaga, ki ga prevoznik ene pogodbenice opravi med posameznimi kraji na ozemlju druge pogodbenice;

5. **"ozemlje pogodbenice"** pomeni ozemlje Republike Slovenije oziroma ozemlje Republike Finske;

6. **"država, v kateri je sedež podjetja"** pomeni ozemlje pogodbenice, na katerem ima prevoznik sedež svojega podjetja in na katerem je vozilo registrirano;

7. **"država gostiteljica"** pomeni ozemlje pogodbenice, po katerem prevoznik opravlja prevoz, ne da bi imel na njem registrirano vozilo in sedež svojega podjetja;

8. **"avtobus"** pomeni vozilo, ki je registrirano na ozemlju ene od pogodbenic in je po konstrukciji in opre-
mi primerno in namenjeno za prevoz potnikov in ima poleg voznikovega več kot osem sedežev;

9. **"linijski prevoz potnikov"** pomeni prevoz potnikov na določeni progi, ki se opravlja po vnaprej določenem in objavljenem voznem redu. Potniki vstopajo ali izstopajo na vnaprej določenih postajališčih;

10. **"občasni in izmenični prevoz"** pomeni prevoz, ki ni opredeljen kot linijski prevoz potnikov;

11. **"kontrolni dokument"** pomeni potniško spremnico za avtobuse, ki je v skladu z vzorcem, določenim v sporazumu ASOR.

II. DEL – PREVOZ POTNIKOV

3. člen

Linijski prevoz

1. Za linijske prevoze, ki se opravljajo z avtobusi, velja sistem dovoljenj, ki jih izda pristojni organ v državi odhoda, namembni državi in državi tranzita.

Recognising the mutual advantage and interest of an agreement on road transport;
Have agreed and decided as follows:

SECTION I – GENERAL PROVISIONS

Article 1

Scope

1. The present Agreement applies to road transport by transport operators established on the territory of a Contracting Party by means of vehicles registered on that territory with the points of departure and destination in the said territory and involving transit through that territory and through the territory of the other Contracting Party.

2. The present Agreement does not affect the rights and obligations arising from the other international commitments of the two Contracting Parties.

Article 2

Definitions

In this Agreement:

1. **"Transport Operator"** means any natural person or legal person established on the territory of one of the Contracting Parties and registered to carry out transport operations of passengers or goods.

2. **"Vehicle"** means a motor vehicle registered in the territory of one of the Contracting Parties and by virtue of its construction and equipment intended for the transport of passengers or goods.

3. **"Transport"** means the runs by a vehicle, either laden or unladen even if the vehicle, trailer or semi-trailer is carried by train or boat for part of the journey.

4. **"Cabotage"** means the transport of passengers or goods carried out by a transport operator of one Contracting Party between individual places within the territory of the other Contracting Party.

5. **"Territory of a Contracting Party"** means respectively the territory of the Republic of Slovenia and the territory of the Republic of Finland.

6. **"Country of establishment"** means the territory of a Contracting Party within which the transport operator is established and the vehicle registered.

7. **"Host country"** means the territory of a Contracting Party in which the transport operator is operating without its vehicle being registered there and without the transport operator being established there.

8. **"Bus"** means vehicle registered in the territory of one of the Contracting Parties and by virtue of construction and equipment suitable and intended for the transport of passengers, which have, in addition to the driver's seat, more than eight sitting places.

9. **"Regular passenger service"** means a service which carries passengers over a specified route, according to a timetable set and published in advance. Passengers are picked up or set down at predetermined stopping points.

10. **"Occasional and shuttle service"** means a service not falling within the definition of a regular passenger service.

11. **"Control document"** means the waybill for buses and coaches, conforming to the specimen laid down in ASOR Agreement.

SECTION II – PASSENGER TRANSPORT

Article 3

Regular services

1. Regular services operated by bus are subject to a system of authorisations issued by the competent authority in the country of departure, destination and transit.

2. Vlogo za dovoljenje je treba predložiti pristojnemu organu države, v kateri je sedež prevoznika.

3. Dovoljenja se izdajo na podlagi doseženega soglasja pristojnih organov pogodbenic.

Odločitev, da se dovoljenje odobri ali zavrne, se sprejme v treh mesecih, razen če ne gre za posebne okoliščine. Dovoljenja so veljavna največ pet let.

4. O spremembi pogojev opravljanja prevozov in njihovi ukinitvi se odloča po postopku, določenem v drugem in tretjem odstavku tega člena.

Če ni več povpraševanja po prevozihi, jih lahko prevoznik odpove s trimesečnim odpovednim rokom pristojnim organom, ki so dovoljenja izdali, in strankam.

4. člen

Občasni in izmenični prevoz

1. Za občasne prevoze, ki se opravljajo z avtobusi, velja sistem dovoljenj oziroma dovolilnic, ki jih izda pristojni organ v državi odhoda, namembni državi in državi tranzita.

2. Kot izjema k prvemu odstavku so spodaj navedeni prevozi oproščeni sistema dovoljenj oziroma dovolilnic na ozemlju države gostiteljice:

a) krožna vožnja zaprtih vrat, pri kateri isto vozilo prevaža isto skupino potnikov ves čas potovanja in jo tudi pripelje nazaj v odhodni kraj;

b) prevoz potnikov pri odhodu in s praznim vozilom pri vrnitvi;

c) prevoz s praznim vozilom pri odhodu in s polnim vozilom pri vrnitvi pod pogojem, da je potnike predhodno isti prevoznik pripeljal na ozemlje pogodbenice, kjer jih spet prevzame in odpelje na ozemlje države, v kateri ima svoj sedež.

3. Sprejemanje potnikov med potovanjem z liberaliziranim prevozom ni dovoljeno, razen če ni za to izdano posebno dovoljenje.

Skupni odbor, ustanovljen na podlagi 14. člena tega sporazuma, lahko dopolni vrste občnih in izmeničnih prevozov, za katere dovoljenja oziroma dovolilnice niso potrebne.

4. Vlogo za dovoljenje ali dovolilnico je treba predložiti pristojnemu organu države gostiteljice.

Skupni odbor, ustanovljen na podlagi 14. člena tega sporazuma, odloča o obliki vloge za dovoljenje ali dovolilnico in o dokumentih, ki ji morajo biti priloženi.

Odločitev, da se dovoljenje ali dovolilnica odobri ali zavrne, se sprejme v enem mesecu, razen če ne gre za posebne okoliščine.

5. Za občasne in izmenične prevoze, ki so oproščeni dovoljenj oziroma dovolilnic in se opravljajo z avtobusi, je potreben kontrolni dokument. Pogoje za uporabo in vsebino kontrolnega dokumenta določi skupni odbor, naveden v 14. členu tega sporazuma.

5. člen

Skupne določbe za prevoz potnikov

1. Dovoljenja in dovolilnice niso prenosljivi na druge prevoznike.

2. Opravljanje kabotaže je prepovedano. Lokalni izleti, organizirani izključno za skupino potnikov, ki jih v ta kraj pripelje isti prevoznik, se ne štejejo za kabotažo pod pogojem, da so vpisani na potniški spremnici in jih odobri pristojni organ.

2. The authorisation application should be made to the competent authority in the country of establishment of the transport operator.

3. Authorisations are issued by joint agreement by the competent authorities of the Contracting Parties.

The decision to grant or refuse an authorisation is taken within a period of three months unless there are special circumstances. Authorisations are valid for a maximum of five years.

4. Changes in operating conditions and the cancellation of the service are decided under the procedure set out in paragraphs 2 and 3.

If there is no longer any demand for the service, the operator can cancel it giving three months notice to the competent authorities which issued the authorisations and to customers.

Article 4

Occasional and shuttle services

1. The occasional services and the shuttle services operated by buses are subject to a system of authorisations or permits issued by the competent authority in the country of departure, destination and transit.

2. As an exception to paragraph 1, the services listed below are exempt from any authorisation or permit system on the territory of the host country:

a) closed-door tours whereby the same vehicle is used to carry the same group of passengers throughout the journey and to bring them back to the place of departure;

b) services which make the outward journey laden and the return journey unladen;

c) services which make the outward journey unladen and the return journey laden, provided that passengers have been previously brought by the same carrier into the territory of the Contracting Party where they are picked up again and carried into the territory of the country of establishment.

3. The picking up of passengers on a liberalised service journey is not permitted unless special authorisation is granted.

The Joint Committee set up under Article 14 hereof may extend the authorisation or permit exemption to other categories of occasional services and shuttle services.

4. The authorisation or permit application should be made to the competent authority in the host country.

The Joint Committee set up under Article 14 hereof decides on the form that the authorisation or permit application takes and the supporting documents required.

The decision to grant or refuse an authorisation or a permit is taken within a period of one month unless there are special circumstances.

5. The occasional services and shuttles exempted from authorisation or permit requirements and operated using buses must be covered by a control document. The conditions of use and the content of the control document are laid down by the Joint Committee referred to in Article 14 hereof.

Article 5

Provisions common to passenger services

1. Authorisations and permits are not transferable to other transport operators.

2. The running of cabotage services is prohibited. Local trips organised solely for a group of passengers brought to that location by the same transport operator are not deemed to be cabotage services provided that they are entered on the waybill and approved by the competent authority.

III. DEL – PREVOZ BLAGA

6. člen

Sistem dovolilnic

1. Prevozniki, katerih sedež podjetja je na ozemlju pogodbenice, lahko na podlagi sistema dovolilnic na ozemlju druge pogodbenice opravljajo:

- a) prevoz med ozemljema pogodbenic in tranzitni prevoz čez njuni ozemlja;
- b) prevoz med krajem na ozemlju druge pogodbenice in krajem na ozemlju tretje države.

2. Kabotaža je dovoljena le s posebnim dovoljenjem.

7. člen

Prevozi, za katere dovolilnice niso potrebne

1. Ne glede na določbe 6. člena so naslednje vrste prevozov oproščene dovolilnic:

a) prevoz z vozili, katerih skupna dovoljena masa vključno s priklopniki ne presega 3,5 tone,

b) prevoz poškodovanih ali pokvarjenih vozil in prevoz servisnih vozil,

c) vožnje praznega tovornega vozila, poslanega kot zamenjava za vozilo, ki se je pokvarilo v drugi državi, in po popravilu tudi povratna vožnja vozila, ki se je pokvarilo,

d) prevoz rezervnih delov ter hrane in potrebščin za čezoceanske ladje in letala,

e) prevoz medicinskih potrebščin in opreme za nujne primere, še zlasti ob naravnih nesrečah in človekoljubnih potrebah,

f) prevoz umetniških del in predmetov za sejme in razstave ali za nekomercialne namene,

g) prevoz gledaliških rekvizitov, pripomočkov in živali na gledališke, glasbene, filmske, športne ali cirkuške predstave, sejme ali praznovanja ter z njih v nekomercialne namene in tistih, ki so namenjeni za radijska snemanja ali filmsko ali televizijsko produkcijo,

h) selitveni prevoz, ki ga opravlja podjetje s posebno opremo in osebjem v ta namen,

i) prevoz posmrtnih ostankov.

2. Pristojna organa obeh pogodbenic, lahko sporazumno razširita ali skrajšata seznam vrst prevoza, za katere dovolilnice niso potrebne.

8. člen

Skupne določbe za prevoz blaga

1. Pristojna organa pogodbenic si vsako leto izmenjata dogovorjeno število dovolilnic.

Dovolilnice za prevoz blaga veljajo 13 mesecev od začetka vsakega koledarskega leta.

2. Dovolilnice niso prenosljive.

3. Dovolilnica se lahko hkrati uporablja le za eno vozilo. Če gre za kombinacijo vozil, je motorno vozilo odločilni dejavnik pri izdaji ali oprostitvi dovolilnice.

4. Skupni odbor, naveden v 14. členu tega sporazuma, določi kvoto in druge pogoje za uporabo dovolilnic v različne namene.

5. Opravljanje kabotaže je prepovedano, razen če pristojni organ za to ne izda posebnega dovoljenja.

SECTION III – GOODS TRANSPORT

Article 6

Permit system

1. Transport operators established on the territory of a Contracting Party may, under the system of permits, undertake on the territory of the other Contracting Party:

- a) transport between the territories of the two Contracting Parties and transit through their territories;
- b) transport between a point on the territory of the other Contracting Party and a point on the territory of a third State.

2. Cabotage is only permitted with the special authorisation.

Article 7

Exemption from permit requirements

1. As an exception to Article 6, the following categories of transport are exempted from permit requirements:

a) Transport by vehicles whose Total Permissible Laden Weight [TPLW], including trailers, does not exceed 3,5 tonnes.

b) Transport of vehicles which are damaged or have broken down and the transport of breakdown repair vehicles.

c) Unladen runs by a goods vehicle sent to replace a vehicle which has broken down in another country, and also the return run, after repair, of the vehicle that had broken down.

d) Transport of spare parts and provisions for ocean-going ships and aircrafts.

e) Transport of medical supplies and equipment needed for emergencies, more particularly in response to natural disasters and humanitarian needs.

f) Transport of works and objects of art for fairs and exhibitions or for non-commercial purposes.

g) Transport for non-commercial purposes of properties, accessories and animals to or from theatrical, musical, film, sports or circus performances, fairs or fetes, and those intended for radio recordings, or for film or television production.

h) Removals carried out by enterprises with special staff and equipment for this purpose.

i) Funeral transport.

2. The competent authorities of the two Contracting Parties may add to, or remove from, the list of transport categories exempted from the permit requirements.

Article 8

Common provisions for goods transport

1. The competent authorities of the two Contracting Parties exchange an agreed number of permits every year.

Permits for the transport of goods are valid 13 months from the beginning of each calendar year.

2. Permits are not transferable.

3. Permits can only be used for one vehicle at a time. In the case of combinations of vehicles, the motor vehicle is the determining factor in permit issue or exemption.

4. The Joint Committee referred to in Article 14 hereof determines the quota and any further conditions governing permits for different uses.

5. The running of cabotage services is prohibited except where specially authorised by the competent authority.

IV. DEL – SKUPNE DOLOČBE

9. člen

Davčne določbe

1. Prevoz z vozili, registriranimi na ozemlju ene pogodbenice, ki se začasno opravlja na ozemlju druge pogodbenice po določbah tega sporazuma, je na podlagi vzajemnosti oproščen plačila cestnih pristojbin in vseh drugih davkov v zvezi z lastništvom, registracijo in upravljanjem vozil kakor tudi posebnih davkov na prevozne storitve.

2. Gorivo, ki je v serijsko vgrajenih standardnih rezervoarjih vozila in je namenjeno pogonu vozila, ter maziva in rezervni deli so na ozemlju države gostiteljice oproščeni vseh uvoznih carin pod pogojem, da prevoznik upošteva ustrezne carinske predpise.

3. Za prevoz, za katerega veljajo določbe tega sporazuma, se v državi gostiteljici plačujejo cestnine in druge dajatve za uporabo cestnega omrežja ali mostov. Cestnine in druge pristojbine se prevoznikom obeh pogodbenic zaračunavajo brez razlikovanja.

10. člen

Masa in dimenzije

1. Največja dovoljena masa, osne obremenitve in dimenzije vozila ne smejo preseči tistih, ki so vpisane v registracijskem dokumentu vozila, in ne zgornjih meja, veljavnih v državi gostiteljici.

2. Pri prekoračitvah dovoljenih mas in dimenzij je v državi gostiteljici možno opraviti tak prevoz le s posebnim dovoljenjem, za katerega je treba zaprositi pred začetkom opravljanja prevoza.

11. člen

Oprema in druge značilnosti

1. Vozila za prevoz nevarnega ali pokvarljivega blaga morajo biti opremljena v skladu z zahtevami konvencij ADR in ATP.

2. Oprema, ki je v vozilih nameščena za spremljanje in nadzorovanje časa vožnje in časa počitka posadke, mora biti v skladu z določbami sporazuma AETR.

3. Pogodbenici se zavezuje, da bosta v okviru tega sporazuma spodbujali uporabo vozil, ki izpolnjujejo stroge varnostne in ekološke standarde.

4. Skupni odbor, naveden v 14. členu tega sporazuma, lahko pri odločanju o kvotah in prihodnji liberalizaciji ugodneje obravnava vozila, ki izpolnjujejo najsodobnejše varnostne in ekološke standarde.

12. člen

Nadzor

Dovolilnice, dovoljenja, kontrolne in druge dokumente po tem sporazumu kakor tudi vse druge dokumente, ki se zahtevajo na podlagi mnogostranskih ali dvostranskih sporazumov ali po notranjem pravu, morajo biti v vozilu in jih je treba pokazati na zahtevo nadzornega organa države gostiteljice.

13. člen

Obveznosti prevoznikov in kršitve

1. Prevozniki ene pogodbenice in posadke njihovih vozil morajo na ozemlju druge pogodbenice spoštovati veljavne zakone in predpise te države.

SECTION IV – COMMON PROVISIONS

Article 9

Tax provisions

1. Transport by means of vehicles registered on the territory of a Contracting Party temporarily operating on the territory of the other Contracting Party under the terms of this Agreement are on a mutual basis exempted from payment of road user charges and all other taxes related to the ownership, registration and running of the vehicle as well as special taxes on transport services.

2. The fuel contained in the normal, by the manufacturer built-in fixed tanks of the vehicle intended to drive the vehicle, as well as lubricants and spares are exempt from all import duty in the territory of the host country provided that the transport operator complies with the relevant customs regulations.

3. The transport covered by the terms of this Agreement is subject in the host country to the tolls and other duties levied for the use of the road network or bridges. The tolls and other charges are levied on transport operators of both Contracting Parties indiscriminately.

Article 10

Weights and dimensions

1. The permissible maximum weight, axle weight and dimensions of vehicles must not exceed those entered in the registration documents nor the upper limits in force in the host country.

2. The use in the host country of vehicles whose weight and dimensions exceed the permissible upper limits is permitted only with a special authorisation applied for in advance.

Article 11

Equipment and other characteristics

1. Vehicles carrying dangerous goods or perishable goods must be fitted out and equipped in accordance with the requirements of the ADR and ATP Conventions.

2. Equipment used to monitor crew driving and rest time on vehicles must comply with the provisions of the AETR Agreement.

3. The Contracting Parties undertake to promote, within the framework of this Agreement, the use of vehicles meeting stringent safety and emission standards.

4. The Joint Committee referred to in Article 14 can, when deciding on quotas and future liberalisation, give more favourable treatment to vehicles that meet the most modern safety and emission standards.

Article 12

Control

The permits, authorisations, control documents and other papers under this Agreement, as well as the other papers required under multilateral or bilateral agreements or under national law, must be kept in vehicles and be produced at the request of control officials.

Article 13

Obligations of transport operators and infringements

1. The transport operators of a Contracting Party and the crews of their vehicles must, when on the territory of the other Contracting Party, comply with the laws and regulations in force in that country.

2. Če prevoznik ene pogodbenice krši določbe tega sporazuma, pogodbenica, na ozemlju katere je bila storjena kršitev, brez vpliva na svoje lastne pravne postopke uradno obvesti drugo pogodbenico, ki bo ukrepala v skladu s svojimi notranjimi zakoni. V posebej hudih primerih lahko pristojni organ države gostiteljice začasno prepove vstop, dokler ne sprejme odločitve pristojni organ v državi, kjer ima prevoznik sedež podjetja. Pogodbenici druga drugo obveščata o sprejetih odločitvah.

14. člen**Sodelovanje in skupni odbor**

1. Pristojna organa pogodbenic ukreneta vse potrebno za izvajanje in uporabo tega sporazuma in si izmenjujeta vse koristne informacije. Medsebojno se tudi obveščata o vsaki spremembi v notranji zakonodaji, ki bi vplivala na uporabo tega sporazuma.

Pristojna organa si medsebojno pomagata pri izvajanju tega sporazuma.

2. Za izvajanje tega sporazuma in reševanje vprašanj v zvezi s tem sporazumom pogodbenici ustanovita skupni odbor.

V. DEL – KONČNE DOLOČBE**15. člen****Začetek veljavnosti in trajanje sporazuma**

1. Ta sporazum začne veljati trideseti dan po tem, ko se pogodbenici medsebojno uradno obvestita o tem, da so izpolnjene notranjepravne zahteve za začetek veljavnosti mednarodnih sporazumov.

Sporazum se začasno uporablja od dneva podpisa.

2. Ta sporazum velja za nedoločen čas; ena ali druga pogodbenica ga lahko odpove s pisnim obvestilom. Odpoved začne veljati tri mesece po dnevu, ko druga pogodbenica prejme obvestilo.

V dokaz tega sta podpisana, ki sta ju za to pravilno pooblastili njuni vladi, podpisala ta sporazum.

Sestavljeno v dveh izvirnikih v Bukarešti dne 29. maja 2002, vsak v slovenskem, finskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna in enako pravno veljavna. Pri razlikah v razlagi prevlada angleško besedilo.

ZA VLADO
REPUBLIKE SLOVENIJE
Jakob Presečnik l. r.

ZA VLADO
REPUBLIKE FINSKE
Kimmo Sasi l. r.

2. In the event of any infringement of the provisions of this Agreement by a transport operator of a Contracting Party, the Contracting Party on whose territory the infringement occurred shall, without prejudice to its own legal proceedings, notify the other Contracting Party which will take such steps as are provided for by its national laws. In particularly serious cases, the competent authority of the host country may temporarily prohibit entry pending a decision by the competent authority in the country of establishment. The Contracting Parties shall keep each other mutually informed on decisions taken.

Article 14**Cooperation and Joint Committee**

1. The competent authorities of the Contracting Parties shall take the necessary steps to implement and apply this Agreement and pass on any useful information to each other. The competent authorities shall also keep each other mutually informed of any change in national law affecting the application hereof.

The competent authorities shall afford each other mutual assistance for the purpose of implementing of this Agreement.

2. A Joint Committee shall be set up by the Contracting Parties for the purpose of the implementation of this Agreement and to handle the issues related to this Agreement.

SECTION V – FINAL PROVISIONS**Article 15****Entry into force and length of the Agreement**

1. This Agreement shall enter into force on the 30th day after the Contracting Parties have notified each other that the constitutional requirements pertaining to the entry into force of international agreements have been fulfilled.

This Agreement shall be used provisionally as from the date of the signature.

2. This Agreement shall remain in force for an indefinite period of time; either Contracting Party may cancel it by written notice. It shall terminate three months after the date of receipt of notice by the other Contracting Party.

In witness whereof the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

Done in two originals at Bucharest on 29th May 2002 each in the Slovene, the Finnish and the English languages, each texts being equally authentic and has equal legal force. In case of divergence of interpretation the English text shall prevail.

For the Government
of the Republic of Slovenia
Jakob Presečnik (s)

For the Government
of the Republic of Finland
Kimmo Sasi (s)

3. člen

Za izvajanje tega sporazuma skrbi Ministrstvo za promet.

4. člen

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

Št. 326-07/04-36/1
Ljubljana, dne 25. marca 2004
EPA 1125-III

Predsednik
Državnega zbora
Republike Slovenije
Borut Pahor l. r.

34. Zakon o ratifikaciji Sporazuma med Republiko Slovenijo in Republiko Finsko o izogibanju dvojnega obdavčevanja v zvezi z davki od dohodka (BFIIDO)

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 SPORAZUMA MED REPUBLIKO SLOVENIJO IN REPUBLIKO FINSKO O IZOGIBANJU DVOJNEGA OBDAVČEVANJA V ZVEZI Z DAVKI OD DOHODKA (BFIIDO)**

Razgllašam Zakon o ratifikaciji Sporazuma med Republiko Slovenijo in Republiko Finsko o izogibanju dvojnega obdavčevanja v zvezi z davki od dohodka (BFIIDO), ki ga je sprejel Državni zbor Republike Slovenije na seji 25. marca 2004.

Št. 001-22-30/04

Ljubljana, dne 2. aprila 2004

Predsednik
Republike Slovenije
dr. Janez Drnovšek l. r.

ZAKON**O RATIFIKACIJI SPORAZUMA MED REPUBLIKO SLOVENIJO IN REPUBLIKO FINSKO O IZOGIBANJU DVOJNEGA OBDAVČEVANJA V ZVEZI Z DAVKI OD DOHODKA (BFIIDO)****1. člen**

Ratificira se Sporazum med Republiko Slovenijo in Republiko Finsko o izogibanju dvojnega obdavčevanja v zvezi z davki od dohodka, podpisan v Helsinkih 19. septembra 2003.

2. člen

Besedilo sporazuma se v izvirniku v slovenskem in angleškem jeziku glasi:*

S P O R A Z U M**MED REPUBLIKO SLOVENIJO IN
REPUBLIKO FINSKO
O IZOGIBANJU DVOJNEGA OBDAVČEVANJA V
ZVEZI Z DAVKI OD DOHODKA**

Vlada Republike Slovenije in Vlada Republike Finske sta se
v želji, da bi sklenili sporazum o izogibanju dvojnega obdavčevanja v zvezi z davki od dohodka, sporazumeli:

1. člen***Osebe, za katere se uporablja sporazum***

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

2. člen***Davki, za katere se uporablja sporazum***

1. Ta sporazum se uporablja za davke od dohodka, 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 se štejejo vsi davki, uvedeni na celoten dohodek ali na sestavine dohodka, vključno z davki od dobička iz odtujitve premičnin ali nepremičnin, davki od celotnega zneska mezd ali plač, ki jih plačujejo podjetja, ter davki od zvišanja vrednosti kapitala.

A G R E E M E N T**BETWEEN THE REPUBLIC OF SLOVENIA
AND THE REPUBLIC OF FINLAND FOR THE
AVOIDANCE OF DOUBLE TAXATION WITH
RESPECT TO TAXES ON INCOME**

The Government of the Republic of Slovenia and the Government of the Republic of Finland,
Desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income,
Have agreed as follows:

Article 1***Persons covered***

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

Article 2***Taxes covered***

1. This Agreement shall apply to taxes on income 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 all taxes imposed on total income or on elements of income, 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 sporazuma v finskem jeziku je na vpogled v Sektorju za mednarodnopravne zadeve Ministrstva za zunanje zadeve.

3. Obstoječi davki, za katere se uporablja sporazum, so:

a) v Sloveniji:

i) davek od dobička pravnih oseb in

ii) davek od dohodka posameznikov, vključno z mezdami in plačami, dohodkom iz kmetijskih dejavnosti, dohodkom iz poslovanja, dobičkom iz kapitala in dohodkom iz nepremičnin in premičnin

(v nadaljevanju "slovenski davek");

b) na Finskem:

i) državni davek od dohodka;

ii) davek od dobička pravnih oseb;

iii) lokalni davek;

iv) cerkveni davek;

v) davek od obresti, odtegnjen pri viru, in

vi) davek od dohodka nerezidentov, odtegnjen pri viru,

(v nadaljevanju "finski davek").

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

3. člen

Splošna opredelitev izrazov

V tem sporazumu, razen če sobesedilo ne zahteva drugače:

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

b) izraz "Finska" pomeni Republiko Finsko, in ko se uporablja v zemljepisnem smislu, pomeni njeno ozemlje in vsako območje ob njenih teritorialnih vodah, na katerem lahko v skladu s svojo zakonodajo in mednarodnim pravom izvaja svoje pravice v zvezi z iskanjem in izkoriščanjem naravnih virov morskega dna in njegovega podzemlja ter voda nad njima;

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) izraz »podjetje« se uporablja za opravljanje kakršne koli dejavnosti;

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

g) izraz "državljan" pomeni:

i) posameznika, ki ima državljanstvo države pogodbenice;

ii) pravno osebo, osebno družbo ali združenje, katerega status izhaja iz veljavne zakonodaje države pogodbenice;

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

i) izraz "pristojni organ" pomeni:

i) v Sloveniji Ministrstvo za finance ali pooblaščenega predstavnika tega ministrstva;

ii) na Finskem Ministrstvo za finance, pooblaščenega predstavnika tega ministrstva ali organ, ki ga Ministrstvo za finance imenuje za pristojni organ;

3. The existing taxes to which the Agreement shall apply are:

a) in Slovenia:

(i) the tax on profits of legal persons; and

(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;

(hereinafter referred to as »Slovenian tax«);

b) in Finland:

(i) the state income taxes;

(ii) the corporate income tax;

(iii) the communal tax;

(iv) the church tax;

(v) the tax withheld at source from interest; and

(vi) the tax withheld at source from non-residents' income;

(hereinafter referred to as »Finnish tax«).

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

Article 3

General definitions

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

a) the term »Slovenia« means the Republic of Slovenia and, when used in a geographical sense, the territory of Slovenia, including the sea area, sea bed and sub-soil adjacent to the territorial sea, over which Slovenia may exercise its sovereign rights and jurisdiction in accordance with its domestic legislation and international law;

b) the term »Finland« means the Republic of Finland and, when used in a geographical sense, its territory, and any area adjacent to its territorial waters within which, under its laws and in accordance with international law, its rights with respect to the exploration for and exploitation of the natural resources of the sea bed and its sub-soil and of the superjacent waters may be exercised;

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 that is treated as a body corporate for tax purposes;

e) the term "enterprise" applies to the carrying on of any business;

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

g) the term »national« means:

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

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

h) the term »international traffic« means any transport by a ship 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;

i) the term »competent authority« means:

(i) in Slovenia, the Ministry of Finance or its authorised representative;

(ii) in Finland, the Ministry of Finance, its authorised representative or the authority which, by the Ministry of Finance, is designated as competent authority;

j) izraz »dejavnost« vključuje opravljanje poklicnih storitev in drugih samostojnih dejavnosti.

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

4. člen

Rezidentstvo

1. V tem sporazumu izraz »rezident države pogodbenice« pomeni osebo, ki je po zakonodaji te države dolžna plačevati davke zaradi svojega stalnega prebivališča, prebivališča, sedeža uprave, kraja ustanovitve (registracije) ali katerega koli drugega podobnega merila, in vključuje tudi to državo in katero koli njeno politično enoto, nosilca javnega pooblastila ali lokalno oblast. Ta izraz pa ne vključuje osebe, ki je dolžna plačevati davke v tej državi samo v zvezi z dohodkom iz virov v tej državi.

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

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, pristojna organa držav pogodbenic vprašanje rešita s skupnim dogovorom in določita način uporabe sporazuma za tako osebo.

5. člen

Stalna poslovna enota

1. V tem sporazumu 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 se šteje za stalno poslovno enoto samo, če traja več kot dvanajst mesecev.

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

j) the term "business" includes the performance of professional services and of other activities of an independent character.

2. As regards the application of the Agreement 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 Agreement 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

Residence

1. For the purposes of this Agreement, 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, place of incorporation (registration) or any other criterion of a similar nature, and also includes that State, and any political subdivision, statutory body 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.

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, the competent authorities of the Contracting States shall settle the question by mutual agreement and determine the mode of application of the Agreement to such person.

Article 5

Permanent establishment

1. For the purposes of this Agreement, 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 skladiščenje, razstavljanje ali dostavo dobrin ali blaga, ki pripada podjetju;

b) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za skladiščenje, razstavljanje ali dostavo;

c) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za predelavo, ki jo opravi drugo podjetje;

d) vzdrževanja stalnega mesta poslovanja samo za nakup dobrin ali blaga za podjetje ali zbiranje informacij za podjetje;

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

f) vzdrževanja stalnega mesta poslovanja samo za kakršno koli kombinacijo dejavnosti, omenjenih v pododstavkih a) do e), če je splošna dejavnost stalnega mesta poslovanja, ki je posledica te kombinacije, pripravljalna ali pomožna.

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 z dejavnostmi, ki jih ta oseba prevzame za podjetje, razen če dejavnosti te osebe niso 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, če 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. a) Ob upoštevanju določb pododstavkov b) in c) ima izraz "nepremičnine" pomen, ki ga ima po zakonodaji države pogodbenice, v kateri je zadevna nepremičnina.

b) Izraz "nepremičnine" vedno vključuje stavbe, premoženje, ki je sestavni del nepremičnin, živino in opremo, ki se uporablja v kmetijstvu in gozdarstvu, pravice, za katere se uporabljajo 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.

c) Ladje 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 sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

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

6. 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. a) The term »immovable property« shall, subject to the provisions of sub-paragraphs b) and c), have the meaning which it has under the law of the Contracting State in which the property in question is situated.

b) The term »immovable property« shall in any case include buildings, 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.

c) Ships 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. Kadar ima zaradi lastništva delnic ali drugih korporacijskih pravic lastnik takih delnic ali korporacijskih pravic pravico do uživanja nepremičnin družbe, se lahko dohodek iz neposredne uporabe, dajanja v najem ali vsake druge oblike uporabe take pravice do uživanja obdavči v državi pogodbenici, v kateri so nepremičnine.

5. Določbe prvega in tretjega odstavka se uporabljajo tudi za dohodek iz nepremičnin podjetja.

7. člen

Poslovni dobiček

1. Dobiček podjetja države pogodbenice se obdavči samo v tej državi, razen če podjetje ne 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 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 ni upravičenega in zadostnega razloga za nasprotno.

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

8. člen

Ladijski in letalski prevoz

1. Dobiček podjetja države pogodbenice iz opravljanja ladijskih ali letalskih prevozov v mednarodnem prometu se obdavči samo v tej državi.

2. Dobiček podjetja države pogodbenice iz uporabe, vzdrževanja ali najema zabojnikov (vključno s priklopniki, vlečnimi čolni in podobno opremo za prevoz zabojnikov), uporabljenih za prevoz dobrin ali blaga, se obdavči samo v tej državi, razen če se taki zabojniki ne uporabljajo za prevoz dobrin ali blaga samo med kraji v drugi državi pogodbenici.

4. Where the ownership of shares or other corporate rights in a company entitles the owner of such shares or corporate rights to the enjoyment of immovable property held by the company, the income from the direct use, letting, or use in any other form of such right to enjoyment may be taxed in the Contracting State in which the immovable property is situated.

5. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.

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 Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

Shipping and air transport

1. Profits of 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 of 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 shall be taxable only in that State, except where such containers are used for the transport of goods or merchandise solely between places within the other Contracting State.

3. Določbe prvega in drugega odstavka se uporabljajo tudi za dobiček iz udeležbe v interesnem združenju, mešanem podjetju ali mednarodni prevozni 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 njuni komercialni ali finančni 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 bilo že 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 obračuna od tega dobička, če meni, da je prilagoditev upravičena. Pri določanju take prilagoditve je treba upoštevati druge določbe tega sporazuma, 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. 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.

2. Kadar je posameznik, ki je rezident Finske, po finski davčni zakonodaji upravičen do odbitka davka za dividende, ki jih plača družba, ki je rezident Finske, se ne glede na določbe prvega odstavka dividende, ki jih plača družba, ki je rezident Finske, rezidentu Slovenije, obdavčijo samo v Sloveniji, če je upravičeni lastnik dividend rezident Slovenije.

3. Določbe prvega in drugega odstavka ne vplivajo na obdavčenje družbe v zvezi z dobičkom, iz katerega se plačajo dividende.

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

3. The provisions of paragraphs 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 tax charged therein on those profits, where that other State considers the adjustment justified. In determining such adjustment, due regard shall be had to the other provisions of this Agreement 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. 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.

2. Notwithstanding the provisions of paragraph 1, as long as an individual resident in Finland is under Finnish tax law entitled to a tax credit in respect of dividends paid by a company resident in Finland, dividends paid by a company which is a resident of Finland to a resident of Slovenia shall be taxable only in Slovenia if the beneficial owner of the dividends is a resident of Slovenia.

3. The provisions of paragraphs 1 and 2 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

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

5. 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 in je delež, v zvezi s katerim se dividende plačajo, dejansko povezan s tako stalno poslovno enoto. V takem primeru se uporabljajo določbe 7. člena.

6. 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 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 obračunani davek ne presega 5 odstotkov bruto zneska obresti.

3. Ne glede na določbe drugega odstavka:

a) se obresti, ki nastanejo v Sloveniji, obdavčijo samo na Finskem, če se obresti plačajo:

i) finski državi ali njeni lokalni oblasti ali nosilcu javnega pooblastila;

ii) Banki Finske;

iii) finskemu skladu za gospodarsko sodelovanje (FINNFUND) ali kateri koli drugi ustanovi, kot se lahko občasno dogovorita pristojna organa držav pogodbenic;

b) se obresti, ki nastanejo na Finskem, obdavčijo samo v Sloveniji, če se obresti plačajo:

i) slovenski državi, njeni politični enoti, lokalni oblasti ali nosilcu javnega pooblastila;

ii) Banki Slovenije;

iii) Družbi za zavarovanje in financiranje izvoza Slovenije ali kateri koli drugi ustanovi, kot se lahko občasno dogovorita pristojna organa držav pogodbenic;

c) se obresti, ki nastanejo:

i) v državi pogodbenici od posojila, za katero je dal poroštvo kateri koli organ, naveden ali omenjen v pododstavku a) ali b), in je bilo izplačano rezidentu druge države pogodbenice, obdavčijo samo v tej drugi državi;

ii) v Sloveniji od posojila, za katero je dala poroštvo Finnvera (uradna finska agencija za izvozne kredite) in je bilo izplačano rezidentu Finske, obdavčijo samo na Finskem;

iii) na Finskem od posojila, za katero je dala poroštvo Družba za zavarovanje in financiranje izvoza Slovenije in je bilo izplačano rezidentu Slovenije, obdavčijo samo v Sloveniji.

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 ali zadolžnic, vključno s premijami in nagradami od takih vrednostnih papirjev, obveznic ali zadolžnic. Kazni zaradi zamude pri plačilu se za namen tega člena ne štejejo za obresti.

5. 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, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

6. 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 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,

a) interest arising in Slovenia shall be taxable only in Finland if the interest is paid:

(i) to the State of Finland, or a local authority or a statutory body thereof;

(ii) to the Bank of Finland;

(iii) to the Finnish Fund for Industrial Co-operation (FINNFUND) or any other institution, as may be agreed from time to time between the competent authorities of the Contracting States;

b) interest arising in Finland shall be taxable only in Slovenia if the interest is paid:

(i) to the State of Slovenia, a political subdivision, a local authority or a statutory body thereof;

(ii) to the Central Bank of Slovenia;

(iii) to the Družba za zavarovanje in financiranje izvoza Slovenije (the Slovene Export Company) or any other institution, as may be agreed from time to time between the competent authorities of the Contracting States;

c) interest arising

(i) in a Contracting State on a loan guaranteed by any of the bodies mentioned or referred to in sub-paragraph a) or sub-paragraph b) and paid to a resident of the other Contracting State shall be taxable only in that other State;

(ii) in Slovenia on a loan guaranteed by the Finnvera (the official Finnish Export Credit Agency) and paid to a resident of Finland shall be taxable only in Finland;

(iii) in Finland on a loan guaranteed by the Družba za zavarovanje in financiranje izvoza Slovenije (the Slovene Export Company) and paid to a resident of Slovenia shall be taxable only in Slovenia.

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. 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 in je terjatev, v zvezi s katero se obresti plačajo, dejansko povezana s tako stalno poslovno enoto. V takem primeru se uporabljajo določbe 7. člena.

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, v državi pogodbenici stalno poslovno enoto, v zvezi s katero je nastala zadolžitev, za katero se plačajo obresti, ter take obresti krije taka stalna poslovna enota, se šteje, da take obresti nastanejo v državi, v kateri je stalna poslovna enota.

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 tega sporazuma.

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 licenčin in avtorskih honorarjev rezident druge države pogodbenice, tako obračunani davek ne presega 5 odstotkov bruto zneska licenčin 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 ter filmi in trakovi za televizijsko in radijsko predvajanje, 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 licenčin 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 in je pravica ali premoženje, v zvezi s katerim se licenčnine in avtorski honorarji plačajo, dejansko povezana s tako stalno poslovno enoto. V takem primeru se uporabljajo določbe 7. člena.

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, v zvezi s katero je nastala obveznost za plačilo licenčin in avtorskih honorarjev ter take licenčnine in avtorske honorarje krije taka stalna poslovna enota, se šteje, da so take licenčnine in avtorski honorarji nastali v državi, v kateri je stalna poslovna enota.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 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 in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment 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 Agreement.

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, and films or tapes for television or radio broadcasting, 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, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 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 in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the State in which the permanent establishment is situated.

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 tega sporazuma.

13. člen

Kapitalski dobički

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

2. Dobiček, ki ga rezident države pogodbenice ustvari z odtujitvijo delnic ali drugih korporacijskih pravic v družbi, katere sredstva v več kot polovici sestavljajo nepremičnine v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

3. Dobiček iz odtujitve premičnin, ki so del poslovnega premoženja stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, vključno z dobičkom iz odtujitve take stalne poslovne enote (same ali s celotnim podjetjem), se lahko obdavči v tej drugi državi.

4. Dobiček, ki ga podjetje države pogodbenice ustvari z odtujitvijo 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 tej državi.

5. Dobiček, ki ga podjetje države pogodbenice ustvari z odtujitvijo zabojnikov (vključno s priklopniki, vlečnimi čolni in podobno opremo za prevoz zabojnikov), uporabljenih za prevoz dobrin ali blaga, se obdavči samo v tej državi, razen če se taki zabojniki ne uporabljajo za prevoz dobrin ali blaga samo med kraji v drugi državi pogodbenici.

6. Dobiček iz odtujitve premoženja, ki ni premoženje, navedeno v prejšnjih odstavkih tega člena, se obdavči samo v državi pogodbenici, katere rezident je oseba, ki odtuji premoženje.

14. člen

Dohodek iz zaposlitve

1. V skladu z določbami 15., 17. in 18. 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 ne 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 določenem koledarskem letu, in

b) prejemek plača delodajalec, ki ni rezident druge države, ali se plača v njegovem imenu in

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

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 Agreement.

Article 13

Capital gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in paragraph 2 of Article 6 and situated in the other Contracting State may be taxed in that other State.

2. Gains derived by a resident of a Contracting State from the alienation of shares or other corporate rights in a company of whose assets more than one-half consists of immovable property situated in the other Contracting State may be taxed in that other State.

3. 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, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.

4. Gains derived by an enterprise of a Contracting State 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 that State.

5. Gains derived by an enterprise of a Contracting State from the alienation of containers (including trailers, barges and related equipment for the transport of containers) used for the transport of goods or merchandise shall be taxable only in that State, except where such containers are used for the transport of goods or merchandise solely between places within the other Contracting State.

6. Gains from the alienation of any property other than that referred to in the preceding paragraphs of this Article, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

Income from employment

1. Subject to the provisions of Articles 15, 17 and 18, 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 within 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 which the employer has in the other State.

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

15. člen

Plačila direktorjem

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

16. člen

Umetniki in športniki

1. Ne glede na določbe 7. in 14. člena se lahko 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, 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. in 14. člena lahko obdavči v državi pogodbenici, v kateri potekajo dejavnosti nastopajočega izvajalca ali športnika.

3. Določbe prvega in drugega odstavka se ne uporabljajo za dohodek iz dejavnosti, ki jih nastopajoči izvajalec ali športnik izvaja v državi pogodbenici, če se obisk v tej državi v celoti ali pretežno financira z javnimi sredstvi druge države pogodbenice ali njene politične enote ali lokalne oblasti. V takem primeru se dohodek obdavči v skladu z določbami 7. ali 14. člena, odvisno od primera.

17. člen

Pokojnine, pokojninske rente in podobna plačila

1. V skladu z določbami drugega odstavka 18. 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 in ob upoštevanju določb drugega odstavka 18. člena se plačane pokojnine in drugi prejemki bodisi kot redna ali enkratna nadomestila na podlagi zakonodaje o socialni varnosti države pogodbenice ali na podlagi kakršnega koli javnega načrta države pogodbenice za namene socialne blaginje ali rente, ki nastanejo v državi pogodbenici, lahko obdavčijo v tej državi in po zakonodaji te države, vendar tako zaračunani davek ne presega 25 odstotkov bruto zneska plačila.

3. Izraz "pokojninska renta", kot je uporabljen v tem členu, pomeni določen znesek, ki se redno izplačuje ob določenem času vse življenje ali v določenem ali ugotovljivem časovnem obdobju, z obveznostjo izvršitve plačila za primer no in celotno nadomestilo v denarju ali denarni vrednosti (ki niso opravljene storitve).

18. člen

Državna služba

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

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 by an enterprise of a Contracting State, may be taxed in that State.

Article 15

Directors' fees

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

Article 16

Artistes and sportsmen

1. Notwithstanding the provisions of Articles 7 and 14, 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 and 14, 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 exercised in a Contracting State by an entertainer or a sportsman if the visit to that State is wholly or mainly supported by public funds of the other Contracting State or a political sub-division or a local authority thereof. In such case, the income shall be taxable in accordance with the provisions of Article 7 or Article 14, as the case may be.

Article 17

Pensions, annuities and similar payments

1. Subject to the provisions of paragraph 2 of Article 18, 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, and subject to the provisions of paragraph 2 of Article 18, pensions paid and other benefits, whether periodic or lump-sum compensation, awarded under the social security legislation of a Contracting State or under any public scheme organised by a Contracting State for social welfare purposes, or any annuity arising in a Contracting State, may be taxed in that State, and according to the laws of that State, but the tax so charged shall not exceed 25 per cent of the gross amount of the payment.

3. The term »annuity« as used in this Article means a stated sum payable periodically at stated times during life, or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth (other than services rendered).

Article 18

Government service

1. a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State, or a political subdivision, statutory body or local authority thereof, to an individual in respect of services rendered to that State, subdivision, body or authority shall be taxable only in that State.

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

- i) državljan te države ali
- ii) ni postal rezident te države samo zaradi opravljanja storitev.

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

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

3. Določbe 14., 15., 16. in 17. 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, nosilca javnega pooblastila ali lokalne oblasti.

19. člen

Študenti in pripravniki

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

20. člen

Drugi dohodki

1. Deli dohodka rezidenta države pogodbenice, ki nastanejo kjer koli in niso obravnavani v predhodnih členih tega sporazuma, 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 in je pravica ali premoženje, za katero se plača dohodek, dejansko povezano s tako stalno poslovno enoto. V takem primeru se uporabljajo določbe 7. člena.

21. člen

Odprava dvojnega obdavčevanja

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

Kadar rezident Slovenije dobi dohodek, ki se v skladu z določbami tega sporazuma lahko obdavči na Finskem, Slovenija dovoli kot odbitek od davka od dohodka tega rezidenta znesek, ki je enak davku od dohodka, plačanemu na Finskem. Tak odbitek pa ne sme presegati tistega dela davka od dohodka, ki je bil izračunan pred odbitkom, pripisanim dohodku, ki se lahko obdavči na Finskem.

2. V skladu z določbami finske zakonodaje o odpravi dvojnega obdavčevanja (kar ne vpliva na splošno načelo) se dvojno obdavčevanje na Finskem odpravi, kot sledi:

a) Kadar rezident Finske dobi dohodek, ki se v skladu z določbami tega sporazuma lahko obdavči v Sloveniji, Finska ob upoštevanju določb pododstavka b) dovoli kot odbitek od finskega davka te osebe znesek, ki je enak slovenskemu davku, plačanemu v skladu s slovensko zakonodajo in tem sporazumom in izračunanemu za isti dohodek, za katerega se računa finški davek.

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

- (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, statutory body or local authority thereof, to an individual in respect of services rendered to that State, subdivision, body or authority shall be taxable only in that State.

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

3. The provisions of Articles 14, 15, 16 and 17 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, statutory body or local authority thereof.

Article 19

Students and trainees

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

Article 20

Other income

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement 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, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

Article 21

Elimination of double taxation

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

Where a resident of Slovenia derives income which, in accordance with the provisions of this Agreement, may be taxed in Finland, Slovenia shall allow as a deduction from the tax on income of that resident, an amount equal to the tax on income paid in Finland. Such deduction shall not, however, exceed that portion of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in Finland.

2. In Finland double taxation shall, subject to the provisions of Finnish law regarding the elimination of international double taxation (which shall not affect the general principle hereof), be eliminated as follows:

a) Where a resident of Finland derives income which, in accordance with the provisions of this Agreement, may be taxed in Slovenia, Finland shall, subject to the provisions of sub-paragraph b), allow as a deduction from the Finnish tax of that person, an amount equal to the Slovenian tax paid under Slovenian law and in accordance with the Agreement, as computed by reference to the same income by reference to which the Finnish tax is computed.

b) Dividende, ki jih družba, ki je rezident Slovenije, plača družbi, ki je rezident Finske in neposredno nadzira najmanj 10 odstotkov glasovalnih pravic v družbi, ki plačuje dividende, so oproščene finskega davka.

3. Kadar je v skladu s katero koli določbo sporazuma dohodek, ki ga dobi rezident države pogodbenice, oproščen davka v tej državi, lahko ta država pri izračunu davka od preostalega dohodka takega rezidenta vseeno upošteva oproščeni dohodek.

22. 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 priznava 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 honorariji 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 pogodbenici 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 podobnih podjetij prve omenjene države.

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

23. člen

Postopek skupnega dogovora

1. Kadar oseba meni, da imajo ali bodo imela dejanja ene ali obeh držav pogodbenic zanj za posledico obdavčevanje, ki ni v skladu z določbami tega sporazuma, lahko ne glede na sredstva, ki ji jih omogoča domače pravo 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 tega sporazuma.

b) Dividends paid by a company being a resident of Slovenia to a company which is a resident of Finland and which controls directly at least 10 per cent of the voting power in the company paying the dividends shall be exempt from Finnish tax.

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

Article 22

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 23

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 Agreement, 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 22, 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 Agreement.

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 tem sporazumom. Vsak dosežen dogovor se izvaja ne glede na roke v domačem pravu držav pogodbenic.

3. Pristojna organa držav pogodbenic si prizadevata s skupnim dogovorom razrešiti kakršne koli težave ali dvome, ki nastanejo pri razlagi ali uporabi sporazuma. Prav tako se lahko med seboj posvetujeta o odpravi dvojnega obdavčevanja v primerih, ki jih sporazum 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.

24. člen

Izmenjava informacij

1. Pristojna organa držav pogodbenic si izmenjavata take informacije, ki so potrebne za izvajanje določb tega sporazuma ali domače zakonodaje glede davkov vseh vrst in opisov, ki se uvedejo v imenu držav pogodbenic ali njihovih političnih enot ali lokalnih oblasti, če obdavčevanje na njeni podlagi ni v nasprotju s sporazumom. Izmenjava informacij ni omejena s 1. in 2. členom. Vsaka informacija, ki jo prejme država pogodbenica, se obravnava kot tajnost na isti način kot informacije, pridobljene po domači 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 iz prvega stavka. Te osebe ali organi uporabljajo informacije samo v te namene. Informacije lahko razkrijejo v sodnih postopkih 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.

25. člen

Člani diplomatskih predstavništev in konzulatov

Nobena določba tega sporazuma ne vpliva na davčne ugodnosti članov diplomatskih predstavništev in konzulatov po splošnih pravilih mednarodnega prava ali določbah posebnih sporazumov.

26. člen

Začetek veljavnosti

1. Vladi držav pogodbenic druga drugo uradno obvestita, da so izpolnjene ustavne zahteve za začetek veljavnosti tega sporazuma.

2. Sporazum začne veljati trideset dni po datumu prejema poznejšega od uradnih obvestil iz prvega odstavka in njegove določbe se uporabljajo:

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 Agreement. 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 Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

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 24

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 Agreement or of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2. 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 referred to in the first sentence. 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 25

Members of diplomatic missions and consular posts

Nothing in this Agreement 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 26

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 Agreement have been complied with.

2. The Agreement shall enter into force thirty days after the date of receipt of the later of the notifications referred to in paragraph 1 and its provisions shall have effect:

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

b) v zvezi z drugimi davki za davke, odmerjene za katero koli davčno leto, ki se začne prvega januarja ali po njem v koledarskem letu, ki sledi letu, v katerem začne veljati sporazum.

3. Konvencija med Socialistično federativno republiko Jugoslavijo in Republiko Finsko o izogibanju dvojnemu obdavčevanju dohodka in premoženja, ki je bila podpisana v Beogradu 8. maja 1986 (v nadaljevanju "konvencija iz leta 1986"), se v skladu s določbami drugega odstavka med Slovenijo in Finsko preneha uporabljati za davke, za katere se uporablja ta sporazum. Konvencija iz leta 1986 preneha veljati na zadnji datum, na katerega se uporablja v skladu s predhodno določbo tega odstavka.

27. člen

Prenehanje veljavnosti

Ta sporazum velja, dokler ga država pogodbenica ne odpove. Katera koli država pogodbenica lahko sporazum odpove po diplomatski poti s pisnim obvestilom o odpovedi najmanj šest mesecev pred koncem katerega koli koledarskega leta po petem letu od datuma začetka veljavnosti sporazuma. V takem primeru se sporazum preneha uporabljati:

a) v zvezi z davki, zadržanimi pri viru, za dohodek, dosežen 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 za davke, odmerjene za katero koli davčno leto, ki se začne prvega 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 ta sporazum.

Sestavljeno v dveh izvirnikih v Helsinkih dne 19. septembra 2003 v slovenskem, finskem in angleškem jeziku, pri čemer so vsa tri besedila enako verodostojna. Pri različni razlagi besedil prevlada angleško besedilo.

Za Vlado
Republike Slovenije:
Darja Bavdaž Kuret l. r.

Za Vlado
Republike Finske:
Ulla-Maj Wideroos l. r.

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

b) in respect of other taxes, for taxes chargeable for any tax year beginning on or after 1 January in the calendar year next following the year in which the Agreement enters into force.

3. The Convention between the Socialist Federal Republic of Yugoslavia and the Republic of Finland for the avoidance of double taxation with respect to taxes on income and on capital, signed at Beograd on 8 May 1986, (hereinafter referred to as »the 1986 Convention«), shall, in the relation between Slovenia and Finland, cease to have effect with respect to taxes to which this Agreement applies in accordance with the provisions of paragraph 2. The 1986 Convention shall terminate on the last date on which it has effect in accordance with the foregoing provision of this paragraph.

Article 27

Termination

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, 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 Agreement enters into force. In such event, the Agreement shall cease to have effect:

a) in respect of taxes withheld at source, on 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, for taxes chargeable for any tax 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 undersigned, duly authorised thereto, have signed this Agreement.

Done in duplicate at Helsinki this 19th day of September 2003, in the Slovenian, Finnish and English languages, all three texts being equally authentic. In the case of divergence of interpretation the English text shall prevail.

For the Government of
the Republic of Slovenia:
Darja Bavdaž Kuret, (s)

For the Government of
the Republic of Finland:
Ulla-Maj Wideroos, (s)

3. člen

Za izvajanje sporazuma skrbi Ministrstvo za finance.

4. člen

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

Št. 432-01/04-31/1
Ljubljana, dne 25. marca 2004
EPA 1147-III

Predsednik
Državnega zbora
Republike Slovenije
Borut Pahor l. r.

35. Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Republiko Bolgarijo o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja (BBGIDO)

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 REPUBLIKO BOLGARIJO O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA IN PREMOŽENJA (BBGIDO)**

Razlašam Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Republiko Bolgarijo o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja (BBGIDO), ki ga je sprejel Državni zbor Republike Slovenije na seji 25. marca 2004.

Št. 001-22-29/04

Ljubljana, dne 2. aprila 2004

Predsednik
Republike Slovenije
dr. Janez Drnovšek l. r.

ZAKON**O RATIFIKACIJI KONVENCIJE MED REPUBLIKO SLOVENIJO IN REPUBLIKO BOLGARIJO O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA IN PREMOŽENJA (BBGIDO)****1. člen**

Ratificira se Konvencija med Republiko Slovenijo in Republiko Bolgarijo o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja, podpisana v Ljubljani 20. oktobra 2003.

2. člen

Besedilo konvencije se v izvirniku v slovenskem in angleškem jeziku glasi:*

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

Republika Slovenija in Republika Bolgarija 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:

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.

C O N V E N T I O N**BETWEEN THE REPUBLIC OF SLOVENIA AND THE REPUBLIC OF BULGARIA 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 Republic of Bulgaria, 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:

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.

* Besedilo konvencije v bolgarskem jeziku je na vpogled v Sektorju za mednarodnopravne zadeve Ministrstva za zunanje zadeve.

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 jih plačujejo podjetja, ter davki na zvišanje vrednosti kapitala.

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

- a) v Sloveniji:
 - i) davek od dobička pravnih oseb;
 - ii) davek od dohodka posameznikov;
 - iii) davek od premoženja (v nadaljevanju "slovenski davek");
- b) v Bolgariji:
 - i) davek od dohodka posameznikov;
 - ii) davek od dohodka pravnih oseb;
 - iii) davek od premoženja (v nadaljevanju "bolgarski davek").

4. Konvencija se uporablja tudi za enake ali vsebinsko podobne davke, ki jih država pogodbenica uvede po datumu podpisa konvencije dodatno k obstoječim davkom ali namesto njih. Pristojna organa držav pogodbenic drug drugega uradno obvestita o vseh bistvenih spremembah njunih davčnih zakonodaj.

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 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 income of legal persons;
 - (ii) the tax on income of individuals;
 - (iii) the tax on property;
 (hereinafter referred to as »Slovenian tax«);
- b) in Bulgaria:
 - (i) the personal income tax;
 - (ii) the corporate income tax;
 - (iii) the real property tax;
 (hereinafter referred to as »Bulgarian tax«).

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

II. POGLAVJE OPREDELITVE IZRAZOV

3. člen

SPLOŠNA OPREDELITEV IZRAZOV

1. V tej konvenciji, razen če sobesedilo ne 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, na katerem lahko Slovenija izvaja svoje suverene pravice in jurisdikcijo v skladu s svojo domačo zakonodajo in mednarodnim pravom;

b) izraz "Bolgarija" pomeni Republiko Bolgarijo, in ko se uporablja v zemljepisnem smislu, ozemlje in teritorialno morje, na katerem izvaja svojo državno suverenost, ter epikontinentalni pas in izključno ekonomsko cono, na katerih izvaja suverene pravice in jurisdikcijo v skladu z mednarodnim pravom;

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

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

e) izraz "družba" pomeni katero koli pravno osebo ali kateri koli subjekt, ki se za davčne namene obravnava kot pravna oseba;

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 prevoz z ladjo, letalom, železniškim ali cestnim vozilom, ki ga opravlja podjetje države pogodbenice, razen če se z omenjenimi prevoznimi sredstvi ne opravljajo prevozi samo med kraji v drugi državi pogodbenici;

h) izraz "pristojni organ" pomeni:

- i) v Sloveniji Ministrstvo za finance Republike Slovenije ali pooblaščenega predstavnika tega ministrstva;
- ii) v Bolgariji ministra za finance ali njegovega pooblaščenega predstavnika;

CHAPTER II DEFINITIONS

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, the territory of Slovenia, including the sea area, sea bed and sub-soil adjacent to the territorial sea, over which Slovenia may exercise its sovereign rights and jurisdiction in accordance with its domestic legislation and international law;

b) the term »Bulgaria« means the Republic of Bulgaria and when used in a geographical sense means the territory and the territorial sea over which it exercises its State sovereignty, as well as the continental shelf and the exclusive economic zone over which it exercises sovereign rights and jurisdiction in conformity with international law;

c) the terms »a Contracting State« and »the other Contracting State« mean Slovenia or Bulgaria, 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 legal person or any entity that is treated as a legal person 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, aircraft, railway or road transport vehicle operated by an enterprise of a Contracting State, except when the mentioned means of transport are 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 Bulgaria: the Minister of Finance or an authorized representative;

i) izraz »državljan« pomeni:

i) posameznika, ki ima državljanstvo države pogodbenice;

ii) pravno osebo, osebno družbo ali združenje, katerega status izhaja iz veljavne zakonodaje države pogodbenice.

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

4. člen

REZIDENT

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

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

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, si pristojna organa držav pogodbenic prizadevata vprašanje rešiti s skupnim dogovorom. Če takega dogovora za namene konvencije ni, oseba nima pravice zahtevati ugodnosti iz te konvencije.

5. člen

STALNA POSLOVNA ENOTA

1. V tej konvenciji izraz »stalna poslovna enota« pomeni stalno mesto poslovanja, prek katerega v celoti ali delno poteka poslovanje 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 ali iskanja naravnih virov.

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 provisions 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 will prevail 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 incorporation, 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, the competent authorities of the Contracting States shall endeavour to settle the question by mutual agreement. In the absence of such an agreement, for the purposes of the Convention, the person shall not be entitled to claim any benefits provided by this Convention.

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 or exploration of natural resources.

3. Gradbišče, projekt gradnje, montaže ali postavitve je stalna poslovna enota samo, če tako gradbišče ali projekt na ozemlju države pogodbenice traja več kot dvanajst mesecev.

4. Izraz "stalna poslovna enota" vključuje tudi opravljanje storitev, vključno s svetovalnimi ali poslovnimi storitvami, ki jih opravlja podjetje države pogodbenice s svojimi zaposlenimi ali drugim osebjem, ki ga podjetje zaposli v ta namen, če se tovrstne dejavnosti (za isti ali povezan projekt) na ozemlju druge države pogodbenice izvajajo v obdobju ali obdobjih, ki skupno trajajo več kot 183 dni v katerem koli obdobju dvanajstih mesecev.

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

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

b) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za skladiščenje, razstavljanje ali dostavo;

c) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za predelavo, ki jo opravi drugo podjetje;

d) vzdrževanja stalnega mesta poslovanja samo za nakup dobrin ali blaga za podjetje ali zbiranje informacij za podjetje;

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

f) vzdrževanja stalnega mesta poslovanja samo za kakršno koli kombinacijo dejavnosti, omenjenih v pododstavkih a) do e), če je splošna dejavnost stalnega mesta poslovanja, ki je posledica te kombinacije, pripravljalna ali pomožna.

6. Ne glede na določbe prvega in drugega odstavka, kadar oseba – ki ni zastopnik z neodvisnim statusom, za katerega se uporablja sedmi 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 z dejavnostmi, ki jih ta oseba prevzame za podjetje, razen če dejavnosti te osebe niso omejene na tiste iz petega 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.

7. 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, če te osebe delujejo v okviru svojega rednega poslovanja. Kadar pa so dejavnosti takega zastopnika namenjene izključno ali skoraj izključno temu podjetju ter med podjetjem in zastopnikom v njunih komercialnih ali finančnih odnosih obstajajo ali se vzpostavijo pogoji, drugačni od tistih, ki bi obstajali med neodvisnimi podjetji, se ta ne šteje za zastopnika z neodvisnim statusom v smislu tega odstavka.

8. 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.

3. A building site, a construction, assembly or installation project constitutes a permanent establishment only if such site or project lasts in the territory of a Contracting State for a period of more than twelve months.

4. The term »permanent establishment« shall also include the furnishing of services, including consultancy or managerial services, by an enterprise of a Contracting State through employees or other personnel engaged by the enterprise for such purpose, where activities of that nature continue (for the same or connected project) in the territory of the other Contracting State for a period or periods aggregating more than 183 days within any twelve-months period.

5. 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 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.

6. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 7 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 5 which, if exercised through fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

7. 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. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, and conditions are made or imposed between that enterprise and the agent in their commercial and financial relations which differ from those which would have been made between independent enterprises, he will not be considered an agent of an independent status within the meaning of this paragraph.

8. 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 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 ta nepremičnina. Izraz vedno vključuje premoženje, ki je sestavni del nepremičnin, živino in opremo, ki se uporablja v kmetijstvu in gozdarstvu, pravice, za katere se uporabljajo 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, dosežen 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 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 ne 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 ta stalna poslovna enota 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 ni upravičenega in zadostnega razloga za nasprotno.

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. 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 attributable 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 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

MEDNARODNI PREVOZ

1. Dobiček podjetja države pogodbenice od ladijskih, letalskih, železniških ali cestnih prevozov v mednarodnem prometu se obdavči samo v tej državi.

2. Določbe prvega odstavka se uporabljajo tudi za dobiček iz udeležbe v interesnem združenju, 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 bilo že 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 obstajali med neodvisnimi podjetji, ta druga država lahko ustrezno prilagodi znesek davka, ki se v tej državi obračuna 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) 10 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, ustanoviteljskih delnic ali drugih pravic do udeležbe v dobičku, ki niso terjatve, in tudi drug dohodek, ki se davčno obravnava enako kot dohodek iz delnic po zakonodaji države pogodbenice, katere rezident je družba, ki dividende deli.

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 derived by an enterprise of a Contracting State from the operation of ships, aircraft, railway or road transport vehicles in international traffic shall be taxable only in that State.

2. 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 participate 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 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 State 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) 10 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, founders' shares or other rights, not being debt-claims, participating in profits, as well as other income which is subjected to the same taxation treatment as income from shares by the laws of the Contracting State of which the company making the distribution is a resident.

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 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 upravičeni lastnik obresti rezident druge države pogodbenice, tako obračunani davek ne presega 5 odstotkov bruto zneska obresti.

3. Ne glede na določbe drugega odstavka so obresti, ki nastanejo v državi pogodbenici, oproščene davka v tej državi, če jih dobi in je njihov upravičeni lastnik vlada druge države pogodbenice, njena politična enota ali lokalna oblast ali centralna banka te druge države.

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 ali zadolžnic, vključno s premijami in nagradami od takih vrednostnih papirjev, obveznic ali zadolžnic. 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, 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.

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 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. 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 shall be exempt from tax in that State if it is derived and beneficially owned by the Government of the other Contracting State, a political subdivision or a local authority thereof, or the Central Bank of that other 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. 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 obračunani davek ne presega:

a) 5 odstotkov bruto zneska:

(i) licenčnin in avtorskih honorarjev za uporabo ali pravico do uporabe kakršnih koli avtorskih pravic za literarno, umetniško ali znanstveno delo (razen kinematografskih filmov);

(ii) licenčnin in avtorskih honorarjev za uporabo ali pravico do uporabe industrijske, komercialne ali znanstvene opreme;

b) 10 odstotkov bruto zneska licenčnin in avtorskih honorarjev v vseh drugih primerih.

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 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 opravlja v tej drugi državi 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 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.

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 the resident of the other Contracting State, the tax so charged shall not exceed:

a) 5 per cent of the gross amount of:

(i) royalties paid for the use of, or the right to use, any copyright of literary, artistic or scientific work (but not including cinematograph films);

(ii) royalties paid for the use of, or the right to use, industrial, commercial or scientific equipment.

b) 10 per cent of the gross amount of the royalties in all other cases.

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 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.

13. člen

KAPITALSKI DOBIČKI

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

2. Dobiček, ki ga rezident države pogodbenice ustvari z odtujitvijo delnic ali primerljivih deležev, katerih vrednost v več kot 50 odstotkih neposredno ali posredno izhaja iz nepremičnin v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

3. 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 v drugi državi pogodbenici za opravljanje 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.

4. Dobiček, ki ga podjetje države pogodbenice ustvari z odtujitvijo ladij, letal, železniških ali cestnih vozil, s katerimi se opravljajo prevozi v mednarodnem prometu, ali premičnin, ki se nanašajo na opravljanje prevozov s takimi ladjami, letali, železniškimi ali cestnimi vozili, se obdavči samo v tej državi.

5. Dobiček iz odtujitve 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 iz poklicnih storitev ali drugih samostojnih dejavnosti, se obdavči samo v tej državi. Tak dohodek pa se lahko obdavči tudi v drugi državi pogodbenici, če ima posameznik stalno bazo, ki mu je redno na voljo v drugi državi pogodbenici za opravljanje njegovih dejavnosti; v takem primeru se v tej drugi državi lahko obdavči samo toliko dohodka, kolikor ga je pripisanega 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

DOHODEK IZ ZAPOSLOTITVE

1. Ob upoštevanju določb 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 ne 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 določenem davčnem letu, in

b) prejemek plača delodajalec, ki ni rezident druge države, ali se plača v njegovem imenu in

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 derived by a resident of a Contracting State from the alienation of shares or of an comparable interest of any kind deriving more than 50% of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.

3. 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 purposes 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.

4. Gains derived by an enterprise of a Contracting State from the alienation of ships, aircraft, railway or road transport vehicle operated in international traffic or movable property pertaining to the operation of such ships, aircraft, railway or road transport vehicle, shall be taxable only 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. However, such income may also be taxed in the other Contracting State if the individual has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other State.

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

INCOME FROM EMPLOYMENT

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 there from 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) 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 lahko prejemek, ki izhaja iz zaposlitve na ladji, letalu, železniškem ali cestnem vozilu, s katerim podjetje države pogodbenice opravlja prevoze v mednarodnem prometu, obdavči v tej državi.

16. člen

PLAČILA DIREKTORJEM

Plačila direktorjem in druga podobna plačila, ki jih dobi rezident države pogodbenice kot član uprave, nadzornega sveta ali podobnega organa 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 lahko 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, obdavči v tej drugi državi.

2. Kadar se dohodek iz osebnih dejavnosti, ki jih izvaja nastopajoči izvajalec ali športnik kot tak, ne pripiše 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 potekajo dejavnosti nastopajočega izvajalca ali športnika.

3. Določbe prvega in drugega odstavka se ne uporabljajo za dohodek iz dejavnosti, ki jih nastopajoči izvajalec ali športnik izvaja v državi pogodbenici, če se obisk v tej državi v več kot 50% financira z javnimi sredstvi druge države pogodbenice ali njene politične enote ali lokalne oblasti. V takem primeru se dohodek obdavči samo v državi, katere rezident je nastopajoči izvajalec ali športnik.

18. člen

POKOJNINE

1. Ob upoštevanju določb drugega odstavka 19. člena se pokojnine, rente in drugi podobni prejemki, ki se plačujejo rezidentu države pogodbenice za preteklo zaposlitev, obdavčijo samo v tej državi.

2. Ne glede na določbe prvega odstavka se pokojnine in druga podobna plačila na podlagi javnega načrta, ki je del sistema socialne varnosti države pogodbenice, obdavčijo samo v tej državi.

3. Izraz "renta" pomeni določen znesek, ki se redno izplačuje ob določenem času vse življenje ali v določenem ali ugotovljivem časovnem obdobju, z obveznostjo izvršitve plačila za primerno in celotno nadomestilo v denarju ali denarni vrednosti.

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

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, railway or road transport vehicle 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, supervisory board or any similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17

ARTISTES AND SPORTSMEN

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

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

3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities exercised in a Contracting State by an entertainer or sportsman if the visit to that State is more than 50% supported by public funds of the other Contracting State or a political subdivision or a local authority thereof. In such a case, the income shall be taxable only in the State of which the entertainer or sportsman is a resident.

Article 18

PENSIONS

1. Subject to the provisions of paragraph 2 of Article 19, pensions, annuities 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 provision of paragraph 1, pensions paid and any other similar payments made under the public scheme which is part of the social security system of a Contracting State shall be taxable only in that State.

3. The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

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) ni postal rezident te države samo zaradi opravljanja storitev.

2. a) Vsaka pokojnina, ki jo plača država pogodbenica ali njena politična enota ali lokalna oblast ali ki se plača iz njihovih skladov 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 druge 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

UČITELJI IN RAZISKOVALCI

1. Rezident države pogodbenice, ki je na povabilo univerze, višje ali visoke šole, šole ali druge podobne ustanove, ki je v drugi državi pogodbenici in jo priznava vlada te druge države pogodbenice, začasno navzoč v tej drugi državi pogodbenici za obdobje, ki ni daljše od dveh let od datuma prvega prihoda v to drugo državo pogodbenico, samo zaradi poučevanja ali raziskovanja ali obojega v izobraževalni ustanovi, se v tej drugi državi pogodbenici ne obdavči za prejemke za tako poučevanje ali raziskovanje. Posameznik ima pravico do ugodnosti iz tega člena samo enkrat.

2. Izjema po prvem odstavku za prejemke za raziskovanje se ne prizna, če se tako raziskovanje ne izvaja v javno korist, ampak v zasebno korist določene osebe ali oseb.

21. člen

ŠTUDENTI IN PRIPRAVNIKI

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 zaradi svojega izobraževanja ali usposabljanja, prejme za svoje vzdrževanje, izobraževanje ali usposabljanje, se ne obdavčijo v tej državi, če taka plačila nastanejo iz virov zunaj te države.

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. Če pa rezident države pogodbenice takšen dohodek dobi iz virov v drugi državi pogodbenici, se ta dohodek lahko obdavči tudi v državi, v katerih nastane, in v skladu z zakonodajo te države.

3. Določbe prvega in drugega 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.

(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 other 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

TEACHERS AND RESEARCHERS

1. A resident of the Contracting State who, at the invitation of a university, college, school or other similar institution, situated in the other Contracting State and recognized by the Government of that other Contracting State, is temporarily present in that other Contracting 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 of his first arrival in that other Contracting State, be exempt from tax in that other Contracting State on his remuneration for such teaching or research. An individual shall be entitled to the benefits of this Article only once.

2. No exemption shall be granted under paragraph 1 with respect to any remuneration for research if such research is undertaken not in the public interest but for the private benefit of a specific person or persons.

Article 21

STUDENTS AND TRAINEES

Payments which a student or a trainee 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 payment arise from sources outside that State.

Article 22

OTHER INCOME

1. Items or 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. However, if such income is derived by a resident of a Contracting State from sources in the other Contracting State, such income may also be taxed in the State in which it arises, and according to the law of that State.

3. The provisions of paragraphs 1 and 2 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

23. člen PREMOŽENJE

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

2. Premoženje, ki ga sestavljajo premičnine in 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 so 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 sestavljajo ladje, letala, železniška ali cestna vozila, s katerimi podjetje države pogodbenice opravlja prevoze v mednarodnem prometu, in premičnine v zvezi z opravljanjem prevozov s takimi ladjami, letali, železniškimi ali cestnimi vozili, se obdavči samo v tej državi.

4. Vse druge sestavine premoženja rezidenta države pogodbenice se obdavčijo samo v tej državi.

V. POGLAVJE METODE ZA ODPRavo DVOJNEGA OBDAVČEVANJA

24. člen ODPRAVA DVOJNEGA OBDAVČEVANJA

Dvojno obdavčevanje se odpravi tako:

1. V Sloveniji:

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

- i) kot odbitek od davka od dohodka tega rezidenta znesek, ki je enak davku od dohodka, plačanemu v Bolgariji;
- ii) kot odbitek od davka od premoženja takega rezidenta znesek, ki je enak davku od premoženja, plačanemu v Bolgariji.

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 Bolgariji;

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

2. V Bolgariji:

a) kadar rezident Bolgarije dobi dohodek ali ima v lasti premoženje, ki se v skladu z določbami te konvencije lahko obdavči v Sloveniji, Bolgarija tak dohodek ali premoženje oprosti davka v skladu z določbami pododstavkov b) in c) tega odstavka;

b) kadar rezident Bolgarije dobi dividende, obresti ali licenčnine in avtorske honorarje, ki se v skladu z določbami 10., 11. in 12. člena te konvencije lahko obdavčijo v Sloveniji, Bolgarija dovoli kot odbitek od davka od dividend, obresti ali licenčin in avtorskih honorarjev tega rezidenta znesek, ki je enak davku, plačanemu v Sloveniji. Tak odbitek v nobenem primeru ne sme presežati tistega dela davka, ki je bil izračunan pred odbitkom, pripisanim takim dividendam, obrestim ali licenčinam in avtorskim honorarjem, dobljenim iz Slovenije;

CHAPTER IV TAXATION OF CAPITAL

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. Capital represented by ships, aircraft, railway or road transport vehicles operated in international traffic by an enterprise of a Contracting State and by movable property pertaining to the operation of such ships, aircraft, railway or road transport vehicles 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.

CHAPTER V METHODS FOR ELIMINATION OF DOUBLE TAXATION

Article 24 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 Bulgaria, Slovenia shall allow:

- (i) as deduction from the tax on the income of that resident, an amount equal to the income taxed paid in Bulgaria;
- (ii) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in Bulgaria.

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 Bulgaria.

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. In Bulgaria:

(a) where a resident of Bulgaria derives income or owns capital which in accordance with the provisions of this Convention may be taxed in Slovenia, Bulgaria shall, subject to the provisions of subparagraphs (b) and (c) of this paragraph, exempt such income or capital from tax;

(b) where a resident of Bulgaria derives dividends, interest or royalties which in accordance with the provisions of Articles 10, 11 or 12 of this Convention may be taxed in Slovenia, Bulgaria shall allow as a deduction from the tax on the dividends, interest or royalties 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 dividends, interest or royalties derived from Slovenia;

c) kadar je v skladu s katero koli določbo te konvencije dohodek, ki ga dobi rezident Bolgarije, ali premoženje, ki ga ima v lasti, oproščen davka v Bolgariji, lahko Bolgarija pri izračunu zneska davka od preostalega dohodka ali premoženja tega rezidenta vseeno upošteva oproščeni dohodek ali premoženje.

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.

3. Nobena določba tega člena se ne razlaga, kot da zavezuje državo pogodbenico, da prizna rezidentom druge države pogodbenice kakršne koli osebne olajšave, druge olajšave in zmanjšanja za davčne namene zaradi osebnega stanja ali družinskih obveznosti, ki jih priznava svojim rezidentom.

4. 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 do rezidenta druge države pogodbenice pri določanju obdavčljivega premoženja takega podjetja odbijejo pod istimi pogoji, kot da 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 podobnih podjetij prve omenjene države.

6. 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 zanj za posledico obdavčevanje, ki ni v skladu z določbami te konvencije, lahko ne glede na sredstva, ki ji jih omogoča domače pravo 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.

(c) where in accordance with any provision of this Convention income derived or capital owned by a resident of Bulgaria is exempt from tax in Bulgaria, Bulgaria may nevertheless, in calculating the amount of the tax on the remaining income or capital of such resident, take into account the exempted income or capital.

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 favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

3. Nothing in this Article shall be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, relieves 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 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.

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 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 ugovor upravičen 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 domačem pravu 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 med seboj 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.

27. člen

IZMENJAVA INFORMACIJ

1. Pristojna organa držav pogodbenic si izmenjavata take informacije, ki so potrebne za izvajanje določb te konvencije ali domače zakonodaje držav pogodbenic glede davkov vseh vrst in opisov, ki se uvedejo v imenu držav pogodbenic ali njunih političnih enot ali lokalnih oblasti, če obdavčevanje na tej podlagi ni v nasprotju s konvencijo. Izmenjava informacij ni omejena s 1. in 2. členom. Vsaka informacija, ki jo prejme država pogodbenica, se obravnava kot tajnost na isti način kot informacije, pridobljene po domači 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 iz prvega stavka. Te osebe ali organi uporabljajo informacije samo v te namene. Informacije lahko razkrijejo v sodnih postopkih 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

Nobena določba te konvencije ne vpliva na davčne ugodnosti članov diplomatskih predstavništva ali konzulatov po splošnih pravilih mednarodnega prava ali določbah posebnih sporazumov.

VII. POGLAVJE KONČNE DOLOČBE

29. člen

ZAČETEK VELJAVNOSTI

1. Državi pogodbenici druga drugo pisno obvestita po diplomatski poti, da so končani postopki, ki se po njunem notranjem pravu zahtevajo za začetek veljavnosti te konvencije. Konvencija začne veljati na datum prejema zadnjega od uradnih obvestil.

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.

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 concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation there under is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2. 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 referred to in the first sentence. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceeding or in the 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.

CHAPTER VII FINAL PROVISIONS

Article 29

ENTRY INTO FORCE

1. The Contracting States shall notify each other in writing, through diplomatic channels, that the procedures required by their internal law for the entry into force of this Convention have been completed. The Convention shall enter into force on the date of receipt of the later of these notifications.

2. Ta konvencija se uporablja:

- a) v zvezi z davki, odtegnjenimi pri viru, za dohodek, prejet 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, obračunane za katero koli davčno leto, ki se začne prvega januarja ali po njem v koledarskem letu, ki sledi letu, v katerem začne veljati konvencija.

30. člen

PRENEHANJE VELJAVNOSTI

1. Ta konvencija velja, dokler je država pogodbenica ne odpove. Vsaka država pogodbenica lahko odpove konvencijo po diplomatski poti s pisnim obvestilom o odpovedi najmanj šest mesecev pred koncem katerega koli koledarskega leta po petih letih od datuma začetka veljavnosti konvencije.

2. V takem primeru se konvencija preneha uporabljati:

- a) v zvezi z davki, odtegnjenimi pri viru, za dohodek, prejet 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, obračunane za katero koli davčno leto, ki se začne prvega 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 izvirnikih v Ljubljani dne 20. oktobra 2003 v slovenskem, bolgarskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. Pri različni razlagi prevlada angleško besedilo.

Za Republiko Slovenijo:
Milojka Kolar l. r.

Za Republiko Bolgarijo:
Stamen Tassev l. r.

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 30

TERMINATION

1. 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 after the expiry of five years from the date on which the Convention enters into force.

2. In such event, the Convention shall cease to apply:

- 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 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 of the calendar year next following the year in which the notice is given.

IN WITNESS WHEREOF the undersigned, duly authorized thereto, have signed this Convention.

DONE in duplicate at Ljubljana this 20 day of October 2003, in the Slovenian, Bulgarian and English languages, all texts being equally authentic. In case of divergence of interpretation the English text shall prevail.

For the
Republic of Slovenia:
Milojka Kolar, (s)

For the
Republic of Bulgaria:
Stamen Tassev, (s)

3. člen

Za izvajanje konvencije skrbi Ministrstvo za finance.

4. člen

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

Št. 432-01/04-30/1
Ljubljana, dne 25. marca 2004
EPA 1146-III

Predsednik
Državnega zbora
Republike Slovenije
Borut Pahor l. r.

36. Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Slovaško republiko o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja s protokolom (BSKIDO)

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 SLOVAŠKO REPUBLIKO O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA IN PREMOŽENJA S PROTOKOLOM (BSKIDO)

Razglasšam Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Slovaško republiko o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja s protokolom (BSKIDO), ki ga je sprejel Državni zbor Republike Slovenije na seji 25. marca 2004.

Št. 001-22-31/04

Ljubljana, dne 2. aprila 2004

Predsednik
Republike Slovenije
dr. Janez Drnovšek l. r.

ZAKON

O RATIFIKACIJI KONVENCIJE MED REPUBLIKO SLOVENIJO IN SLOVAŠKO REPUBLIKO O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA IN PREMOŽENJA S PROTOKOLOM (BSKIDO)

1. člen

Ratificira se Konvencija med Republiko Slovenijo in Slovaško republiko o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja s protokolom, podpisana v Bratislavi 14. maja 2003.

2. člen

Besedilo konvencije s protokolom se v izvirniku v slovenskem in angleškem jeziku glasi:*

K O N V E N C I J A

MED REPUBLIKO SLOVENIJO IN SLOVAŠKO REPUBLIKO O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA IN PREMOŽENJA

Republika Slovenija in Slovaška republika 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:

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 jih plačujejo podjetja, ter davki na zvišanje vrednosti kapitala.

C O N V E N T I O N

BETWEEN THE REPUBLIC OF SLOVENIA AND THE SLOVAK REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

The Republic of Slovenia and the Slovak Republic, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital,

Have agreed as follows:

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.

* Besedilo konvencije s protokolom v slovaškem jeziku je na vpogled v Sektorju za mednarodnopravne zadeve Ministrstva za zunanje zadeve.

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

- a) na Slovaškem:
 - i) davek od dohodka posameznikov;
 - ii) davek od dohodka pravnih oseb;
 - iii) davek od nepremičnin
 (v nadaljevanju »slovaški davek«);
- b) v Sloveniji:
 - i) davek od dohodka posameznikov;
 - ii) davek od dobička pravnih oseb;
 - iii) davek od premoženja
 (v nadaljevanju »slovenski davek«).

4. Konvencija se uporablja tudi za 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.

3. člen

SPLOŠNA OPREDELITEV IZRAZOV

1. V tej konvenciji, razen če sobesedilo ne zahteva drugače:

a) izraz »Slovaška« pomeni Slovaško republiko, in ko se uporablja v zemljepisnem smislu, njeno ozemlje, na katerem lahko Slovaška republika izvaja svoje suverene pravice in jurisdikcijo v skladu s pravili mednarodnega prava;

b) 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, na katerem lahko Slovenija izvaja svoje suverene pravice in jurisdikcijo v skladu s svojo domačo zakonodajo in mednarodnim pravom;

c) izraza »država pogodbenica« in »druga država pogodbenica« pomenita, kot zahteva sobesedilo, Slovaško ali Slovenijo;

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 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 ne opravlja prevozov samo med kraji v drugi državi pogodbenici;

h) izraz »državljan« pomeni:

i) posameznika, ki ima državljanstvo države pogodbenice;

ii) pravno osebo, osebno družbo ali združenje, katerega status izhaja iz veljavne zakonodaje države pogodbenice;

i) izraz »pristojni organ« pomeni:

i) na Slovaškem Ministrstvo za finance Slovaške republike ali pooblaščenega predstavnika tega ministrstva;

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

2. Kadar koli država pogodbenica uporabi konvencijo, ima kateri koli izraz, ki v njej ni opredeljen, razen če sobesedilo ne 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.

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

- a) in Slovakia:
 - (i) the tax on income of individuals;
 - (ii) the tax on income of legal persons;
 - (iii) the tax on immovable property;
 (hereinafter referred to as »Slovak tax«);
- b) in Slovenia:
 - (i) the tax on income of individuals;
 - (ii) the tax on profits of legal persons;
 - (iii) the tax on property;
 (hereinafter referred to as »Slovenian tax«).

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

Article 3

GENERAL DEFINITIONS

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

a) the term »Slovakia«, means the Slovak Republic and, used in a geographical sense, means its territory, within which the Slovak Republic exercises its sovereign rights and jurisdiction, in accordance with the rules of international law;

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

c) the terms »a Contracting State« and »the other Contracting State« mean Slovakia or Slovenia 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, aircraft or road vehicle operated by an enterprise that 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;

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;

i) the term »competent authority« means:

(i) in Slovakia: the Ministry of Finance of the Slovak Republic or its authorised representative;

(ii) in Slovenia: the Ministry of Finance of the Republic of Slovenia or its authorised representative.

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.

4. člen REZIDENT

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

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

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 posameznik 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, si pristojna organa držav pogodbenic prizadevata vprašanje rešiti s skupnim dogovorom.

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

5. člen STALNA POSLOVNA ENOTA

1. V tej konvenciji 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. Izraz »stalna poslovna enota« vključuje tudi:

a) gradbišče ali projekt gradnje ali montaže ali postavitve, samo če traja več kot dvanajst mesecev;

b) opravljanje storitev, vključno s svetovalnimi in poslovnimi storitvami, ki jih opravlja podjetje države pogodbenice s svojimi zaposlenimi ali z drugim osebjem, ki jih podjetje zaposli v ta namen, vendar samo če se tovrstne dejavnosti na ozemlju druge države pogodbenice izvajajo v obdobju ali obdobjih, ki skupno trajajo več kot 183 dni v katerem koli obdobju dvanajstih mesecev.

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

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

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 endeavour to 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. The term »permanent establishment« likewise encompasses:

a) a building site or construction or assembly or installation project only if it lasts more than twelve months;

b) the furnishing of services, including consultancy and managerial services, by an enterprise of a Contracting State through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue in the territory of the other Contracting State for a period or periods aggregating more than 183 days within any twelve-month period.

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

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

b) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za skladiščenje, razstavljanje ali dostavo;

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

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

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

f) vzdrževanja stalnega mesta poslovanja samo za kakršno koli kombinacijo dejavnosti, omenjenih v pododstavkih a) do e), če je splošna dejavnost stalnega mesta poslovanja, ki je posledica te kombinacije, pripravljalna ali pomožna.

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 z dejavnostmi, ki jih ta oseba prevzame za podjetje, razen če dejavnosti te osebe niso 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, če 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 ta nepremičnina. Izraz vedno vključuje premoženje, ki je sestavni del nepremičnin, živino in opremo, ki se uporablja v kmetijstvu in gozdarstvu, pravice, za katere se uporabljajo 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 za dohodek iz nepremičnin, ki se uporabljajo za opravljanje samostojnih osebnih storitev.

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. 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.

7. člen

POSLOVNI DOBIČEK

1. Dobiček podjetja države pogodbenice se obdavči samo v tej državi, razen če podjetje ne 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 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 ni 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 od 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 ladji, se šteje, da je v državi pogodbenici, v kateri je matično pristanišče ladje, ali če ni 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, 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

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.

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) 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 bilo že 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 obstajali med neodvisnimi podjetji, ta druga država ustrezno prilagodi znesek davka, ki se v tej državi obračuna 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.

3. Določbe drugega odstavka se ne uporabljajo pri goljufiji ali namerni kršitvi ali malomarnosti.

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) v primeru slovaške osebne družbe 5 odstotkov bruto zneska dividend, če je upravičeni lastnik družba – rezident Slovaške – ki je partner v slovaški osebni družbi in ima sama neposredno v lasti najmanj 25 odstotkov kapitala družbe, ki plačuje dividende;

c) 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, ustanoviteljskih delnic ali drugih pravic do udeležbe v dobičku, ki niso terjatve, in tudi drugi dohodek, 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.

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.

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

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) in the case of a Slovak partnership, 5 per cent of the gross amount of the dividends if the beneficial owner is a company – being a resident of Slovakia – which is a partner in a Slovak partnership, and which alone holds directly at least 25 per cent of the capital of the company paying the dividends;

c) 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, founders' shares or other rights, not being debt-claims, participating in profits, as well as other income 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 obračunani 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 od takih vrednostnih papirjev, obveznic ali zadolžnic, vendar ne vključuje nobenega dohodka, ki se v skladu z 10. členom obravnava kot dividende. 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 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.

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 10 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, but does not include any income which is treated as dividends under Article 10. 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 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.

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 licenčin in avtorskih honorarjev rezident druge države pogodbenice, tako obračunani davek ne presega 10 odstotkov bruto zneska licenčin 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 radijsko ali televizijsko 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 licenčin 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 opravlja v tej drugi državi 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 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 DOBIČKI

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. Za namene prvega odstavka dobiček iz odtujitve nepremičnin iz 6. člena in so v drugi državi pogodbenici vključuje dobiček iz odtujitve delnic v družbi – razen delnic, ki so uvrščene na priznani borzi – ali deleža v osebni družbi, katere premoženje so v več kot 50 odstotkih neposredno ali posredno nepremičnine v tej drugi pogodbenici ali kakršne koli druge pravice na takih nepremičninah.

Article 12

ROYALTIES

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

2. However, such royalties may also be taxed in the Contracting State in which they arise, and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. The term »royalties« as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and films or tapes for radio or television broadcasting, any patent, trademark, 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. For the purposes of paragraph 1, gains from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State shall include gains from the alienation of shares – other than shares quoted on the recognised Stock Exchange – in a company, or of an interest in a partnership, the assets of which consist more than 50 per cent, directly or indirectly, of immovable property situated in that other Contracting State or of any other right pertaining to such immovable property.

3. Dobiček iz odtujitve premočnin, ki so del poslovnega premoženja stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ali premočnin, ki se nanašajo na stalno bazo, ki jo ima rezident države pogodbenice na voljo v drugi državi pogodbenici za opravljanje 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.

4. Dobiček iz odtujitve ladij, letal ali cestnih vozil, s katerimi se opravljajo prevozi v mednarodnem prometu, ali premočnin, 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.

5. Dobiček iz odtujitve 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 iz poklicnih storitev ali drugih samostojnih dejavnosti, se obdavči samo v tej državi, razen če nima stalne baze, ki mu je redno na voljo v drugi državi pogodbenici za opravljanje njegovih dejavnosti. Če ima tako stalno bazo, se dohodek lahko obdavči v drugi državi, a samo toliko dohodka, kolikor ga je pripisanega 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 ne 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 določenem davčnem letu, in

b) prejemek plača delodajalec, ki ni rezident druge države, ali 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 lahko prejemek, ki izhaja iz zaposlitve na ladji ali letalu, s katerim se opravljajo prevozi v mednarodnem prometu, 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 uprave ali kakršnega koli drugega podobnega organa družbe, ki je rezident druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

3. 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.

4. 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.

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 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 or any other similar organ 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 lahko 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, 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 osebno, temveč drugi osebi, se ta dohodek kljub določbam 7., 14. in 15. člena lahko obdavči v državi pogodbenici, v kateri potekajo dejavnosti nastopajočega izvajalca ali športnika.

3. Določbe prvega in drugega odstavka se ne uporabljajo za dohodek iz dejavnosti, ki jih nastopajoči izvajalec ali športnik izvaja v državi pogodbenici, če se obisk v tej državi v celoti ali pretežno financira z javnimi sredstvi ene ali obeh držav pogodbenic ali njunih lokalnih oblasti. V takem primeru se dohodek obdavči samo v državi pogodbenici, katere rezident je nastopajoči izvajalec ali športnik.

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 zaradi 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. Rezident ene države pogodbenice, ki je na povabilo univerze, višje oziroma visoke šole, raziskovalne ustanove ali druge podobne ustanove v drugi državi pogodbenici začasno navzoč v drugi državi pogodbenici samo zaradi poučevanja ali raziskovanja ali obojega na univerzi, višji oziroma visoki šoli, raziskovalni ustanovi ali drugi podobni ustanovi v obdobju, ki ni daljše od dveh let od datuma prvega prihoda v ta namen v drugo državo pogodbenico, se v drugi državi pogodbenici ne obdavči za prejemke za tako poučevanje ali raziskovanje, če te prejemke dobi iz virov zunaj te druge države pogodbenice.

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 exercised in a Contracting State by an entertainer or a sportsman if the visit to that State is wholly or mainly supported by public funds of one or both of the Contracting States or local authorities thereof. In such case, the income shall be taxable only in the Contracting State of which the entertainer or sportsman is a resident.

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. A resident of a Contracting State who, at the invitation of a university, college, scientific institution or other similar establishment, situated in the other Contracting State, is temporarily present in the other Contracting State solely for the purpose of teaching, or engaging in research, or both, at the university, college, scientific institution or other similar establishment, shall, for a period not exceeding two years from the date of his first arrival for such purpose in the other Contracting State, be exempt from tax by the other Contracting State on payments from such teaching or research, provided that such payments are derived from sources outside that other Contracting State.

2. Prejšnje določbe tega člena se ne uporabljajo za prejemke, ki jih profesor, učitelj ali raziskovalec prejme za raziskave, če se izvajajo predvsem v zasebno korist določene osebe ali oseb.

21. člen ŠTUDENTI

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 zaradi svojega izobraževanja ali usposabljanja, prejme za svoje vzdrževanje, izobraževanje ali usposabljanje, se ne obdavčijo v tej državi, če taka plačila nastanejo iz virov zunaj te države.

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. Če rezident države pogodbenice prejme dohodek iz virov v drugi državi pogodbenici, kot so loterija in kakršne koli igre ali kakršne koli igre na srečo ali stave, se ne glede na določbe prvega odstavka tak dohodek lahko obdavči v drugi državi pogodbenici.

3. 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 so 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 so 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 so na voljo rezidentu države pogodbenice v drugi državi pogodbenici za opravljanje samostojnih osebnih storitev, se lahko obdavči v tej drugi državi.

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

4. Vse druge sestavine premoženja rezidenta države pogodbenice se obdavčijo samo v tej državi.

24. 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 dovolí:

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

2. The preceding provisions of this Article shall not apply to payments which a professor, teacher or researcher receives for conducting research if the research is undertaken primarily for the private benefit of a specific person or persons.

Article 21 STUDENTS

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

Article 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. Notwithstanding the provisions of paragraph 1, if a resident of a Contracting State derives income from sources within the other Contracting State in form of lotteries and games of any sort or gambling or betting of any nature, such income may be taxed in the other Contracting State.

3. 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. Capital represented by ships, aircraft or road vehicles operated in international traffic, and by 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. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 24 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) kot odbitek od davka od premoženja tega rezidenta znesek, ki je enak davku od premoženja, plačanemu v tej drugi državi.

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 tej drugi državi.

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

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 ne 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.

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 do drugih 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 zanj za posledico obdavčevanje, ki ni v skladu z določbami te konvencije, lahko ne glede na sredstva, ki ji jih omogoča domače pravo 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.

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

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

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

Article 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 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.

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 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 domačem pravu 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 med seboj 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.

27. člen

IZMENJAVA INFORMACIJ

1. Pristojna organa držav pogodbenic si izmenjavata take informacije, ki so potrebne za izvajanje določb te konvencije ali domače zakonodaje držav pogodbenic glede davkov, za katere se uporablja ta konvencija, če obdavčevanje na njeni 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 domači 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 v sodnih postopkih 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

Nobena določba te konvencije ne vpliva na davčne ugodnosti članov diplomatskih predstavništav ali konzulatov po splošnih pravilih mednarodnega prava ali določbah posebnih sporazumov.

29. člen

ZAČETEK VELJAVNOSTI

1. Ta konvencija se ratificira in listini o ratifikaciji se izmenjata, kakor hitro je to mogoče.

2. Konvencija začne veljati 60 dni po datumu izmenjave listin o ratifikaciji in njene določbe se uporabljajo v obeh državah pogodbenicah:

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, 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 State 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 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

ENTRY INTO FORCE

1. This Convention shall be ratified and the instruments of ratification shall be exchanged as soon as possible.

2. The Convention shall enter into force 60 days upon the date of the exchange of instruments of ratification and its provisions shall have effect in both Contracting States:

a) v zvezi z davki, zadržanimi pri viru, za dohodek, plačan ali pripisan prvi dan 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 dohodek ali premoženje v katerem koli davčnem letu z začetkom prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem začne veljati konvencija.

3. Konvencija med Socialistično federativno republiko Jugoslavijo in Socialistično republiko Češkoslovaško o izogibanju dvojnega obdavčevanja v zvezi z davki od dohodka in premoženja, ki je bila podpisana 2. novembra 1981 v Pragi, med Republiko Slovenijo in Slovaško republiko preneha veljati z začetkom veljavnosti te konvencije in njene določbe se prenehajo uporabljati z datumom, ko se ta konvencija začne uporabljati v skladu z določbami drugega odstavka.

30. člen

PRENEHANJE VELJAVNOSTI

Ta konvencija velja, dokler je ena od držav pogodbenic ne odpove. Vsaka država pogodbenica lahko odpove konvencijo po diplomatski poti s pisnim obvestilom o odpovedi najmanj šest mesecev pred koncem katerega koli koledarskega leta po petih letih od datuma začetka veljavnosti konvencije. V takem primeru se konvencija v obeh državah pogodbenicah preneha uporabljati:

a) v zvezi z davki, zadržanimi pri viru, za dohodek, plačan ali pripisan prvi dan 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 dohodek ali premoženje v katerem koli davčnem letu z začetkom prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem je bilo dano obvestilo o odpovedi.

V POTRDITEV NAVEDENEGA sta podpisana, ki sta bila za to pravilno pooblaščenca, podpisala to konvencijo.

SESTAVLJENO v dveh izvirnikih v Bratislavi dne 14. maja 2003 v slovenskem, slovaškem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. Pri razlikah v razlagi prevlada angleško besedilo.

Za Republiko Slovenijo:
Dimitrij Rupel l. r.

Za Slovaško republiko:
Eduard Kukan l. r.

PROTOKOL

Ob podpisu Konvencije med Republiko Slovenijo in Slovaško republiko o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja sta se državi pogodbenici dogovorili za določbe, ki so sestavni del konvencije.

V zvezi z drugim odstavkom 13. člena konvencije se izraz "priznana borza" nanaša:

a) na Slovaškem na slovaško borzo (Burza cenných papierov v Bratislave, a. s.),

b) v Sloveniji na Ljubljansko borzo (Ljubljanska borza, d. d.) in

c) katere koli druge borze, za katere se dogovorita pristojna organa držav pogodbenic.

a) in respect of taxes withheld at source, to income paid or credited on or after first day of January in 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 income or capital in any tax year beginning on or after first day of January in the calendar year next following the year in which the Convention enters into force.

3. The Convention between the Socialist Federal Republic of Yugoslavia and the Czechoslovak Socialist Republic for the avoidance of double taxation with respect to taxes on income and on capital signed at Prague on 2 November 1981, shall terminate in relation between the Republic of Slovenia and the Slovak Republic upon the entry into force of this Convention, and its provisions shall cease to have effect from the date when this Convention becomes effective in accordance with the provisions of paragraph 2.

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 both Contracting States:

a) in respect of taxes withheld at source, to income paid or credited on or after the first day of January in the calendar year next following the year in which the notice of termination is given;

b) in respect of other taxes on income and taxes on capital, to income or capital in any tax year beginning on or after the first day of January in the calendar year next following the year in which the notice of termination is given.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Convention.

DONE in duplicate at Bratislava this 14 day of May 2003, each in the Slovenian, Slovak and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

For the Republic of Slovenia:
Dimitrij Rupel, (s)

For the Slovak Republic:
Eduard Kukan, (s)

PROTOCOL

At the time of signing the Convention between the Republic of Slovenia and the Slovak Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital, both Contracting States have agreed that the following provisions shall form an integral part of the Convention.

With reference to paragraph 2 of Article 13 of the Convention, the term "recognised Stock Exchange" refers to:

a) in the case of Slovakia, the Slovak Stock Exchange (Burza cenných papierov v Bratislave, a.s.);

b) in the case of Slovenia, the Ljubljana Stock Exchange (Ljubljanska borza, d.d.); and

c) any other stock exchanges agreed upon by the competent authorities of the Contracting States.

V POTRDITEV NAVEDENEGA sta podpisana, ki sta bila za to pravilno pooblaščená, podpisala ta protokol.

SESTAVLJENO v dveh izvornikih v Bratislavi dne 14. maja 2003 v slovenskem, slovaškem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. Pri razlikah v razlagi prevlada angleško besedilo.

Za Republiko Slovenijo:
Dimitrij Rupel l. r.

Za Slovaško republiko:
Eduard Kukan l. r.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Protocol.

DONE in duplicate at Bratislava this 14 day of May 2003, each in the Slovenian, Slovak and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

For the Republic of Slovenia: For the Slovak Republic:
Dimitrij Rupel, (s) **Eduard Kukan, (s)**

3. člen

Za izvajanje konvencije s protokolom skrbi Ministrstvo za finance.

4. člen

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

Št. 432-01/04-32/1
Ljubljana, dne 25. marca 2004
EPA 1148-III

Predsednik
Državnega zbora
Republike Slovenije
Borut Pahor l. r.

37. Zakon o ratifikaciji Konvencije med Vlado Republike Slovenije in Vlado Ukrajine o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja (BUKIDO)

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 VLADO REPUBLIKE SLOVENIJE IN VLADO UKRAJINE O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA IN PREMOŽENJA (BUKIDO)

Razglašam Zakon o ratifikaciji Konvencije med Vlado Republike Slovenije in Vlado Ukrajine o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja (BUKIDO), ki ga je sprejel Državni zbor Republike Slovenije na seji 25. marca 2004.

Št. 001-22-32/04

Ljubljana, dne 2. aprila 2004

Predsednik
Republike Slovenije
dr. Janez Drnovšek l. r.

ZAKON

O RATIFIKACIJI KONVENCIJE MED VLADO REPUBLIKE SLOVENIJE IN VLADO UKRAJINE O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA IN PREMOŽENJA (BUKIDO)

1. člen

Ratificira se Konvencija med Vlado Republike Slovenije in Vlado Ukrajine o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja, podpisana v Ljubljani 23. aprila 2003.

2. člen

Besedilo konvencije se v izvirniku v slovenskem in angleškem jeziku glasi:*

K O N V E N C I J A

**MED VLADO REPUBLIKE SLOVENIJE IN
VLADO UKRAJINE O IZOGIBANJU DVOJNEGA
OBDAVČEVANJA IN PREPREČEVANJU
DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA
IN PREMOŽENJA**

Vlada Republike Slovenije in Vlada (Kabinet ministrov) Ukrajine 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:

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.

C O N V E N T I O N

**BETWEEN THE GOVERNMENT OF THE
REPUBLIC OF SLOVENIA AND THE
GOVERNMENT OF UKRAINE FOR THE
AVOIDANCE OF DOUBLE TAXATION AND
THE PREVENTION OF FISCAL EVASION WITH
RESPECT TO TAXES ON INCOME AND ON
CAPITAL**

The Government of the Republic of Slovenia and the Government (Cabinet of Ministers) of Ukraine,

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:

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.

* Besedilo konvencije v ukrajinskem jeziku je na vpogled v Sektorju za mednarodnopravne zadeve Ministrstva za zunanje zadeve.

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 jih plačujejo podjetja, ter davki na zvišanje vrednosti kapitala.

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, dobičkom iz kapitala in dohodkom iz nepremičnin in premičnin, in

iii) davek od premoženja

(v nadaljevanju "slovenski davek");

b) v Ukrajini:

i) davek od dobička podjetij in

ii) davek od dohodka posameznikov

(v nadaljevanju "ukrajinski davek").

4. Konvencija se uporablja tudi za 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.

3. člen

SPLOŠNA OPREDELITEV IZRAZOV

1. V tej konvenciji, razen če sobesedilo ne zahteva drugače:

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

b) izraz "Ukrajina", ko se uporablja v zemljepisnem smislu, pomeni območje Ukrajine, njen epikontinentalni pas in izključno (morsko) ekonomsko cono, vključno s katerim koli območjem zunaj teritorialnega morja Ukrajine, ki je bilo ali se lahko v skladu z mednarodnim pravom določi kot območje, na katerem se lahko izvajajo pravice Ukrajine v zvezi z morskim dnom in podzemljem ter njenimi naravnimi viri;

c) izraz "državljan" pomeni:

i) posameznika, ki ima državljanstvo države pogodbenice;

ii) pravno osebo, osebno družbo ali združenje, katerega status izhaja iz veljavne zakonodaje države pogodbenice;

d) izraza "država pogodbenica" in "druga država pogodbenica" pomenita, kot zahteva sobesedilo, Slovenijo ali Ukrajino;

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

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

g) 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;

h) izraz "mednarodni promet" pomeni prevoz z ladjo, letalom ali cestnim vozilom, ki ga opravlja podjetje države pogodbenice, razen če ladja, letalo ali cestno vozilo ne opravlja prevoza samo med kraji v drugi državi pogodbenici;

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 the case 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; and

(iii) the tax on property;

(hereinafter referred to as »Slovenian tax«);

b) in the case of Ukraine:

(i) the tax on profits of enterprises; and

(ii) the individual income tax;

(hereinafter referred to as »Ukrainian tax«).

4. The Convention shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of this Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that 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, the territory of Slovenia, including sea area, sea bed and sub-soil adjacent to the territorial sea, over which Slovenia may exercise its sovereign rights and jurisdiction in accordance with its domestic legislation and international law;

b) the term »Ukraine« when used in geographical sense, means the territory of Ukraine, its Continental Shelf and its exclusive (maritime) economic zone, including any area outside the territorial sea of Ukraine which in accordance with international law has been or may hereafter be designated, as an area within which the rights of Ukraine with respect to the sea bed and sub-soil and their natural resources may be exercised;

c) 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;

d) the terms »a Contracting State« and »the other Contracting State« mean Slovenia or Ukraine, as the context requires;

e) the term »person« includes an individual, a company and any other body of persons;

f) the term »company« means any body corporate or any entity which is treated as a body corporate for tax purposes;

g) 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;

h) the term »international traffic« means any transport by a ship, aircraft or road vehicle operated by an enterprise of a Contracting State, except when the ship, aircraft or road vehicle is operated solely between places in the other Contracting State;

i) izraz "pristojni organ" pomeni v Sloveniji Ministrstvo za finance Republike Slovenije ali pooblaščenega predstavnika tega ministrstva in v Ukrajini Državno davčno upravo Ukrajine ali pooblaščenega predstavnika te uprave.

2. Kadar koli država pogodbenica uporabi konvencijo, ima kateri koli izraz, ki v njej ni opredeljen, razen če sobesedilo ne 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 davčni zakonodaji te države pogodbenice prevlada nad pomenom izraza po drugi zakonodaji te države pogodbenice.

4. člen REZIDENT

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

2. Kadar je zaradi določb prvega odstavka tega člena posameznik rezident obeh držav pogodbenic, se njegov status določi tako:

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

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

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

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

3. Kadar je zaradi določb prvega odstavka tega člena oseba, ki ni posameznik, rezident obeh držav pogodbenic, se šteje samo za rezidenta države pogodbenice, v kateri je njen sedež dejanske uprave.

5. člen STALNA POSLOVNA ENOTA

1. V tej konvenciji 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,
- f) napravo ali objekt za raziskovanje naravnih virov,

g) rudnik, nahajališče nafte ali plina, kamnolom ali kateri koli drug kraj pridobivanja naravnih virov in

i) the term »competent authority« means, in the case of Slovenia, the Ministry of Finance of the Republic of Slovenia or its authorised representative, and, in the case of Ukraine, the State Tax Administration of Ukraine or its authorised representative.

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 Contracting State prevailing over a meaning given to the term under other laws of that Contracting 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 Contracting State, is liable to tax therein by reason of his domicile, residence, place of management, place of registration or any other criterion of a similar nature, and also includes that Contracting State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that Contracting State in respect only of income from sources in that Contracting State or capital situated therein.

2. Where by reason of the provisions of paragraph 1 of this Article 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 Contracting State in which he has a permanent home available to him; if he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident only of the Contracting State with which his personal and economic relations are closer (centre of vital interests);

b) if the Contracting 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 Contracting State, he shall be deemed to be a resident only of the Contracting State in which he has an habitual abode;

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

d) if he is a national of both Contracting 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 of this Article 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. The term »permanent establishment« includes especially:

- a) a place of management;
- b) a branch;
- c) an office;
- d) a factory;
- e) a workshop;
- f) an installation or structure for the exploration of natural resources;

g) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources; and

h) skladišče ali drugo zgradbo, ki se uporablja kot prodajno mesto.

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 skladiščenje, razstavljanje ali dostavo dobrin ali blaga, ki pripada podjetju;

b) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za skladiščenje, razstavljanje ali dostavo;

c) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za predelavo, ki jo opravi drugo podjetje;

d) vzdrževanja stalnega mesta poslovanja samo za nakup dobrin ali blaga za podjetje ali zbiranje informacij za podjetje;

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

f) vzdrževanja stalnega mesta poslovanja samo za kakršno koli kombinacijo dejavnosti, omenjenih v pododstavkih a) do e), če je splošna dejavnost stalnega mesta poslovanja, ki je posledica te kombinacije, pripravljalna ali pomožna.

5. Ne glede na določbe prvega in drugega odstavka tega člena, kadar oseba – ki ni zastopnik z neodvisnim statusom, za katerega se uporablja šesti odstavek tega člena – 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 pogodbenici v zvezi z dejavnostmi, ki jih ta oseba prevzame za podjetje, razen če dejavnosti te osebe niso omejene na tiste iz četrtega odstavka tega člena, 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 pogodbenici prek posrednika, splošnega komisionarja ali katerega koli drugega zastopnika z neodvisnim statusom, če 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 pogodbenici (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 pogodbenici.

2. Izraz "nepremičnine" ima pomen, ki ga ima po zakonodaji 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 se uporabljajo 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, letala in cestna vozila se ne štejejo za nepremičnine.

h) a warehouse or other structure used as a sales outlet.

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 sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, where a person other than an agent of an independent status to whom paragraph 6 of this Article 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 Contracting 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 of this Article 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 Contracting 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 Contracting 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 Contracting 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, aircraft and road vehicles shall not be regarded as immovable property.

3. Določbe prvega odstavka tega člena 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 tega člena 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 pogodbenici, razen če podjetje ne 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 pogodbenici, vendar samo toliko dobička, kot se pripiše tej stalni poslovni enoti.

2. Ob upoštevanju določb tretjega odstavka tega člena, 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 v državi pogodbenici, v kateri je stalna poslovna enota, ali drugje.

4. Če se v državi pogodbenici dobiček, ki se pripiše stalni poslovni enoti, po njeni zakonodaji običajno določi na podlagi porazdelitve vsega dobička podjetja na njegove dele, nič v drugem odstavku tega člena 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 ni upravičenega in zadostnega razloga 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, ki ga rezident države pogodbenice ustvari z opravljanjem ladijskih, letalskih ali cestnih prevozov v mednarodnem prometu, se obdavči samo v tej državi pogodbenici.

2. V tem členu dobiček od ladijskih ali letalskih prevozov v mednarodnem prometu vključuje:

a) dohodek od najema praznih ladij ali letal in

b) dobiček iz uporabe, vzdrževanja ali najema zabojnikov (vključno s priklopniki in sorodno opremo za prevoz zabojnikov), uporabljenih za prevoz dobrin ali blaga,

3. The provisions of paragraph 1 of this Article 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 of this Article 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 Contracting 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 Contracting State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3 of this Article, 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 Contracting State in which the permanent establishment is situated or elsewhere.

4. Insofar as it has been customary in a Contracting State to determine, according to its laws, 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 of this Article 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 derived by a resident of a Contracting State from the operation of ships, aircraft or road vehicles in international traffic shall be taxable only in that Contracting State.

2. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic include:

a) income from the rental on a bare boat basis of ships or aircraft; and

b) profits from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise;

če so tak najem oziroma taka uporaba, vzdrževanje ali najem priložnostni glede na opravljanje ladijskih ali letalskih prevozov v mednarodnem prometu.

3. Če dobiček iz prvega odstavka tega člena ustvari rezident države pogodbenice iz udeležbe v interesnem združenju, mešanem podjetju ali mednarodni prevoznici, se dobiček, ki se pripiše temu rezidentu, obdavči samo v državi pogodbenici, katere rezident je.

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 njihovih 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 pogodbenice vključuje – in ustrezno obdavči – dobiček, za katerega je bilo že obdavčeno podjetje druge države pogodbenice v tej drugi državi pogodbenici, in je tako vključen dobiček dobiček, ki bi prirastel podjetju prve omenjene države pogodbenice, če bi bili pogoji, ki obstajajo med podjetjema, taki, kot bi obstajali med neodvisnimi podjetji, ta druga država pogodbenica ustrezno prilagodi znesek davka, ki se v tej državi obračuna 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 pogodbenici.

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 pogodbenice, 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 s skupnim dogovorom uredita način 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 ali drugih pravic do udeležbe v dobičku, ki niso terjatve, in tudi dohodek iz drugih korporacijskih pravic, ki se davčno obravnava enako kot dohodek iz delnic po zakonodaji države pogodbenice, katere rezident je družba, ki dividende deli.

where such rental or such use, maintenance or rental, as the case may be, is incidental to the operation of ships or aircraft in international traffic.

3. Where profits within paragraph 1 of this Article are derived by a resident of a Contracting State from participation in a pool, a joint business or an international operating agency, the profits attributable to that resident shall be taxable only in the Contracting State of which he is a resident.

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 Contracting State – and taxes accordingly – profits on which an enterprise of the other Contracting State has been charged to tax in that other Contracting State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Contracting State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Contracting 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 Contracting 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 Contracting 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 settle the mode of application of these limitations by mutual agreement.

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

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

4. Določbe prvega in drugega odstavka tega člena 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 pogodbenici 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 te konvencije, odvisno od primera.

5. Kadar dobiček ali dohodek družbe, ki je rezident države pogodbenice, izhaja iz druge države pogodbenice, ta druga država pogodbenica ne sme uvesti nobenega davka na dividende, ki jih plača družba, razen če se te dividende plačajo rezidentu te druge države pogodbenice 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 pogodbenici, 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 pogodbenici.

11. člen OBRESTI

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

2. Take obresti pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in v skladu z zakonodajo te države pogodbenice, če pa je upravičeni lastnik obresti rezident druge države pogodbenice, tako obračunani davek ne presega 5 odstotkov bruto zneska obresti. Pristojna organa držav pogodbenic s skupnim dogovorom uredita način uporabe teh omejitev.

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 od takih vrednostnih papirjev, obveznic ali zadolžnic. Kazni zaradi zamude pri plačilu se za namen tega člena ne štejejo za obresti.

4. Določbe prvega in drugega odstavka tega člena 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. ali 14. člena te konvencije, odvisno od primera.

5. Šteje se, da obresti nastanejo v državi pogodbenici, kadar je plačnik rezident te države pogodbenice. 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 pogodbenici, v kateri je stalna poslovna enota ali stalna baza.

4. The provisions of paragraphs 1 and 2 of this Article 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 Contracting 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 of this Convention, 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 Contracting 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 Contracting 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 Contracting 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 Contracting 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 Contracting State.

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that Contracting 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 settle the mode of application of these limitations by mutual agreement.

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 of this Article 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 Contracting 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 of this Convention, 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 Contracting 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 Contracting State in which the permanent establishment or fixed base is situated.

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 pogodbenici.

2. Take licenčnine in avtorski honorarji pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in v skladu z zakonodajo te države pogodbenice, če pa je upravičeni lastnik licenčin in avtorskih honorarjev rezident druge države pogodbenice, tako obračunani davek ne presega 10 odstotkov bruto zneska licenčin in avtorskih honorarjev v smislu pododstavka a) tretjega odstavka tega člena in 5 odstotkov bruto zneska licenčin in avtorskih honorarjev v smislu pododstavka b) tretjega odstavka tega člena.

3. Izraz "licenčnine in avtorski honorarji", kot je uporabljen v tem členu, pomeni plačila vsake vrste, prejeta kot povračilo:

a) za uporabo ali pravico do uporabe kakršnih koli avtorskih pravic za literarno ali umetniško delo (vključno s kinematografskimi filmi ter filmi in trakovi za televizijsko in radijsko predvajanje) in

b) za uporabo ali pravico do uporabe kakršnih koli avtorskih pravic za znanstveno delo, katerega koli patenta, blagovne znamke, vzorca ali modela, načrta, tajne formule ali postopka ali industrijske, komercialne ali znanstvene opreme ali za informacije o kakršnih koli industrijskih, komercialnih ali znanstvenih izkušnjah.

4. Določbe prvega in drugega odstavka tega člena se ne uporabljajo, če upravičeni lastnik licenčin 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 pogodbenici 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 te konvencije, odvisno od primera.

5. Šteje se, da so licenčnine in avtorski honorarji nastali v državi pogodbenici, kadar je plačnik rezident te države pogodbenice. 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 pogodbenici, 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.

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 paid to a resident of the other Contracting State may be taxed in that other Contracting State.

2. However, such royalties may also be taxed in the Contracting State in which they arise and in accordance with the laws of that Contracting State, but if the beneficial owner of the royalties is the resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties within the meaning of subparagraph a) of paragraph 3 of this Article and 5 per cent of the gross amount of the royalties within the meaning of subparagraph b) of paragraph 3 of this Article.

3. The term »royalties« as used in this Article means payments of any kind received as a consideration:

a) for the use of, or the right to use, any copyright of literary or artistic work (including cinematograph films, and films or tapes for radio or television broadcasting); and

b) for the use of, or the right to use, any copyright of scientific work, any patent, trade mark, design or model, plan, secret formula or process, or any industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 of this Article 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 Contracting 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 of this Convention, 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 Contracting State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

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

13. člen

KAPITALSKI DOBIČKI

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

2. Dobiček, ki ga rezident države pogodbenice ustvari z odtujitvijo delnic (razen delnic, uvrščenih na borzi članici Mednarodne zveze borz (IFSE – International Federation of Stock Exchanges)), katerih vrednost pretežno izhaja iz nepremičnin v drugi državi pogodbenici, se lahko obdavči v tej drugi državi pogodbenici.

3. Dobiček iz odtujitve premoženja, ki so del poslovnega premoženja stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ali premoženja, ki se nanašajo na stalno bazo, ki jo ima rezident države pogodbenice na voljo v drugi državi pogodbenici zaradi 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 pogodbenici.

4. Dobiček iz odtujitve ladij, letal ali cestnih vozil, s katerimi podjetje države pogodbenice opravlja prevoze v mednarodnem prometu, ali premoženja, ki se nanašajo na opravljanje prevozov s takimi ladjami, letali ali cestnimi vozili, se obdavči samo v tej državi pogodbenici.

5. Dobiček iz odtujitve premoženja, ki ni premoženje, navedeno v prvem, drugem, tretjem in četrtem odstavku tega člena, se lahko obdavči samo v državi pogodbenici, katere rezident je oseba, ki odtuji premoženje, če je ta dobiček obdavčljiv v tej državi pogodbenici.

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 pogodbenici, razen če nima stalne baze, ki mu je redno na voljo v drugi državi pogodbenici za opravljanje njegovih dejavnosti. Če ima tako stalno bazo, se dohodek lahko obdavči v drugi državi pogodbenici, a samo toliko dohodka, kolikor ga je pripisanega 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 te konvencije se plače, mezde in drugi podobni prejemki, ki jih dobi rezident države pogodbenice iz zaposlitve, obdavčijo samo v tej državi pogodbenici, razen če se zaposlitev ne izvaja v drugi državi pogodbenici. Če se zaposlitev izvaja tako, se lahko tako dobljeni prejemki obdavčijo v tej drugi državi pogodbenici.

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

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

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 of this Convention and situated in the other Contracting State may be taxed in that other Contracting State.

2. Gains derived by a resident of a Contracting State from the alienation of shares (other than shares listed on an Stock Exchange which is a member of the IFSE – International Federation of Stock Exchanges), deriving their value principally from immovable property situated in the other Contracting State, may be taxed in that other Contracting State.

3. 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 Contracting State.

4. Gains from the alienation of ships, aircraft or road vehicle operated in international traffic by an enterprise of a Contracting State or movable property pertaining to the operation of such ships, aircraft or road vehicle shall be taxable only in that Contracting State.

5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3 and 4 of this Article shall be taxable only in the Contracting State of which the alienator is a resident provided that those gains are subject to tax in that Contracting State.

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 Contracting 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 Contracting 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 of this Convention, 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 Contracting 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 Contracting State.

2. Notwithstanding the provisions of paragraph 1 of this Article, 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 Contracting State if:

a) the recipient is present in the other Contracting 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) prejemek plača delodajalec, ki ni rezident druge države pogodbenice, ali se plača v njegovem imenu in

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

3. Ne glede na prejšnje določbe tega člena se lahko prejemek, ki izhaja iz zaposlitve na ladji, letalu ali cestnem vozilu, s katerim se opravljajo prevozi v mednarodnem prometu, obdavči v državi pogodbenici, katere rezident je podjetje, ki opravlja ladijske, letalske ali cestne prevoze.

16. člen

PLAČILA DIREKTORJEM

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

17. člen

UMETNIKI IN ŠPORTNIKI

1. Ne glede na določbe 14. in 15. člena te konvencije se lahko 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, obdavči v tej drugi državi pogodbenici.

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

3. Ne glede na določbe prvega in drugega odstavka tega člena se dohodek iz tega člena ne obdavči v državi pogodbenici, v kateri se izvajajo dejavnosti nastopajočega izvajalca ali športnika, če se take dejavnosti pretežno financirajo z javnimi sredstvi obeh držav pogodbenic ali se izvajajo v okviru kulturnega sporazuma ali dogovora med državama pogodbenicama.

18. člen

POKOJNINE

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

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 pogodbenico ali enoto ali oblast, se obdavčijo samo v tej državi pogodbenici.

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

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

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

c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other Contracting 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 of which the enterprise operating the ship, aircraft or road vehicle is a resident.

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 Contracting State.

Article 17

ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 14 and 15 of this Convention, 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 Contracting 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 of this Convention, 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, income referred to in this Article shall be exempt from tax in the Contracting State in which the activities of the entertainer or sportsman are exercised, if such activities are substantially financed from the public funds of the both Contracting States, or are carried on under culture agreement or arrangement between the Contracting States.

Article 18

PENSIONS

Subject to the provisions of paragraph 2 of Article 19 of this Convention, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that Contracting 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 Contracting State or subdivision or authority shall be taxable only in that Contracting 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 Contracting State and the individual is a resident of that Contracting State who:

- (i) is a national of that Contracting State; or
- (ii) did not become a resident of that Contracting State solely for the purpose of rendering the services.

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

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

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

20. člen

PROFESORJI IN UČITELJI

1. Posameznik, ki je ali je bil tik pred obiskom druge države pogodbenice rezident države pogodbenice in je na povabilo univerze, višje oziroma visoke šole, šole ali druge podobne izobraževalne ustanove, ki jo za neprofitno priznava vlada te druge države pogodbenice, navzoč v tej drugi državi pogodbenici v obdobju, ki ni daljše od dveh let od datuma prvega prihoda v to drugo državo pogodbenico, samo zaradi 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. 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.

21. člen

ŠTUDENTI

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 zaradi svojega izobraževanja ali usposabljanja, prejme za svoje vzdrževanje, izobraževanje ali usposabljanje, se ne obdavčijo v prvi omenjeni državi pogodbenici, če taka plačila nastanejo iz virov zunaj te države pogodbenice.

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 pogodbenici.

2. Določbe prvega odstavka tega člena se ne uporabljajo za dohodek, ki ni dohodek iz nepremičnin, kot so opredeljene v drugem odstavku 6. člena te konvencije, 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 pogodbenici 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 te konvencije, odvisno od primera.

3. Ne glede na določbe prvega in drugega odstavka tega člena se lahko dohodek iz iger na srečo, ki ga prejme rezident države pogodbenice in nastane v drugi državi pogodbenici, obdavči tudi v tej drugi državi pogodbenici.

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 Contracting State or subdivision or authority shall be taxable only in that Contracting 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 Contracting State.

3. The provisions of Articles 15, 16, 17, and 18 of this Convention 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. 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 Contracting State, visits that other Contracting State for a period not exceeding two years from the date of his first arrival in that other Contracting 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. 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.

Article 21

STUDENTS

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned 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 the first-mentioned Contracting State, provided that such payments arise from sources outside that Contracting State.

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 Contracting State.

2. The provisions of paragraph 1 of this Article shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6 of this Convention, 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 Contracting 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 of this Convention, as the case may be, shall apply.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, income from gambling received by a resident of a Contracting State and arising in the other Contracting State may also be taxed in that other Contracting State.

23. člen PREMOŽENJE

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

2. Premoženje, ki so 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 so na voljo rezidentu države pogodbenice v drugi državi pogodbenici za opravljanje samostojnih osebnih storitev, se lahko obdavči v tej drugi državi pogodbenici.

3. Premoženje, ki so ladje, letala in cestna vozila, s katerimi podjetje države pogodbenice opravlja prevoze v mednarodnem prometu, in premičnine v zvezi z opravljanjem prevozov s takimi ladjami, letali in cestnimi vozili, se obdavči samo v tej državi pogodbenici.

4. Vse druge sestavine premoženja rezidenta države pogodbenice se obdavčijo samo v tej državi pogodbenici.

24. člen ODPRAVA DVOJNEGA OBDAVČEVANJA

Dvojno obdavčevanje se odpravi tako:

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 pogodbenica dovoli:

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

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

Tak odbitek 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 tej drugi državi pogodbenici.

2. Kadar je v skladu s katero koli določbo konvencije dohodek, ki ga dobi rezident države pogodbenice, ali premoženje, ki ga ima v lasti, oproščeno davka v tej državi pogodbenici, lahko ta država pogodbenica pri izračunu davka od preostalega dohodka ali premoženja takega rezidenta vseeno upošteva oproščeni dohodek ali premoženje.

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 pogodbenice v enakih okoliščinah, še zlasti glede rezidentstva. Ta določba se ne glede na določbe 1. člena te konvencije 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 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 pogodbenice v enakih okoliščinah.

Article 23 CAPITAL

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

3. Capital represented by ships, aircraft and road vehicles operated by an enterprise of a Contracting State in international traffic, and by movable property pertaining to the operation of such ships, aircraft and road vehicles shall be taxable only in that Contracting State.

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

Article 24 ELIMINATION OF DOUBLE TAXATION

Double taxation shall be eliminated as follows:

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 Contracting 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 Contracting 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 Contracting 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 Contracting State.

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

Article 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 Contracting 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 of this Convention, 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 Contracting State concerned in the same circumstances are or may be subjected.

3. Obdavčevanje stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ne sme biti manj ugodno v tej drugi državi pogodbenici, kot je obdavčevanje podjetij te druge države pogodbenice, ki opravljajo enake dejavnosti.

4. Razen kadar se uporabljajo določbe prvega odstavka 9. člena te konvencije, šestega odstavka 11. člena te konvencije ali šestega odstavka 12. člena te konvencije, 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 pogodbenice. 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 pogodbenice.

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 pogodbenici 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 podobnih podjetij prve omenjene države pogodbenice.

6. Nobena določba tega člena se ne razlaga, kot da zavezuje katero koli državo pogodbenico, da prizna posameznikom, ki niso rezidenti te države pogodbenice, kakršne koli osebne olajšave, druge olajšave in znižanja za davčne namene, ki jih priznava posameznikom, ki so taki rezidenti, v skladu z merili, ki jih ne vsebuje splošna davčna zakonodaja.

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

26. člen

POSTOPEK SKUPNEGA DOGOVORA

1. Kadar oseba iz države pogodbenice meni, da imajo ali bodo imela dejanja ene ali obeh držav pogodbenic zanj za posledico obdavčevanje, ki ni v skladu z določbami te konvencije, lahko ta oseba ne glede na sredstva, ki ji jih omogoča domače pravo teh držav pogodbenic, predloži zadevo pristojnemu organu države pogodbenice, katere rezident je, ali če se njen primer nanaša na prvi odstavek 25. člena, tiste države pogodbenice, katere državljani so. 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 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 domačem pravu 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 med seboj 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.

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 Contracting State than the taxation levied on enterprises of that other Contracting State carrying on the same activities.

4. Except where the provisions of paragraph 1 of Article 9 of this Convention, paragraph 6 of Article 11 of this Convention, or paragraph 6 of Article 12 of this Convention, 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 Contracting 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 Contracting 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 Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned Contracting State are or may be subjected.

6. Nothing contained in this Article shall be construed as obliging either Contracting State to grant to individuals not resident in that Contracting State any of the personal allowances, reliefs and reductions for tax purposes which are granted to individuals so resident under the criteria not contained in general tax laws.

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

Article 26

MUTUAL AGREEMENT PROCEDURE

1. Where a person of a Contracting State 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 Contracting 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 of this Convention, 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 or doubts arising as to the interpretation or the 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.

27. člen

IZMENJAVA INFORMACIJ

1. Pristojna organa držav pogodbenic si izmenjava ta take informacije, ki so potrebne za izvajanje določb te konvencije ali domače zakonodaje držav pogodbenic glede davkov, za katere se uporablja ta konvencija, če obdavčevanje na njeni podlagi ni v nasprotju s konvencijo, zlasti za preprečevanje goljufij in za lažje izvajanje zakonskih predpisov proti izogibanju davčnim obveznostim. Izmenjava informacij ni omejena s 1. členom te konvencije. Vsaka informacija, ki jo prejme država pogodbenica, se obravnava kot tajnost na isti način kot informacije, pridobljene po domači zakonodaji te države pogodbenice, in se razkrije samo osebam ali organom (vključno s sodišči in upravnimi organi), udeleženim pri odmeri ali pobiranju, izterjavi ali pregonu ali odločanju o pritožbah glede davkov, za katere se uporablja konvencija. Te osebe ali organi uporabljajo informacije samo v te namene. Informacije lahko razkrijejo v sodnih postopkih ali pri sodnih odločitvah.

2. V nobenem primeru se določbe prvega odstavka tega člena ne razlagajo, kot da nalagajo kateri koli 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

Nobena določba te konvencije ne vpliva na davčne ugodnosti članov diplomatskih predstavništva ali konzulatov po splošnih pravilih mednarodnega prava ali določbah posebnih sporazumov.

29. člen

ZAČETEK VELJAVNOSTI

1. Vsaka država pogodbenica drugo uradno obvesti po diplomatski poti, da so končani postopki, ki se po njeni domači zakonodaji zahtevajo za začetek veljavnosti te konvencije.

2. Ta konvencija začne veljati na datum prejema poznejšega od teh uradnih obvestil in njene določbe se uporabljajo:

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

b) v zvezi z drugimi davki za davke, odmerjene za obdobja z začetkom prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem začne veljati konvencija.

30. člen

PRENEHANJE VELJAVNOSTI

Ta konvencija velja, dokler je katera koli država pogodbenica ne odpove. Vsaka država pogodbenica lahko odpove konvencijo po diplomatski poti s pisnim obvestilom o odpovedi najmanj šest mesecev pred koncem katerega koli koledarskega leta po petih letih od datuma začetka veljavnosti konvencije.

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 there under is not contrary to the Convention, in particular, to prevent fraud and to facilitate the administration of statutory provisions against tax avoidance. The exchange of information is not restricted by Article 1 of this Convention. 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 Contracting 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 of this Article be construed so as to impose on either Contracting State the obligation:

a) to carry out administrative measures at variance with the laws and administrative practice prevailing in either Contracting State;

b) to supply information which is not obtainable under the laws or in the normal course of the administration of either 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.

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

ENTRY INTO FORCE

1. Each of the Contracting States shall notify to the other, through the diplomatic channels the completion of the procedures required by its domestic law for the bringing into force of this Convention.

2. This Convention shall enter into force on the date of the later of these notifications and its provisions shall have effect:

a) in the case of taxes withheld at source, in respect of amounts paid on or after the first day of January of the calendar year next following that in which the Convention enters into force;

b) in the case of other taxes, in respect of taxes levied for periods beginning on or after the first day of January of 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 beginning after the expiry of five years from the date of entry into force of the Convention.

V takem primeru se konvencija preneha uporabljati:

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

b) v zvezi z drugimi davki za davke, odmerjene za obdobja z začetkom prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem je bilo dano obvestilo.

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

Sestavljeno v dveh izvirnikih v Ljubljani dne 23. aprila 2003 v slovenskem, ukrajinskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. Pri različni razlagi besedil prevlada angleško besedilo.

Za Vlado Republike Slovenije:
Milojka Kolar l. r.

Za Vlado Ukrajine:
Ljudmila Musina l. r.

In such event, the Convention shall cease to have effect:

a) in the case of taxes withheld at source, in respect of amounts paid on or after the first day of January of the calendar year next following that in which the notice is given;

b) in the case of other taxes, in respect of taxes levied for periods beginning 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 undersigned, duly authorized thereto have signed this Convention.

Done in duplicate at Ljubljana this 23th day of April 2003 in Slovenian, Ukrainian and English languages, all texts being equally authentic. In case there is any divergence of interpretation the English text shall prevail.

For the Government of
the Republic of Slovenia:
Milojka Kolar, (s)

For the Government of
Ukraine:
Ljudmila Musina, (s)

3. člen

Za izvajanje konvencije skrbi Ministrstvo za finance.

4. člen

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

Št. 432-01/04-33/1
Ljubljana, dne 25. marca 2004
EPA 1149-III

Predsednik
Državnega zbora
Republike Slovenije
Borut Pahor l. r.

38. Zakon o ratifikaciji Konvencije med Vlado Republike Slovenije in Vlado Kraljevine Tajske o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka (BTHIDO)

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

U K A Z

O RAZGLASITVI ZAKONA O RATIFIKACIJI KONVENCIJE MED VLADO REPUBLIKE SLOVENIJE IN VLADO KRALJEVINE TAJSKO O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA (BTHIDO)

Razgllašam Zakon o ratifikaciji Konvencije med Vlado Republike Slovenije in Vlado Kraljevine Tajske o izogibanju dvojne-
ga obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka (BTHIDO), ki ga je sprejel Državni zbor Republike
Slovenije na seji 25. marca 2004.

Št. 001-22-33/04

Ljubljana, dne 2. aprila 2004

Predsednik
Republike Slovenije
dr. Janez Drnovšek l. r.

ZAKON

O RATIFIKACIJI KONVENCIJE MED VLADO REPUBLIKE SLOVENIJE IN VLADO KRALJEVINE TAJSKO O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA (BTHIDO)

1. člen

Ratificira se Konvencija med Vlado Republike Slovenije in Vlado Kraljevine Tajske o izogibanju dvojnega obdavčevanja
in preprečevanju davčnih utaj v zvezi z davki od dohodka, podpisana v Ljubljani 11. julija 2003.

2. člen

Besedilo konvencije se v izvirniku v slovenskem in angleškem jeziku glasi:*

K O N V E N C I J A

**MED VLADO REPUBLIKE SLOVENIJE
IN VLADO KRALJEVINE TAJSKO O
IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN
PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z
DAVKI OD DOHODKA**

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

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,
ki se uvedejo v imenu države pogodbenice ali njenih poli-
tičnih enot ali lokalnih oblasti, ne glede na način njihove
uvedbe.

2. Za davke od dohodka se štejejo vsi davki, uvedeni na
celoten dohodek ali na sestavine dohodka, vključno z davki
od dobička iz odtujitve premičnin ali nepremičnin, davki od
celotnega zneska mezd ali plač, ki jih plačujejo podjetja, ter
davki na zvišanje vrednosti kapitala.

C O N V E N T I O N

**BETWEEN THE GOVERNMENT OF THE
REPUBLIC OF SLOVENIA AND THE
GOVERNMENT OF THE KINGDOM OF THAILAND
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME**

The Government of the Republic of Slovenia and the
Government of the Kingdom of Thailand, desiring to conclude
a Convention for the avoidance of double taxation and the
prevention of fiscal evasion with respect to taxes on income,
have agreed as follows:

Article 1

PERSONS COVERED

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

Article 2

TAXES COVERED

1. This Convention shall apply to taxes on income
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 all taxes
imposed on total income or on elements of income, 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 v tajskem jeziku je na vpogled v Sektorju za mednarodnopravne zadeve Ministrstva za zunanje zadeve.

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

a) v Sloveniji:

i) davek od dobička pravnih oseb in

ii) davek od dohodka posameznikov, vključno z mezdami in plačami, dohodkom iz kmetijskih dejavnosti, dohodkom iz poslovanja, dobičkom iz kapitala in dohodkom iz nepremičnin in premičnin

(v nadaljevanju "slovenski davek");

b) na Tajskem:

i) davek od dohodka in

ii) davek od dohodka od nafte

(v nadaljevanju "tajski davek").

4. Konvencija se uporablja tudi za 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.

3. člen

SPLOŠNA OPREDELITEV IZRAZOV

1. V tej konvenciji, razen če sobesedilo ne 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, na katerem lahko Slovenija izvaja svoje suverene pravice in jurisdikcijo v skladu s svojo domačo zakonodajo in mednarodnim pravom;

b) izraz "Tajska" pomeni Kraljevino Tajsko in vključuje morsko območje ob teritorialnem morju Kraljevine Tajske, ki je bilo določeno ali se lahko po tajski zakonodaji in v skladu z mednarodnim pravom določi kot območje, na katerem lahko Kraljevina Tajska uresničuje svoje pravice v zvezi z morskim dnom in podzemljem ter njunimi naravnimi viri;

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

d) izraz "oseba" vključuje posameznika, družbo in katero koli drugo telo, ki združuje več oseb, kakor tudi kateri koli subjekt, ki se po davčni zakonodaji te ali druge države pogodbenice šteje za davčnega zavezanca;

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 "davek" pomeni, kot zahteva sobesedilo, slovenski ali tajski davek;

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

i) izraz "pristojni organ" pomeni:

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

ii) na Tajskem ministra za finance ali njegovega pooblaščenega predstavnika;

j) izraz "državljan" pomeni:

i) posameznika, ki ima državljanstvo države pogodbenice;

ii) pravno osebo, osebno družbo, združenje in kateri koli drug subjekt, katerega status izhaja iz veljavne zakonodaje države pogodbenice.

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

a) in Slovenia:

(i) the tax on profits of legal persons; and

(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;

(hereinafter referred to as »Slovenian tax«);

b) in Thailand:

(i) the income tax; and

(ii) the petroleum income tax;

(hereinafter referred to as »Thai 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, the territory of Slovenia, including the sea area, sea bed and sub-soil adjacent to the territorial sea, over which Slovenia may exercise its sovereign rights and jurisdiction in accordance with its domestic legislation and international law;

b) the term "Thailand" means the Kingdom of Thailand and includes its maritime area adjacent to the territorial sea of the Kingdom of Thailand which by Thai legislation, and in accordance with the international law, has been or may hereafter be designated as an area within which the rights of the Kingdom of Thailand with respect to the sea-bed and subsoil and their natural resources may be exercised;

c) the terms »a Contracting State« and »the other Contracting State« mean Slovenia or Thailand as the context requires;

d) the term »person« includes an individual, a company and any other body of persons as well as any entity treated as a taxable unit under the taxation laws in force in either Contracting State;

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) the term "tax" means Slovenian tax or Thai tax as the context requires;

h) 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;

i) the term »competent authority« means:

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

(ii) in the case of Thailand: the Minister of Finance or his authorised representative.

j) the term »national« means:

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

(ii) any legal person, partnership, association and any other entity deriving its status as such from the laws in force in a Contracting State.

2. Ko država pogodbenica uporablja konvencijo, ima kateri koli izraz, ki v njej ni opredeljen, razen če sobesedilo ne zahteva drugače, pomen, ki ga ima po pravu te države za namene davkov, za katere se uporablja konvencija.

4. člen REZIDENT

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

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

a) šteje se za rezidenta države, v kateri ima na razpolago stalno prebivališče; če ima na razpolago stalno prebivališče 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;

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, si pristojna organa držav pogodbenic prizadevata vprašanje rešiti s skupnim dogovorom.

3. Kadar je zaradi določb prvega odstavka oseba, ki ni posameznik, rezident obeh držav pogodbenic, pristojna organa držav pogodbenic vprašanje rešita s skupnim dogovorom in določita način uporabe sporazuma za tako osebo.

5. člen STALNA POSLOVNA ENOTA

1. V tej konvenciji izraz "stalna poslovna enota" pomeni stalno mesto poslovanja, prek katerega v celoti ali delno poteka poslovanje podjetja.

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

- a) sedež uprave,
- b) podružnico,
- c) pisarno,
- d) tovarno,
- e) delavnico,
- f) rudnik, nahajališče nafte ali plina, kamnolom ali kateri koli drug kraj pridobivanja naravnih virov in
- g) skladišče v povezavi z osebo, ki drugim zagotavlja skladiščne prostore.

3. Izraz "stalna poslovna enota" vključuje tudi:

a) gradbišče, projekt gradnje, montaže ali postavitve ali dejavnosti nadzora v zvezi z njimi, kadar tako gradbišče, projekt ali dejavnosti skupno trajajo več kot šest mesecev;

b) opravljanje storitev, vključno s svetovalnimi storitvami, ki jih opravlja podjetje ene od držav pogodbenic s svojimi zaposlenimi ali z drugim osebjem, če se tovrstne dejavnosti za isti projekt ali projekt, ki je povezan z njim, v drugi državi pogodbenici izvajajo v obdobju ali obdobjih, ki skupno trajajo več kot šest mesecev v katerem koli obdobju dvanajstih mesecev.

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

Article 4 RESIDENT

1. For the purposes of this Convention, the term »resident of a Contracting State« means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of incorporation (registration), 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.

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

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

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

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

d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall endeavour to 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, the competent authorities of the Contracting States shall settle the question by mutual agreement and determine the mode of application of the agreement to such person.

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;
- f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources; and
- g) a warehouse, in relation to a person providing storage facilities for others.

3. The term "permanent establishment" shall also include:

a) a building site, a construction, installation or assembly project or supervisory activities in connection therewith, where such site, project or activities continue for a period or periods aggregating more than 6 months;

b) the furnishing of services including consultancy services by an enterprise of one of the Contracting States through employees or other personnel, where activities of that nature continue for the same or a connected project within the other Contracting State for a period or periods aggregating more than 6 months within any twelve-month period.

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

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

b) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za skladiščenje, razstavljanje ali dostavo;

c) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za predelavo, ki jo opravi drugo podjetje;

d) vzdrževanja stalnega mesta poslovanja samo za nakup dobrin ali blaga za podjetje ali zbiranje informacij za podjetje;

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

f) vzdrževanja stalnega mesta poslovanja samo za kakršno koli kombinacijo dejavnosti, omenjenih v pododstavkih a) do e), če je splošna dejavnost stalnega mesta poslovanja, ki je posledica te kombinacije, pripravljalna ali pomožna.

5. Ne glede na določbe prvega, drugega in tretjega odstavka, kadar oseba – ki ni zastopnik z neodvisnim statusom, za katerega se uporablja šesti odstavek – v državi pogodbenici deluje v imenu podjetja druge države pogodbenice, se za to podjetje šteje, da ima v prvi omenjeni državi stalno poslovno enoto, če taka oseba:

a) ima in običajno uporablja v prvi omenjeni državi pooblastilo za sklepanje pogodb v imenu podjetja, razen če njene dejavnosti niso omejene na nakup dobrin in blaga za podjetje;

b) nima takega pooblastila, pač pa v prvi omenjeni državi običajno vzdržuje zaloge dobrin ali blaga, ki pripadajo podjetju, iz katerih redno dobavlja v imenu podjetja, ali

c) nima takega pooblastila, pač pa v prvi omenjeni državi običajno pridobiva naročila izključno ali skoraj izključno za podjetje ali za podjetje in druga podjetja, ki jih to podjetje nadzoruje ali ima v njih obvladujoči delež.

6. Ne šteje se, da ima podjetje države pogodbenice stalno poslovno enoto v drugi državi pogodbenici samo zato, ker opravlja posle v tej državi prek posrednika, splošnega komisionarja ali katerega koli drugega zastopnika z neodvisnim statusom, če te osebe delujejo v okviru svojega rednega poslovanja. Kadar pa so dejavnosti takega zastopnika namenjene izključno ali skoraj izključno temu podjetju ali temu podjetju in drugim podjetjem, ki jih to podjetje nadzoruje ali ima v njih obvladujoči delež, se ne šteje za zastopnika z neodvisnim statusom v smislu tega odstavka, razen če gre za posle med nepovezanimi osebami.

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.

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, 2 and 3, where a person – other than an agent of an independent status to whom paragraph 6 applies – is acting in a Contracting State, on behalf of the enterprise of the other Contracting State, the enterprise shall be deemed to have a permanent establishment in the first-mentioned State, if such a person:

a) has and habitually exercises in the first-mentioned State an authority to conclude contracts on behalf of the enterprise; unless his activities are limited to the purchase of goods or merchandise for the enterprise;

b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise belonging to the enterprise from which he regularly delivers on behalf of the enterprise; or

c) has no such authority, but habitually secures orders in the first-mentioned State wholly or almost wholly for the enterprise or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it.

6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other 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. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise or on behalf of that enterprise and other enterprises, which are controlled by it or have a controlling interest in it, he will not be considered an agent of independent status within the meaning of this paragraph, unless the transactions are at arm's length.

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. 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, gozdarstvu in ribištvu, pravice, za katere se uporabljajo 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, dosežen 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 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 ne 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 poslovanja stalne poslovne enote, vključno s poslovnimi in splošnimi upravnimi stroški, ki nastanejo 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 določenega odstotka bruto prejemkov podjetja ali stalne poslovne enote ali 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 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 ni upravičenega in zadostnega razloga 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. V tem členu se izraz "dobiček" nanaša na dohodek ali dobiček.

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, forestry and fishery, 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 business 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 profits to be attributed to a permanent establishment on the basis of a certain percentage of the gross receipt of the enterprise or of the permanent establishment or 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 a method as may be customary; the method 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.

8. The term "profits" in this Article refers to income or profits.

8. člen

LADIJSKI IN LETALSKI PREVOZ

1. Dohodek ali dobiček podjetja države pogodbenice iz opravljanja letalskih prevozov v mednarodnem prometu se obdavči samo v tej državi pogodbenici.

2. Dohodek ali dobiček podjetja države pogodbenice iz opravljanja ladijskih prevozov v mednarodnem prometu se lahko obdavči v drugi državi pogodbenici, vendar se davek v tej drugi državi zniža za znesek v višini 50 odstotkov tega davka.

3. Določbe prvega in drugega odstavka se uporabljajo tudi za dohodek ali dobiček iz udeležbe v interesnem združenju, 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 dohodek ali dobiček, ki bi prirastel enemu od podjetij, če takih pogojev ne bi bilo, vendar prav zaradi takih pogojev ni prirastel, lahko vključi v dohodek ali dobiček tega podjetja in ustrezno obdavči.

2. Kadar država pogodbenica v dobiček podjetja te države vključuje – in ustrezno obdavči – dobiček, za katerega je bilo že 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 obstajali med neodvisnimi podjetji, ta druga država lahko ustrezno prilagodi znesek davka, ki se v tej državi obračuna 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 10 odstotkov bruto zneska dividend.

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 korporacijskih pravic, ki se davčno obravnava enako kot dohodek iz delnic po zakonodaji države, katere rezident je družba, ki dividende deli.

Article 8

SHIPPING AND AIR TRANSPORT

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

2. Income or profits derived by an enterprise of a Contracting State from the operation of ships in international traffic may be taxed in the other Contracting State, but the tax imposed in that other State shall be reduced by an amount equal to 50 per cent thereof.

3. The provisions of paragraph 1 and 2 shall also apply to income or 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 income or 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 income or 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 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 10 per cent of the gross amount of the dividends.

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. 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. Nobena določba te konvencije se ne more razlagati tako, kot da državi pogodbenici preprečuje obdavčiti dobiček, ki ga stalna poslovna enota v njej prenese iz države pogodbenice v skladu z določbami njene domače zakonodaje, vendar tako obračunani davek v nobenem primeru ne sme presegati davka, ki se za dividende obračuna v državi pogodbenici v skladu z določbami drugega odstavka tega člena.

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 obračunani davek ne presega:

a) 10 odstotkov bruto zneska obresti, če jih prejme finančna institucija (vključno z zavarovalnico);

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

3. Ne glede na določbe drugega odstavka so obresti, ki nastanejo v državi pogodbenici in se rezidentu druge države pogodbenice plačajo za posojilo, ki ga je dala ali je zanj dala poroštvo:

- a) v Sloveniji:
 - i) Vlada Republike Slovenije,
 - ii) katera koli politična enota ali lokalna oblast,
 - iii) Banka Slovenije,
 - iv) Slovenska izvozna družba,
 - v) katera koli institucija, za katero se vsakokrat dogovorita državi pogodbenici;
 - b) na Tajskem:
 - i) Vlada Tajske,
 - ii) katera koli politična enota ali lokalna oblast,
 - iii) Banka Tajske,
 - iv) Izvozno-uvozna banka Tajske,
 - v) Državna hranilnica,
 - vi) Državna stanovanjska banka,
 - vii) katera koli institucija, za katero se vsakokrat dogovorita državi pogodbenici,
- oproščene davka v prvi omenjeni državi.

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. Nothing in this Convention shall be construed as preventing a Contracting State from imposing tax on the disposal of profits out of a Contracting State made by a permanent establishment situated therein in accordance with the provisions of its domestic law, but the income tax charged shall in no case exceed the tax charged on dividends in a Contracting State in accordance with the provisions of paragraph 2 of this Article.

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:

a) 10 per cent of the gross amount of the interest if it is received by any financial institution (including an insurance company);

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

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to a resident of the other Contracting State in respect of a loan made or guaranteed by:

- a) in the case of Slovenia:
 - (i) the Government of the Republic of Slovenia;
 - (ii) any political subdivision or local authority;
 - (iii) Central Bank of Slovenia;
 - (iv) Slovene Export Company;
 - (v) any institutions as may be agreed from time to time between the Contracting States;
 - b) in the case of Thailand:
 - (i) the Government of Thailand;
 - (ii) any political subdivision or local authority;
 - (iii) the Bank of Thailand;
 - (iv) the Export-Import Bank of Thailand;
 - (v) the Government Saving Bank;
 - (vi) the Government Housing Bank;
 - (vii) any institutions as may be agreed from time to time between the Contracting States;
- shall be exempt from the tax in the first-mentioned State.

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 ali zadolžnic, vključno s premijami in nagradami od takih vrednostnih papirjev, obveznic ali zadolžnic, kakor tudi vsak dohodek, ki se po davčni zakonodaji države pogodbenice, v kateri takšen dohodek nastane, obravnava kot dohodek od denarnih posojil. Kazni zaradi zamude pri plačilu se za namen tega člena ne štejejo za obresti.

5. 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.

6. Šteje se, da obresti nastanejo v državi pogodbenici, kadar 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.

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 licenčin in avtorskih honorarjev rezident druge države pogodbenice, tako obračunani davek ne presega:

a) 10 odstotkov bruto zneska licenčin in avtorskih honorarjev za uporabo ali pravico do uporabe kakršnih koli avtorskih pravic za literarno ali umetniško delo, vključno s kinematografskimi filmi, predvajanjem v živo, filmi, trakovi ali drugimi sredstvi za uporabo ali reprodukcijo v zvezi z radijskim in televizijskim predvajanjem, in za uporabo ali pravico do uporabe industrijske, komercialne ali znanstvene opreme;

b) 15 odstotkov bruto zneska licenčin in avtorskih honorarjev v vseh drugih primerih.

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, predvajanjem v živo, filmi, trakovi ali drugimi sredstvi za uporabo ali reprodukcijo v zvezi z radijskim in televizijskim predvajanjem, 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. 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 income assimilated to income from money lent by the taxation laws of the Contracting State in which the income arises. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

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

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

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

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:

a) 10 per cent of the gross amount of the royalties for the use of, or the right to use, any copyright of literary or artistic work including motion pictures, live broadcasting, film, tape or other means of the use or reproduction in connection with radio and television broadcasting, and for the use of, or the right to use industrial, commercial, or scientific equipment;

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

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 motion pictures, live broadcasting, film, tape or other means of the use or reproduction in connection with radio and television 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. 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 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 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 DOBIČKI

1. Dobiček, ki ga rezident države pogodbenice ustvari 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 v drugi državi pogodbenici za opravljanje 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 ustvari z odtujitvijo ladj 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 tej državi.

4. Dobiček, ki ga rezident države pogodbenice ustvari z odtujitvijo delnic ali primerljivih deležev v družbi, katere premoženje v glavnem ali pretežno sestavljajo nepremičnine v drugi državi pogodbenici, kot so omenjene v 6. členu, se lahko obdavči v tej drugi državi.

5. Dobiček iz odtujitve premoženja, ki ni premoženje, navedeno v prvem, drugem, tretjem in četrtem odstavku tega člena, 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 v naslednjih primerih, ko se tak dohodek lahko obdavči tudi v drugi državi pogodbenici:

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 pertaining to the operation of such ships or aircraft, shall be taxable only in that State.

4. Gains derived by a resident of a Contracting State from the alienation of shares or comparable interests in a company, the assets of which consists wholly or principally of real property in the other Contracting State of a kind referred to in Article 6, may be taxed in that other State.

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

Article 14

INDEPENDENT PERSONAL SERVICES

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

a) če ima v drugi državi pogodbenici stalno bazo za opravljanje svojih dejavnosti, ali

b) če se zadržuje v drugi državi pogodbenici v obdobju ali obdobjih, ki skupno trajajo 183 dni ali več v katerem koli obdobju dvanajstih mesecev, ki se začne ali konča v določenem davčnem letu; v takem primeru se v tej drugi državi lahko obdavči samo toliko dohodka, kot ga je dosegel s svojimi dejavnostmi v tej drugi državi.

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. Ob upoštevanju določb 16., 18., 19., 20. in 21. 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 ne 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 določenem davčnem letu, in

b) prejemek plača delodajalec, ki ni rezident druge države, ali 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 lahko prejemek, ki izhaja iz zaposlitve na ladji ali letalu, s katerim podjetje države pogodbenice opravlja prevoze v mednarodnem prometu, obdavči samo v tej državi.

16. člen

PLAČILA DIREKTORJEM

Plačila direktorjem in druga podobna plačila, ki jih dobi rezident države pogodbenice kot član uprave 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 lahko 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, obdavči v tej drugi državi.

2. Kadar se dohodek iz osebnih dejavnosti, ki jih izvaja nastopajoči izvajalec ali športnik kot tak, ne pripiše 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 potekajo 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 tej državi pogodbenici, če storitve v drugi državi pogodbenici izvaja v okviru programa kulturne ali športne izmenjave, ki ga odobrita državi pogodbenici.

a) if he has a fixed base available to him in the other Contracting State for the purpose of performing his activities; or

b) if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned; in that case only so much of the income as is derived from his activities performed in that other State may be taxed in that other State.

2. 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, 20 and 21, 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 by an enterprise of a Contracting State shall be taxable only 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 SPORTSPERSONS

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 sportsperson, 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 sportsperson in his capacity as such accrues not to the entertainer or sportsperson 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 sportsperson 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 that Contracting State if the activities have been performed in the other Contracting State within the scope of cultural or sports exchange programme approved by both Contracting States.

18. člen
POKOJNINE

Ob upoštevanju določb drugega odstavka 19. člena se pokojnine in drugi podobni prejemki, ki se plačajo 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 zaradi opravljanja storitev.

2. a) Vsaka pokojnina, ki jo plača država pogodbenica ali njena politična enota ali lokalna oblast ali ki se plača iz njihovih skladov 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 države pogodbenice rezident druge države pogodbenice in na povabilo univerze, višje oziroma visoke šole, šole ali druge podobne izobraževalne ustanove, ki jo priznava pristojni organ prve omenjene države pogodbenice, obišče prvo omenjeno državo pogodbenico za obdobje, ki ni daljše od dveh let, samo zaradi poučevanja ali raziskovanja ali obojega v taki izobraževalni ustanovi, se v prvi omenjeni državi pogodbenici ne obdavči za prejemke za tako poučevanje ali raziskovanje.

2. Določbe prvega odstavka se ne uporabljajo za prejemke od raziskovanja, če tako raziskovanje posameznik izvaja predvsem v zasebno korist določene osebe ali oseb.

21. člen
ŠTUDENTI

1. Posameznik, ki je ali je bil tik pred obiskom države pogodbenice rezident druge države pogodbenice in obišče prvo omenjeno državo pogodbenico samo zaradi:

- a) študija na univerzi ali drugi priznani izobraževalni ustanovi ali
 - b) usposabljanja, da bi izpolnil pogoje za opravljanje poklica oziroma dejavnosti, ali
 - c) študija ali raziskovanja kot prejemnik podpore, dodatka ali nagrade vladne, verske, dobrotelne, znanstvene, literarne ali izobraževalne organizacije,
- je v prvi omenjeni državi pogodbenici oproščen davka na:
- i) plačila iz tujine za svoje vzdrževanje, izobraževanje, študij, raziskovanje ali usposabljanje;

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 immediately before visiting a Contracting State a resident of the other Contracting State, and who, at the invitation of any university, college, school or other similar educational institution which is recognised by the competent authority in the first-mentioned Contracting State, visits that first-mentioned Contracting State for a period not exceeding two years solely for the purpose of teaching or researching or both at such educational institution shall be exempt from tax in the first-mentioned Contracting State on any remuneration for such teaching or research.

2. The provisions of paragraph 1 shall not apply to income from researching if such research is undertaken by the individual primarily for the private benefit of a specific person or persons.

Article 21
STUDENTS

1. An individual who is or was immediately before visiting a Contracting State a resident of the other Contracting State and whose visit to the first-mentioned Contracting State is solely for the purpose of:

- a) studying at a university or other recognised educational institution; or
 - b) securing training to qualify him to practice a profession or trade; or
 - c) studying or carrying out research as a recipient of a grant, allowance or award from a governmental, religious, charitable, scientific, literary or educational organisation;
- shall be exempt from tax in the first-mentioned Contracting State on:
- (i) remittances from abroad for the purposes of his maintenance, education, study, research or training;

ii) podporo, dodatek ali nagrado vladne, verske, dobrodelne, znanstvene, literarne ali izobraževalne organizacije.

2. Glede podpor, štipendij in prejemkov iz zaposlitve, ki niso zajeti v prvem odstavku tega člena, je študent ali pripravnik med takim izobraževanjem ali usposabljanjem upravičen do enakih oprostitev, olajšav ali zmanjšanj za davke, kot jih imajo rezidenti države pogodbenice, v kateri je na obisku.

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 ODPRAVA DVOJNEGA OBDAVČEVANJA

1. Dvojno obdavčevanje se odpravi tako:

a) kadar rezident države pogodbenice dobi dohodek, ki se v skladu z določbami te konvencije lahko obdavči v drugi državi pogodbenici, prva omenjena država dovoli kot odbitek od davka od dohodka tega rezidenta znesek, ki je enak davku od dohodka, plačanemu v tej drugi državi.

Tak odbitek v nobenem primeru ne sme presegati tistega dela davka od dohodka, ki je bil izračunan pred odbitkom, pripisanim dohodku, odvisno od primera, ki se lahko obdavči v tej drugi državi;

b) kadar je v skladu s katero koli določbo te konvencije dohodek, ki ga dobi rezident države pogodbenice, oproščen davka v tej državi, lahko ta država pri izračunu davka od preostalega dohodka takega rezidenta vseeno upošteva oproščen dohodek.

2. Za namene pododstavka a) prvega odstavka se šteje, da izraz "davek, plačan v drugi državi pogodbenici" vključuje kakršen koli znesek, ki bi ga bilo treba plačati v tej državi pogodbenici, a je bil znižan ali oproščen v skladu s posebno zakonodajo o spodbudah za pospeševanje gospodarskega razvoja v taki državi, ki velja na datum podpisa te konvencije. Določbe tega odstavka se uporabljajo samo v obdobju desetih let, ki se začne prvi dan januarja obdavčljivega leta, ki sledi letu, v katerem začne veljati konvencija. To obdobje lahko pristojna organa s skupnim dogovorom podaljšata.

24. 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.

(ii) the grant, allowance or award from a governmental, religious, charitable, scientific, literary or educational organisation.

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 residents of the Contracting State he is visiting.

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 ELIMINATION OF DOUBLE TAXATION

1. Double taxation shall be eliminated as follows:

a) Where a resident of a Contracting State derives income which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in the other State.

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

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

2. For the purpose of subparagraph a) of paragraph 1, the term "tax paid in the other Contracting State" shall be deemed to include any amount which would have been payable in that Contracting State but has been reduced or waived in accordance with special incentive laws designed to promote economic development in such State effective at the date of signature of this Convention. The provisions of this paragraph shall only apply for a period of 10 years beginning on the first day of January of the taxable year next following that in which the Convention enters into force. This period may be extended by mutual agreement between the competent authorities.

Article 24 NON-DISCRIMINATION

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

2. 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 zmanjšanja za davčne namene zaradi osebnega stanja ali družinskih obveznosti, ki jih priznava svojim rezidentom.

3. Razen kadar se uporabljajo določbe prvega odstavka 9. člena, šestega odstavka 11. člena ali šestega odstavka 12. člena, se obresti, licenčnine in avtorski honorariji 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.

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 do drugih podobnih podjetij prve omenjene države.

5. Določbe tega člena se uporabljajo samo za davke iz te konvencije.

25. člen

POSTOPEK SKUPNEGA DOGOVORA

1. Kadar oseba meni, da imajo ali bodo imela dejanja ene ali obeh držav pogodbenic zanj za posledico obdavčevanje, ki ni v skladu z določbami te konvencije, lahko ne glede na sredstva, ki ji jih omogoča domače pravo 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 konvencije.

2. Pristojni organ si, če se mu zdi ugovor upravičen 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.

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 med seboj 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.

26. člen

IZMENJAVA INFORMACIJ

1. Pristojna organa držav pogodbenic si izmenjavata take informacije, ki so potrebne za izvajanje določb te konvencije ali domače zakonodaje držav pogodbenic glede davkov, za katere se uporablja konvencija, če obdavčevanje na tej 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 domači 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 v sodnih postopkih ali pri sodnih odločitvah.

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 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.

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 apply only to taxes covered by this Convention.

Article 25

MUTUAL AGREEMENT PROCEDURE

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

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

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.

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. 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.

27. člen

ČLANI DIPLOMATSKIH PREDSTAVNIŠTEV IN KONZULATOV

Nobena določba te konvencije ne vpliva na davčne ugodnosti članov diplomatskih predstavništav ali konzulatov po splošnih pravilih mednarodnega prava ali določbah posebnih sporazumov.

28. člen

ZAČETEK VELJAVNOSTI

1. Vsaka država pogodbenica drugo uradno obvesti, da so končani postopki, ki so po njenem pravu potrebni za začetek veljavnosti te konvencije. Ta konvencija začne veljati na datum zadnjega uradnega obvestila.

2. Določbe te konvencije se uporabljajo:

a) v zvezi z davki, odtegnjenimi pri viru, za zneske dohodka, dobljene prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem začne veljati konvencija, in

b) v zvezi z drugimi davki od dohodka za take davke, ki se obračunajo:

i) v Sloveniji za katero koli davčno leto in

ii) na Tajskem za katero koli davčno leto ali obračunsko obdobje,

ki se začne prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem začne veljati konvencija.

29. člen

PRENEHANJE VELJAVNOSTI

1. Ta konvencija velja za nedoločen čas, vendar lahko katera koli država pogodbenica drugi državi pogodbenici po diplomatski poti pošlje pisno obvestilo o odpovedi 30. junija ali pred tem v katerem koli koledarskem letu po petih letih od datuma začetka veljavnosti konvencije.

2. V takem primeru se konvencija preneha uporabljati:

a) v zvezi z davki, odtegnjenimi pri viru, za zneske dohodka, dobljene prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem je bilo dano obvestilo o odpovedi, in

b) v zvezi z drugimi davki od dohodka za take davke, ki se obračunajo:

i) v Sloveniji za katero koli davčno leto in

ii) na Tajskem za katero koli davčno leto ali obračunsko obdobje,

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.

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 27

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

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

Article 28

ENTRY INTO FORCE

1. Each Contracting State shall notify to the other the completion of the procedures required by its law for the entering into force of this Convention. The Convention shall enter into force on the date of the latter of these notification.

2. The provisions of this Convention shall have effect:

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

b) in respect of other taxes on income, to such taxes chargeable:

(i) in the case of Slovenia for any tax year, and

(ii) in the case of Thailand for any tax year or accounting period,

beginning on or after the first day of January in the calendar year next following the year in which the Convention enters into force.

Article 29

TERMINATION

1. This Convention shall remain in force indefinitely, but either of the Contracting States may, on or before 30th June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give to the other Contracting State, through diplomatic channels, written notice of termination.

2. In such event the Convention shall cease to have effect:

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

b) in respect of other taxes on income, on such taxes chargeable:

(i) in the case of Slovenia for any tax year, and

(ii) in the case of Thailand for any tax year or accounting period,

beginning on or after the first day of January in the calendar year next following the year in which the notice is given.

IN WITNESS WHEREOF the undersigned duly authorised thereto, have signed this Convention.

Sestavljeno v dveh izvirnikih v Ljubljani dne 11. julija 2003 v slovenskem, tajskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. Pri različni razlagi besedil prevlada angleško besedilo.

Za Vlado
Republike Slovenije:
Dr. Dimitrij Rupel l. r.
minister za zunanje zadeve

Za Vlado
Kraljevine Tajske:
Dr. Surakiart Sathirathai l. r.
minister za zunanje zadeve

DONE in duplicate in Ljubljana on the 11th day of July 2003 in the Slovenian, Thai 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)
Minister of Foreign Affairs

For the Government
of the Kingdom of Thailand:
Dr. Surakiart Sathirathai, (s)
Minister of Foreign Affairs

3. člen

Za izvajanje konvencije skrbi Ministrstvo za finance.

4. člen

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

Št. 432-01/04-34/1
Ljubljana, dne 25. marca 2004
EPA 1150-III

Predsednik
Državnega zbora
Republike Slovenije
Borut Pahor l. r.

VSEBINA

33.	Zakon o ratifikaciji Sporazuma med Vlado Republike Slovenije in Vlado Republike Finske o mednarodnem cestnem prevozu potnikov in blaga (BFIMCP)	3761
34.	Zakon o ratifikaciji Sporazuma med Republiko Slovenijo in Republiko Finsko o izogibanju dvojnega obdavčevanja v zvezi z davki od dohodka (BFIIDO)	3767
35.	Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Republiko Bolgarijo o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja (BBGIDO)	3781
36.	Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Slovaško republiko o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja s protokolom (BSKIDO)	3796
37.	Zakon o ratifikaciji Konvencije med Vlado Republike Slovenije in Vlado Ukrajine o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in premoženja (BUKIDO)	3811
38.	Zakon o ratifikaciji Konvencije med Vlado Republike Slovenije in Vlado Kraljevine Tajske o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka (BTHIDO)	3826