

34. Zakon o ratifikaciji Sporazuma med Vlado Republike Slovenije in Kabinetom ministrov Ukrajine o sodelovanju v boju proti kriminalu (BUKBPK)

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 Sporazuma med Vlado Republike Slovenije in Kabinetom ministrov Ukrajine o sodelovanju v boju proti kriminalu (BUKBPK)

Razglašam Zakon o ratifikaciji Sporazuma med Vlado Republike Slovenije in Kabinetom ministrov Ukrajine o sodelovanju v boju proti kriminalu (BUKBPK), ki ga je sprejel Državni zbor Republike Slovenije na seji dne 15. maja 2012.

Št. 003-02-4/2012-9
Ljubljana, dne 23. maja 2012

dr. Danilo Türk l.r.
Predsednik
Republike Slovenije

Z A K O N

O RATIFIKACIJI SPORAZUMA MED VLADO REPUBLIKE SLOVENIJE IN KABINETOM MINISTROV UKRAJINE O SODELOVANJU V BOJU PROTI KRIMINALU (BUKBPK)

1. člen

Ratificira se Sporazum med Vlado Republike Slovenije in Kabinetom ministrov Ukrajine o sodelovanju v boju proti kriminalu, podpisan v Kijevu 11. oktobra 2011.

2. člen

Sporazum se v slovenskem in angleškem jeziku glasi:¹

S P O R A Z U M

MED VLADO REPUBLIKE SLOVENIJE IN KABINETOM MINISTROV UKRAJINE O SODELOVANJU V BOJU PROTI KRIMINALU

Vlada Republike Slovenije in Kabinet ministrov Ukrajine (v nadaljnjem besedilu: pogodbenika) sta se

z namenom prispevati k razvoju medsebojnih odnosov,

v prepričanju, da je policijsko sodelovanje bistvenega pomena v boju proti kriminalu, zlasti organiziranemu, nezakoniti trgovini s prepovedanimi drogami, psihotropnimi snovmi in predhodnimi sestavinami, nezakonitim migracijam, trgovini z ljudmi ter kaznivimi dejanji z elementi terorizma in ekstremizma, in za njegovo učinkovito preprečevanje,

v prizadevanju, da spodbudita in dopolnita obstoječe sodelovanje med pristojnimi organi Republike Slovenije in Ukrajine za preprečevanje kriminala in boj proti njemu,

A G R E E M E N T

BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SLOVENIA AND THE CABINET OF MINISTERS OF UKRAINE ON COOPERATION IN THE FIGHT AGAINST CRIME

The Government of the Republic of Slovenia and the Cabinet of Ministers of Ukraine (hereinafter referred to as the Parties),

with the intention of contributing to the development of mutual relations,

convinced of the substantial importance of police cooperation in combating and effectively preventing crime, in particular organized crime, the illicit trafficking in narcotic drugs, psychotropic substances and precursors, illegal migration, trafficking in human beings, criminal acts with elements of terrorism and extremism,

endeavoring to promote and complement the existing cooperation between the competent authorities of the Republic of Slovenia and Ukraine, which prevent crime and fight against it,

¹ Besedilo sporazuma v ukrajinskem jeziku je na vpogled v Sektorju za mednarodno pravo Ministrstva za zunanje zadeve.

ob spoštovanju pravic in svoboščin prebivalstva držav pogodbenikov,
ob upoštevanju mednarodnih obveznosti in notranje zakonodaje njunih držav,
sporazumela:

1. člen

Namen sporazuma

1. Namen tega sporazuma je okrepi dvostransko sodelovanje med pogodbenikoma pri preprečevanju, zaznavanju in preiskovanju kriminala, zlasti z izmenjavo informacij o boju proti kriminalu, ter ohranjati redne stike med pristojnimi organi na vseh ustreznih ravneh.

2. Sodelovanje med pogodbenikoma temelji na načelu vzajemnosti in obsega izmenjavo informacij in identifikacijskih podatkov oseb ter druge ukrepe v skladu s tem sporazumom ter z mednarodnimi obveznostmi in notranjo zakonodajo držav pogodbenikov.

2. člen

Področja sodelovanja

1. Pristojni organi držav pogodbenikov v skladu z notranjo zakonodajo držav pogodbenikov sodelujejo v boju proti kriminalu, predvsem organiziranemu, in pri njegovem učinkovitem preprečevanju, zlasti pa v primeru:

- a) kaznivih dejanj zoper človekovo življenje in zdravje;
- b) terorizma in z njim povezanimi kaznivimi dejanji in njihovem financiranju;
- c) trgovine z ljudmi in tihotapljenja ljudi;
- d) kaznivih dejanj zoper spolno nedotakljivost oseb, še posebej otrok;
- e) kaznivih dejanj s področja uporabe računalnikov, avtomatiziranih sistemov in računalniških mrež (računalniška kriminaliteta);
- f) nedovoljene uporabe, shranjevanja, razširjanja, uvoza, izvoza, izdelave in proizvodnje prepovedanih drog, psihotropnih sestavin, njihovih analogov ter predhodnih sestavin in trgovanja z njimi;
- g) nezakonite proizvodnje, shranjevanja, prodaje orožja, streliva, eksploziva, jedrskih, radioaktivnih, kemijskih in bioloških snovi, tehnologij strateškega pomena ali vojaških tehnologij in trgovanja z njimi;
- h) nezakonite trgovine s predmeti kulturnega in zgodovinskega pomena;
- i) ponarejanja ali prenarejanja denarja, vrednotnic in vrednostnih papirjev, plačilnih sredstev in uradnih dokumentov;
- j) pranja denarja in kaznivih dejanj gospodarskega kriminala;
- k) kaznivih dejanj s področja dejavnosti javnih uslužbencev (korupcija);
- l) premoženjskih kaznivih dejanj, povezanih zlasti s tatvinami in tihotapljenjem prevoznih sredstev;
- m) tihotapljenja blaga.

2. Sporazum ne zajema sodelovanja pri zagotavljanju pravne pomoči v kazenskih zadevah ali pri izročitvah. Prav tako ta sporazum ne dopušča sodelovanja v političnih, vojaških in finančnih zadevah, razen skupnega delovanja in boja proti kriminalu po prvem odstavku tega člena.

3. člen

Oblike sodelovanja

Sodelovanje med pristojnimi organi držav pogodbenikov po tem sporazumu poteka v naslednjih oblikah:

- a) izmenjava informacij;
- b) usklajevanje skupnih dejavnosti, usmerjenih v boj proti kriminalu in njegovemu preprečevanju;

while respecting the rights and freedoms of the population of the States of the Parties,
having regard to international obligations and the national legislation of their respective States,
have agreed as follows:

Article 1

Purpose of Agreement

1. The purpose of this Agreement is to strengthen bilateral cooperation between the Parties in prevention, detection and investigation of crime, in particular, through exchange of information concerning fight against crime, as well as to maintain of regular contacts between the competent authorities at all appropriate levels.

2. Cooperation between the Parties shall be based on the principle of reciprocity and shall include the exchange of information and identification data of persons as well as other measures with the purpose of realization of this Agreement and in accordance with international obligations and national legislation of the States of the Parties.

Article 2

Areas of Cooperation

1. Competent authorities of the States of the Parties shall, in accordance with the national legislation of the States of the Parties, cooperate in combating and effectively preventing crime, especially organized crime, in particular:

- a) crimes against person's life and health;
- b) terrorism, criminal offences related to terrorism and their financing;
- c) trafficking in human beings and people smuggling;
- d) crimes against sexual inviolability of a person, in particular children;
- e) crimes in the sphere of using computers, automated systems and computer networks (cybercrime);

f) illicit use, storage, trade in, distribution, import, export, manufacture and production of narcotic drugs, psychotropic substances, their analogues and precursors;

g) illegal production, storage, sale, as well as trafficking in arms, ammunition, explosives, nuclear, radioactive, chemical and biological substances, technologies of strategic importance or military technologies;

h) illegal trade in objects of cultural and historical importance;

i) forgery or falsification of money, valuables and securities, payment instruments and official documents;

j) money laundering and crimes in the sphere of economic activity;

k) crimes in the sphere of state servant activity (corruption);

l) crimes against property, especially related to theft and smuggling of transport means;

m) smuggling of goods.

2. This Agreement does not cover the issues of cooperation in the sphere of providing legal assistance in criminal matters or extradition. Also, apart from counteraction and fight against crime in the spheres, stipulated in the paragraph 1 of this Article, this Agreement does not allow cooperating in the matters of political, military and fiscal nature.

Article 3

Forms of cooperation

Cooperation between the competent authorities of the States of the Parties according to this Agreement shall be carried out in the following forms:

- a) exchange of information;
- b) coordination of common activities, aimed at fighting crime and its prevention;

- c) ustanavljanje skupnih delovnih skupin;
- d) izobraževanje in usposabljanje osebja.

4. člen

Izmenjava informacij

Pogodbenika si v skladu z notranjo zakonodajo njihovih držav vzajemno izmenjujeta osebne podatke in informacije o osebah ter okoliščinah kaznivih dejanj, zlasti:

a) informacije o osebah, ki so storile kaznivo dejanje ali so vanj vpletene:

- priimek, prejšnji priimek, osebno ime, druga imena (psevdonimi, vzdevki), spol, datum in kraj rojstva, kraj stalnega prebivališča, trenutno in vsako nekdanje državljanstvo itd.;

- podatki o dokumentu, ki potrjuje identiteto posameznika iz prejšnje alineje tega člena, tj. o potnem listu ali drugi potni listini (številka, datum izdaje, organ izdajatelj, kraj izdaje, obdobje veljavnosti, območje veljavnosti);

- podatki o prstnem odtisu ali odtisu dlani osebe, vpletene v storitev kaznivega dejanja, profil ali vzorec DNK, osebni opis, fotografija;

- drugi osebni podatki, ki jih zbirajo in si jih izmenjujejo pristojni organi držav pogodbenikov;

- b) o načrtovanju kaznivih dejanj, predvsem terorističnih, uperjenih proti interesom držav pogodbenikov;

- c) o predmetih in stvareh, ki lahko prispevajo k preiskavi in razkritju kaznivega dejanja;

- d) o načrtovanih akcijah in operacijah, ki so lahko v interesu drugega pogodbenika;

- e) o konceptualnih in analitičnih dokumentih ter specialistični literaturi;

- f) o določbah notranje zakonodaje, pomembnih za sodelovanje držav pogodbenikov, in njihovih sprememb;

- g) o izkušnjah, ki so posledica dejavnosti pristojnih organov držav pogodbenikov, zlasti o novih oblikah kriminala.

5. člen

Usklajevanje

Pristojni organi držav pogodbenikov sprejmejo vse potrebne ukrepe za zagotovitev usklajevanja skupnih dejavnosti na njunem ozemlju pri:

- a) iskanju oseb in predmetov, vključno z izvedbo ukrepov za iskanje in zaseg nezakonito pridobljenih premoženjskih koristi;

- b) uporabi posebnih preiskovalnih tehnik;

- c) zaščiti prič, žrtev in drugih oseb, da se prepreči ogrožanje življenja ali druga resna nevarnost, povezana s kazenskim postopkom;

- d) načrtovanju in izvedbi skupnih programov za preprečevanje kriminala;

- e) zagotavljanju javne varnosti na večjih dogodkih mednarodnega pomena.

6. člen

Skupne delovne skupine

1. Pristojni organi držav pogodbenikov po potrebi ustanovijo skupne analitične, delovne in preiskovalne skupine, v katerih si uradne osebe pristojnih organov držav pogodbenikov dejavno pomagajo s posvetovanjem na strokovni ravni.

2. Te uradne osebe opravljajo svoje dejavnosti skladno s priporočili pristojnih organov države pogodbenika, na ozemlju katerega se nahajajo.

- c) forming of joint working groups;
- d) staff education and training.

Article 4

Exchange of information

The Parties shall mutually exchange personal data and information concerning a person, as well as circumstances of the offence, according to the national legislation of their States particularly on:

a) persons who committed the crime or are involved in committing crimes:

- information about: surname, former surname, first name, other names (aliases, nicknames), sex, date and place of birth, residence, current and any former nationality etc.;

- information about data of the document proving the individual's identity under the preceding item of this article, i.e. a passport or another travel document (number, date of issue, the issuing authority, place of issue, validity period, area of validity);

- information about data referring to a fingerprint or palm print of a person involved in the commission of a criminal offence, DNA profile or sample, personal description, photograph;

- information about other personal data that are collected and exchanged by the competent authorities of the States of the Parties;

- b) the planning of criminal acts, in particular acts of terrorism, directed against interests of the States of the Parties;

- c) objects and things, which can assist in the process of investigation and disclosure of a crime;

- d) planned actions and operations, which can be of interest to the other Party;

- e) conceptual and analytical documents, as well as specialist literature;

- f) provisions of the national legislation important for the cooperation of the States of the Parties and any changes to them;

- g) experience, obtained as a result of activities of competent authorities of the States of the Parties, in particular concerning the new types of crime.

Article 5

Coordination

The competent authorities of the States of the Parties shall take all necessary measures to ensure coordination of the joint activities on their territory for the following purposes:

- a) searching for persons and objects, including implementation of measures aimed at finding and confiscating of the illegally obtained proceeds;

- b) implementation of special investigative techniques;

- c) protection of witnesses, victims and other persons in order to avert danger to life or any other serious danger in connection with criminal proceedings;

- d) planning and implementation of the joint programs aimed at crime prevention;

- e) ensuring public security at major events of international significance.

Article 6

Joint working groups

1. The competent authorities of the States of the Parties shall establish as required joint analytical teams, working and investigative groups, in which officials of the competent authorities of the States of the Parties shall, on an expert basis, provide active assistance in the form of consultations.

2. These officials shall carry out their activities in accordance with the recommendations issued by the competent authorities of the State of the Party on whose territory they stay.

3. Pogodbenika napoteni uradnikom, ki sodelujejo v skupnih delovnih skupinah, zagotavljata podporo in zaščito.

7. člen

Usposabljanje in izpopolnjevanje

1. Pogodbenika si pomagata pri usposabljanju in izpopolnjevanju, zlasti pri:

- a) organizaciji skupnih seminarjev, vaj in tečajev;
- b) usposabljanju specialistov;
- c) izmenjavi strokovnjakov;
- d) izmenjavi metod usposabljanja.

2. Poleg tega pogodbenika spodbujata druge oblike izmenjave izkušenj in znanja, ki jih pridobita v boju proti kriminalu.

8. člen

Postopek sodelovanja

1. Zaposila za pomoč in odgovori nanje so v pisni obliki. V nujnih primerih je dovoljeno ustno zaprosilo, ki mu takoj sledi pisna potrditev. Pisna zaprosila in odgovori nanje se pošljejo po pošti ali s tehničnimi sredstvi za sporočanje informacij v skladu z notranjo zakonodajo držav pogodbenikov.

2. Zaposila za informacije ali pomoč naj vsebujejo:

- imena pristojnih organov prosilcev in zaprosenih pristojnih organov;
- namen in vsebino zaprosila, njegovo utemeljitev in podatke, ki se lahko uporabijo za njegovo izpolnitev, ter seznam morebitnih omejitev uporabe informacij iz zaprosila;

- seznam vprašanj, na katera je treba odgovoriti, ali ukrepov, ki naj se sprejmejo;

- želeni rok za izpolnitev zaprosila.

3. Pristojni organi držav pogodbenikov se lahko v posebnih primerih obvestijo brez ustreznega zaprosila, če je informacija lahko pomembna za boj proti obstoječi grožnji, uperjeni zoper veljavni javni red, ali v boju proti kriminalu.

4. Pristojni organi držav pogodbenikov si pomagajo skladno z notranjo zakonodajo svojih držav, razen če zaprosilo za pomoč ne spada v pristojnost pravosodnih organov. Če zaproseni organ ni pristojen za izpolnitev zaprosila, ga pošlje ustreznemu pristojnemu organu.

5. Pristojni organi države zaprosenega pogodbenika v najkrajšem možnem času odgovorijo na zaprosilo iz prvega odstavka tega člena. Zaprošeni pogodbenik lahko pogodbenika prosilca prosi za dodatne informacije za izpolnitev zaprosila.

6. Vsak pogodbenik lahko v celoti ali deloma odkloni zaprosilo za pomoč, če meni, da bi izpolnitev slednjega lahko ogrozila suverenost, varnost ali druge pomembne interese države ali da zaprosilo ni v skladu z njegovo notranjo zakonodajo ali da krši obveznosti, ki izhajajo iz njegovih mednarodnih sporazumov. Če zaprosila ni mogoče izpolniti delno ali v celoti, se pogodbenika lahko dogovorita o drugih ukrepih, ki ustrezajo interesom obeh.

7. Zaprošeni pogodbenik nemudoma pisno obvesti drugega pogodbenika in navede razloge za odklonitev zaprosila ali njegovo delno izpolnitev.

9. člen

Uradniki za zvezo

1. Pristojni organi držav pogodbenikov lahko sklepajo dogovore o napatitvi uradnikov za zvezo na ozemlje države drugega pogodbenika za omejen ali neomejen čas.

3. The Parties shall provide necessary assistance and protection to their seconded officials, participating in joint working groups.

Article 7

Training and improvement of qualifications

1. The Parties shall support each other in training and improvement of qualifications, in particular through:

- a) holding joint seminars, exercises and training courses;
- b) training of specialists;
- c) exchanging experts;
- d) sharing training methods.

2. In addition, the Parties shall encourage other forms of sharing experience and skills, obtained in the fight against crime.

Article 8

Cooperation procedure

1. Requests for assistance and replies to them shall be made in written form. In emergencies verbal request are permissible, followed immediately by written confirmation. Written requests and replies shall be transmitted via post or with the use of technical means of information communication, authorized by the national legislation of the States of the Parties.

2. Requests for information or assistance should contain:

- names of the requesting and requested competent authorities;

- aim and content of the request, its justification and data, which may be used for its execution, as well as a list of possible limitations concerning use of information, stated in the request;

- list of questions to be answered or measures to be taken;

- desired terms for compliance with the request.

3. The competent authorities of the States of the Parties may inform each other in specific cases without having to make a corresponding request in case, if the available information could be important in the fight against an existing threat to the law and order in force or in the fight against crime.

4. The competent authorities of the States of the Parties according to the national legislation of their States render each other assistance, provided that the request for assistance does not fall within the jurisdiction of the judicial authorities. If the requested authority has no powers to comply with this request, it shall forward the request to the appropriate authority.

5. The competent authorities of the State of the requested Party shall reply to the request specified in paragraph 1 this Article in the shortest possible period. The requested Party may ask the requesting Party for further information for compliance with the request.

6. Each Party may refuse completely or partially to the request for assistance, if it considers that fulfilling the same might threaten the sovereignty, security or other vital interest of the State, or if the request does not correspond to its national legislation, or if the request violates its obligations arising from international agreements. If the request can not be fulfilled completely or partially, the Parties may agree on other measures that would satisfy the interests of both Parties.

7. The requested Party shall promptly inform the other Party in written form, stating the reasons for refusal of a request or partial fulfillment.

Article 9

Liaison officers

1. The competent authorities of the States of the Parties may conclude arrangements concerning assignment of liaison officers for limited or unlimited periods of time to the territory of the State of the other Party.

2. Namen napotitve uradnikov za zvezo v državo drugega pogodbenika je okrepiti in pospešiti sodelovanje pristojnih organov držav pogodbenikov v njihovem boju proti kriminalu.

3. Uradniki za zvezo dejavno svetujejo in pomagajo, vendar ne izvajajo pooblastil uradnih oseb. Zagotavljajo informacije in izvajajo naloge po navodilih pogodbenika, ki jih je napotil.

10. člen

Varstvo podatkov

Ob upoštevanju notranje zakonodaje pogodbenikov in Konvencije Sveta Evrope o varstvu posameznikov pri avtomatski obdelavi osebnih podatkov, ki je bila sestavljena 28. januarja 1981 v Strasbourgu, pristojni organi držav pogodbenikov izpolnjujejo naslednje pogoje za varstvo osebnih podatkov, ki se izmenjajo pri njunem sodelovanju:

a) pogodbenik prejemnik sme podatke uporabiti samo za namene, opredeljene v tem sporazumu, če zagotavlja ustrezno varstvo osebnih podatkov;

b) na zaprosilo pogodbenika pošiljatelja pogodbenik prejemnik slednjega obvesti o uporabi poslanih podatkov in ugotovitvah;

c) podatki se lahko izmenjujejo samo med pristojnimi organi držav pogodbenikov, določenimi v tem sporazumu. Podatki se lahko pošljejo tretji strani le ob predhodnem pisnem soglasju pogodbenika pošiljatelja;

d) pogodbenik pošiljatelj zagotovi točnost poslanih podatkov. Če so poslani podatki netočni ali ne bi smeli biti razkriti, je treba o tem pogodbenika prejemnika nemudoma obvestiti. V takem primeru pogodbenik prejemnik napake popravi ali podatke uniči;

e) posamezniku se na njegovo pisno zahtevo zagotovijo vsi obstoječi podatki o njem in informacije o njihovi obdelavi. Glede razkrivanja informacij o osebnih podatkih prevlada notranja zakonodaja pogodbenika pošiljatelja;

f) pogodbenik pošiljatelj v skladu s svojo notranjo zakonodajo obvesti pogodbenika prejemnika o roku za izbris podatkov. Ne glede na to, je treba vse poslanske osebne podatke izbrisati takoj, ko niso več potrebni za namene, za katere so bili poslani. Pogodbenik pošiljatelj mora biti obveščen o izbrisu poslanih podatkov in razlogih za izbris. Ob prenehanju veljavnosti tega sporazuma je treba vse prejete osebne podatke uničiti;

g) pogodbenika vodita evidenco o pošiljanju, prejemanju in izbrisu podatkov. Evidenca mora vsebovati informacije o tem, kateri podatki so bili poslani, čas in namen pošiljanja;

h) pogodbenika učinkovito varujeta prejete osebne podatke pred naključnim ali nepooblaščenim uničenjem ali naključno izgubo ter pred nedovoljenim dostopom, spreminjanjem in razširjanjem.

11. člen

Izmenjava tajnih podatkov

Pogodbenika tajne podatke, ki si jih pošiljata po tem sporazumu, vzajemno varujeta v skladu z notranjo zakonodajo njihovih držav in ustreznimi mednarodnimi sporazumi.

12. člen

Pristojni organi

1. Za namen izvajanja tega sporazuma, so pristojni organi držav pogodbenikov:

za Republiko Slovenijo:

– Ministrstvo za notranje zadeve, Generalna policijska uprava;

2. The purpose of assigning liaison officers to the State of the other Party is to strengthen and accelerate cooperation of the competent authorities of the States of the Parties which fight against crime.

3. The liaison officers shall be active in advisory and supporting capacity without exercising sovereign powers. They provide information and carry out tasks according to the instructions they receive from the assigning Party.

Article 10

Data protection

In accordance with their national legislation and the Council of Europe Convention for the Protection of Persons with Regard to the Automatic Processing of Personal Data, done at Strasbourg on 28 January 1981 the competent authorities of the States of the Parties shall apply the following terms and conditions for the protection of personal data exchanged during their cooperation:

a) the Party receiving the data may use it solely for the purposes specified in this Agreement provided that it ensures adequate personal data protection;

b) upon request by the sending Party, the receiving Party shall inform the latter on the use of the transferred data and achieved results;

c) data may only be exchanged between the competent authorities of the States of the Parties specified in this Agreement. Such data may be forwarded to any third Party only upon prior written consent of the sending Party;

d) the Party sending the data shall ensure the accuracy of the transferred data. In case transferred data is inaccurate or should not have been disclosed, the receiving Party shall be immediately informed. In this case the receiving Party shall correct the mistakes or destroy the data;

e) upon written request by any person, all existing data about him/her, as well as the information on its processing, shall be provided to him/her. As regards disclosing information on personal data, the national legislation of the sending Party shall prevail;

f) the sending Party shall, in accordance with its national legislation, inform the receiving Party on the time limit for the deletion of data. Regardless of the latter fact, all transferred personal data must be deleted after becoming unnecessary for the purposes they were transferred. The sending Party must be informed about the deletion of the transferred data and the reasons for the deletion. All received personal data must be destroyed upon the termination of the present Agreement;

g) the Parties shall keep a record of any transfer, receipt and deletion of data. The record must contain information as to which data was transferred, when and for what purpose;

h) the Parties shall efficiently protect the received personal data from accidental or unauthorised destruction or accidental loss as well as against unauthorised access, alteration or dissemination.

Article 11

Exchange of secret information

The Parties shall transmit and mutually protect the secret information within the framework of this Agreement in compliance with the national legislation of their States and on the grounds of the corresponding international agreements.

Article 12

Competent authorities

1. For the purpose of the implementation of this Agreement the competent authorities of the States of the Parties shall be the following:

On the part of the Republic of Slovenia:

– Ministry of the Interior, General Police Directorate.

za Ukrajino:

- Ministrstvo za notranje zadeve;
- Varnostna služba;
- Uprava Službe državne mejne straže;
- Državna carinska uprava;
- Državna davčna uprava;
- Državna služba za nadzor financ.

Pristojni organi sodelujejo neposredno in operativno v okviru svojih pristojnosti.

2. Pristojni organi držav pogodbenikov si v tridesetih dneh od začetka veljavnosti sporazuma izmenjajo podatke za stike, potrebne za sodelovanje (telefonske številke in številke faksov, naslove itd.).

3. Pristojni organi držav pogodbenikov se nemudoma obvestijo o kakršnih koli spremembah podatkov iz prvega in drugega odstavka tega člena.

13. člen

Stroški

Če se pogodbenika ne dogovorita drugače, stroške, ki so povezani z izvajanjem tega sporazuma, krije pogodbenik, na ozemlju katerega ti stroški nastanejo.

14. člen

Jezik

Če se pristojni organi držav pogodbenikov ne dogovorijo drugače, sodelovanje med pogodbenikoma po tem sporazumu poteka v angleškem jeziku.

15. člen

Sestanki strokovnjakov

Predstavniki pogodbenikov se lahko po potrebi sestanejo, da ocenijo rezultate sodelovanja po tem sporazumu in se dogovorijo o njegovem nadaljnjem poteku.

16. člen

Vpliv na druge mednarodne sporazume

Določbe tega sporazuma ne vplivajo na druge dvostranske ali večstranske sporazume, ki zavezujejo državi pogodbenikov.

17. člen

Dodatni sporazumi

1. Ta sporazum se lahko spremeni in dopolni ob vzajemnem pisnem soglasju pogodbenikov. Spremembe in dopolnila se sestavijo v pisni obliki po enakem postopku, kakor je bil uporabljen za sprejetje tega sporazuma, in so sestavni del tega sporazuma.

2. Za namen izvajanja in razvoja sodelovanja po tem sporazumu lahko pristojni organi držav pogodbenikov sklenejo dodatne dogovore na podlagi tega sporazuma.

18. člen

Reševanje sporov

1. Vse spore zaradi razlage in izvajanja določb tega sporazuma pristojni organi držav pogodbenikov rešujejo s pogovori in pogajanji ob medsebojnem razumevanju.

2. Če soglasja ni mogoče doseči s pogovori in pogajanji po prvem odstavku tega člena, se spor reši po diplomatski poti.

On the part of Ukraine:

- Ministry of Internal Affairs;
- Security Service;
- Administration of the State Border Guard Service;
- State Customs Service;
- State Tax Service;
- State Financial Monitoring Service.

These competent authorities shall directly and operatively cooperate within their competence.

2. The competent authorities of the States of the Parties shall exchange relevant contact information (telephone and fax numbers, address etc.) necessary for cooperation within 30 days after the Agreement has entered into force.

3. The competent authorities of the States of the Parties shall notify each other without delay of any changes in the data provided pursuant to paragraphs 1 and 2 of this Article.

Article 13

Costs

Unless otherwise agreed by the Parties, costs related to fulfillment of this Agreement shall be borne by the Party on the territory of which these expenses occur.

Article 14

Language

Unless otherwise agreed by the competent authorities of the States of the Parties, cooperation between the Parties within the framework of this Agreement shall be implemented in the English language.

Article 15

Meetings of experts

Representatives of the Parties may, if required, meet in order to sum up the achievements of the cooperation carried out under this Agreement and discuss its further developments.

Article 16

Implications for other international agreements

The provisions of this Agreement shall not affect any bilateral or multilateral agreement binding the States of the Parties.

Article 17

Additional Agreements

1. This Agreement may be amended and supplemented by mutual consent of the Parties. These amendments and supplements shall be drawn up in written form, following the same procedure as used for the adoption of this Agreement and shall form an integral part thereof.

2. For the purpose of implementing and developing the cooperation under this Agreement the competent authorities of the States of the Parties may conclude further arrangements on the basis of this Agreement.

Article 18

Settlement of Disputes

1. Any disputes concerning interpretation and implementation of the provisions of this Agreement shall be resolved by mutual understanding and through consultations and negotiations between the competent authorities of the States of the Parties.

2. If during consultations and negotiations the consensus is not reached according to the paragraph 1 of this Article, the issue shall be settled through diplomatic channels.

19. člen

Začetek veljavnosti in trajanje sporazuma

1. Sporazum začne veljati trideseti dan po datumu prejema zadnjega od uradnih obvestil, s katerima se pogodbenika obvestita o dokončanju vseh notranjih postopkov, potrebnih za začetek njegove veljavnosti.

2. Sporazum se sklene za nedoločen čas. Vsak pogodbenik ga lahko odpove s pisnim uradnim obvestilom o odpovedi po diplomatski poti. Sporazum preneha veljati šest mesecev po datumu prejema takega uradnega obvestila.

Sestavljeno v Kijevu dne 11. oktobra 2011 v dveh izvornikih v slovenskem, ukrajinskem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. Ob razlikah pri razlagi sporazuma prevlada angleško besedilo.

Za Vlado
Republike Slovenije
Dragoljuba Benčina l.r.

Za Kabinet
ministrov Ukrajine
Anatolij Mogilev l.r.

For the Government
of the Republic of Slovenije
Dragoljuba Benčina (s)

For the Cabinet
of Ministers of Ukraine
Anatolij Mogilev (s)

Article 19

Entry into force and term of validity of the Agreement

1. The present Agreement shall enter into force on the thirtieth day following the date of the receipt of the last written notification by which the Parties have informed each other of the completion of all internal procedures necessary for its entry into force.

2. This Agreement is concluded for an indefinite period of time. Either Party may terminate it by sending a written notification of termination through diplomatic channels. This Agreement shall cease to have effect six months after the date of the receipt of such written notification.

Done in Kyiv on the 11 day of October 2011 in two original copies, each in the Slovenian, Ukrainian and English languages, all texts being equally authentic. In case of any divergence of interpretation of this Agreement the English text shall prevail.

3. člen

Za izvajanje sporazuma skrbi Ministrstvo za notranje zadeve – Generalna policijska uprava.

4. člen

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

Št. 212-05/09-1/11
Ljubljana, dne 15. maja 2012
EPA 176-V

Državni zbor
Republike Slovenije
dr. Gregor Virant l.r.
Predsednik

35. **Zakon o ratifikaciji Protokola med Republiko Slovenijo in Republiko Avstrijo in Dodatnega protokola o spremembah Konvencije o izogibanju dvojnega obdavčevanja v zvezi z davki na dohodek in premoženje, podpisane v Ljubljani 1. oktobra 1997, spremenjene s protokolom, podpisanim v Ljubljani 26. septembra 2006 (BATIDO-B)**

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 Protokola med Republiko Slovenijo in Republiko Avstrijo in Dodatnega protokola o spremembah Konvencije o izogibanju dvojnega obdavčevanja v zvezi z davki na dohodek in premoženje, podpisane v Ljubljani 1. oktobra 1997, spremenjene s protokolom, podpisanim v Ljubljani 26. septembra 2006 (BATIDO-B)

Razlašam Zakon o ratifikaciji Protokola med Republiko Slovenijo in Republiko Avstrijo in Dodatnega protokola o spremembah Konvencije o izogibanju dvojnega obdavčevanja v zvezi z davki na dohodek in premoženje, podpisane v Ljubljani 1. oktobra 1997, spremenjene s protokolom, podpisanim v Ljubljani 26. septembra 2006 (BATIDO-B), ki ga je sprejel Državni zbor Republike Slovenije na seji dne 15. maja 2012.

Št. 003-02-4/2012-8
Ljubljana, dne 23. maja 2012

dr. Danilo Türk l.r.
Predsednik
Republike Slovenije

Z A K O N

O RATIFIKACIJI PROTOKOLA MED REPUBLIKO SLOVENIJO IN REPUBLIKO AVSTRIJO IN DODATNEGA PROTOKOLA O SPREMEMBAH KONVENCIJE O IZOGIBANJU DVOJNEGA OBDAVČEVANJA V ZVEZI Z DAVKI NA DOHODEK IN PREMOŽENJE, PODPISANE V LJUBLJANI 1. OKTOBRA 1997, SPREMENJENE S PROTOKOLOM, PODPISANIM V LJUBLJANI 26. SEPTEMBRA 2006 (BATIDO-B)

1. člen

Ratificirata se Protokol med Republiko Slovenijo in Republiko Avstrijo in Dodatni protokol o spremembah Konvencije o izogibanju dvojnega obdavčevanja v zvezi z davki na dohodek in premoženje, podpisane v Ljubljani 1. oktobra 1997, spremenjene s protokolom, podpisanim v Ljubljani 26. septembra 2006, podpisana v Ljubljani 28. septembra 2011.

2. člen

Protokol in dodatni protokol se v izvirniku v slovenskem in angleškem jeziku glasita:¹

**PROTOKOL
MED
REPUBLIKO SLOVENIJO
IN
REPUBLIKO AVSTRIJO
IN DODATNI PROTOKOL O SPREMEMBAH
KONVENCIJE O IZOGIBANJU DVOJNEGA
OBDAVČEVANJA V ZVEZI Z DAVKI NA
DOHODEK IN PREMOŽENJE, PODPISANE
V LJUBLJANI 1. OKTOBRA 1997,
SPREMENJENE S PROTOKOLOM, PODPISANIM
V LJUBLJANI
26. SEPTEMBRA 2006**

**PROTOCOL
BETWEEN
THE REPUBLIC OF SLOVENIA
AND
THE REPUBLIC OF AUSTRIA
AND ADDITIONAL PROTOCOL
AMENDING THE CONVENTION FOR THE
AVOIDANCE OF DOUBLE TAXATION WITH
RESPECT TO TAXES ON INCOME AND ON
CAPITAL SIGNED IN LJUBLJANA ON
1 OCTOBER 1997 AS AMENDED BY THE
PROTOCOL SIGNED IN LJUBLJANA
ON 26 SEPTEMBER 2006**

Republika Slovenija in Republika Avstrija sta se v želji, da skleneta Protokol in Dodatni protokol o spremembah Konvencije o izogibanju dvojnega obdavčevanja v zvezi z davki na dohodek in premoženje, podpisane v Ljubljani 1. oktobra 1997, spremenjene s protokolom, podpisanim v Ljubljani 26. septembra 2006 (v nadaljevanju: "konvencija"),

sporazumeli:

The Republic of Slovenia and the Republic of Austria desiring to conclude a Protocol and Additional Protocol amending the Convention for the avoidance of double taxation with respect to taxes on income and on capital, signed in Ljubljana on 1 October 1997 as amended by the Protocol signed in Ljubljana on 26 September 2006 (hereinafter referred to as "the Convention"),

Have agreed as follows:

¹ Besedilo protokola in dodatnega protokola v nemškem jeziku je na vpogled v Sektorju za mednarodno pravo Ministrstva za zunanje zadeve.

1. člen

27. člen konvencije se nadomesti s tem besedilom:

"27. ČLEN

Izmenjava informacij

1. Pristojna organa držav pogodbenic si izmenjavata informacije, ki so predvidoma pomembne za izvajanje določb te konvencije ali za izvajanje ali uveljavljanje 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 konvencijo. Izmenjava informacij ni omejena s 1. in 2. členom.

2. Vsaka informacija, ki jo država pogodbenica prejme po prvem odstavku, se obravnava kot tajnost enako kakor 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 davkov, izterjavi ali pregonu ali pri odločanju o pritožbah glede davkov iz prvega odstavka ali pri nadzoru nad omenjenim. Te osebe ali organi uporabljajo informacije samo v te namene. Informacije lahko razkrijejo v javnih sodnih postopkih ali sodnih odločbah. Ne glede na to se lahko informacija, ki jo pridobi država pogodbenica, uporablja za druge namene, kadar se v take druge namene lahko uporablja po zakonodaji obeh držav in če pristojni organ države, ki informacijo daje, tako uporabo dovoli.

3. Določbe prvega in drugega odstavka se v nobenem primeru ne razlagajo, kakor 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 predloži informacije, ki jih ni mogoče dobiti po zakonodaji ali običajni upravni poti te ali druge države pogodbenice,

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

4. Če država pogodbenica zaprosi za informacije v skladu s tem členom, druga država pogodbenica sprejme ukrepe za pridobitev zahtevanih informacij, tudi če jih ta druga država morda ne potrebuje za davčne namene. Za obveznost iz prejšnjega stavka veljajo omejitve iz tretjega odstavka, toda te se v nobenem primeru ne razlagajo tako, kakor da država pogodbenica lahko zavrne predložitev informacij samo zato, ker sama zanje nima interesa.

5. V nobenem primeru se določbe tretjega odstavka ne razlagajo tako, da lahko država pogodbenica zavrne predložitev informacij samo zato, ker jih hrani banka, druga finančna ustanova, pooblaščenec ali oseba, ki deluje kot zastopnik ali fiduciar, ali zato, ker so povezane z lastniškimi deleži v neki osebi."

2. člen

Državi pogodbenici se po diplomatski poti pisno obvestita, da so končani vsi pravni postopki za začetek veljavnosti tega protokola. Protokol začne veljati prvi dan tretjega meseca od dneva prejema poznejšega navedenega uradnega obvestila. Določbe tega protokola se uporabljajo za davčna obdobja, ki se začnejo 1. januarja ali pozneje v koledarskem letu, ki sledi letu, v katerem začne veljati ta protokol.

Article 1

Article 27 of the Convention shall be replaced by the following:

"ARTICLE 27

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement 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 Convention. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 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, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. 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. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.

3. In no case shall the provisions of paragraphs 1 and 2 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*).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person."

Article 2

The Contracting States shall notify each other through diplomatic channels that all legal procedures for the entry into force of this Protocol have been completed. The Protocol shall enter into force on the first day of the third month next following the date of the receipt of the later of the notifications referred to above. The provisions of this Protocol shall have effect with regard to taxable periods beginning on or after 1 January of the calendar year next following the year of the entry into force of this Protocol.

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

SESTAVLJENO v dveh izvornikih v Ljubljani 28. septembra 2011 v slovenskem, nemškem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. Pri razlikah med besedili prevlada angleško besedilo.

Za
Republiko Slovenijo
Mateja Vraničar l.r.

Za
Republiko Avstrijo
Andreas Scheider l.r.

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

DONE in duplicate at Ljubljana on 28 September 2011 in the Slovenian, German and English languages, all the texts being equally authentic. In case of divergence between any of the texts, the English text shall prevail.

For the
Republic of Slovenia:
Mateja Vraničar (s)

For
the Republic of Austria:
Andreas Scheider (s)

DODATNI PROTOKOL

Ob podpisu Protokola o spremembah Konvencije o izogibanju dvojnega obdavčevanja v zvezi z davki na dohodek in premoženje, podpisane v Ljubljani 1. oktobra 1997, spremenjene s protokolom, podpisanim v Ljubljani 26. septembra 2006, ki je bil danes sklenjen med Republiko Slovenijo in Republiko Avstrijo, sta se podpisnika sporazumela o teh določbah, ki so sestavni del protokola:

K 27. členu

1. Kadar pristojni organ države prosilke zaprosi za informacije po tej konvenciji, priskrbi pristojnemu organu zaprosene države informacije, s katerimi dokaže njihovo predvideno pomembnost glede na zaprosilo:

(a) identiteto osebe, ki se zasliši ali preiskuje,

(b) izjavo o zaprosenih informacijah, vključno z njihovo naravo in obliko, v kateri želi država prosilka prejeti informacije zaprosene države,

(c) davčni namen, za katerega se zaprosijo informacije,

(d) razloge za prepričanje, da zaprosene informacije hrani zaprosena država oziroma jih ima ali so pod nadzorom osebe pod jurisdikcijo zaprosene države,

(e) ime in naslov katere koli osebe, za katero verjame, da bi lahko imela zaprosene informacije, če jo pozna,

(f) izjavo, da je država prosilka na svojem ozemlju izkoristila vse načine za pridobitev informacij, razen tistih, ki bi povzročili nesorazmerne težave.

2. Razume se, da izmenjava informacij, določena v 27. členu, ne vključuje ukrepov, ki pomenijo naključne poizvedbe.

3. Razume se, da peti odstavek 27. člena ne zahteva, da države pogodbenice izmenjavajo informacije spontano ali avtomatično.

4. Razume se, da je poleg že omenjenih načel pri razlagi 27. člena treba upoštevati tudi načela iz komentarjev OECD, vključno s strokovno opombo, ki jo je pripravil Sekretariat OECD in je priložena temu dodatnemu protokolu.

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

SESTAVLJENO v dveh izvornikih v Ljubljani 28. septembra 2011 v slovenskem, nemškem in angleškem jeziku, pri čemer so vsa besedila enako verodostojna. Pri razlikah med besedili prevlada angleško besedilo.

Za
Republiko Slovenijo
Mateja Vraničar l.r.

Za
Republiko Avstrijo
Andreas Scheider l.r.

ADDITIONAL PROTOCOL

At the moment of signing the Protocol amending the Convention for the avoidance of double taxation with respect to taxes on income and on capital signed in Ljubljana on 1 October 1997 as amended by the Protocol signed in Ljubljana on 26 September 2006, this day concluded between the Republic of Slovenia and the Republic of Austria, the undersigned have agreed that the following provisions shall form an integral part of the Protocol:

Ad Article 27:

1. The competent authority of the applicant State shall provide the following information to the competent authority of the requested State when making a request for information under the Convention to demonstrate the foreseeable relevance of the information to the request:

(a) the identity of the person under examination or investigation;

(b) a statement of the information sought including its nature and the form in which the applicant State wishes to receive the information from the requested State;

(c) the tax purpose for which the information is sought;

(d) grounds for believing that the information requested is held in the requested State or is in the possession or control of a person within the jurisdiction of the requested State;

(e) to the extent known, the name and address of any person believed to be in possession of the requested information;

(f) a statement that the applicant State has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

2. It is understood that the exchange of information provided in Article 27 does not include measures which constitute "fishing expeditions".

3. It is understood that paragraph 5 of Article 27 does not require the Contracting States to exchange information on a spontaneous or automatic basis.

4. It is understood that – in addition to the above mentioned principles – for the interpretation of Article 27 the principles established in the OECD Commentaries including the technical note prepared by the OECD Secretariat, which is added as an Annex to this Additional Protocol, shall be considered as well.

IN WITNESS WHEREOF the plenipotentiaries of the two Contracting States, duly authorised thereto, have signed this Additional Protocol.

DONE in duplicate at Ljubljana on 28 September 2011 in the Slovenian, German and English languages, all the texts being equally authentic. In case of divergence between any of the texts, the English text shall prevail.

For the
Republic of Slovenia:
Mateja Vraničar (s)

For
the Republic of Austria:
Andreas Scheider (s)

Priloga

Annex

**Strokovna opomba o petem odstavku 26. člena
vzorčne davčne konvencije OECD****Technical note on paragraph 5 of Article 26 of the OECD
Model Tax Convention**

V petem odstavku 26. člena vzorčne davčne konvencije OECD je določeno, da bančna tajnost ne more biti ovira za izmenjavo informacij za davčne namene. V 26. členu so določene tudi pomembne varovalke za varstvo zaupnosti informacij o davčnih zavezancah.

Standard zahteva izmenjavo informacij le na zaprosilo. Kadar se zaprosi za informacijo, jo je treba izmenjati le takrat, ko je "predvidoma pomembna" za izvajanje ali uveljavljanje domače zakonodaje pogodbenice. Državi se ne smeta ukvarjati z naključnimi poizvedbami ali zaprositi za informacije, za katere je malo verjetno, da bi bile pomembne pri davčnih zadevah določenega davčnega zavezanca. Pri sestavljanju zaprosil morajo pristojni organi izkazati predvideno pomembnost zaprosene informacije. Država ne more na primer naključno zaprositi za informacije o bančnih računih, ki jih imajo njeni rezidenti pri bankah v drugi državi. Celotno gre za nadzor nad davčnim zavezancem, davčna uprava ne zahteva informacije o posameznem davčnem zavezancu, če ni bilo nobene transakcije ali niso bili prepoznavni znaki morebitnih transakcij, ki bi bile povezane z drugo državo. Kadar pa davčna uprava odmeri davčno obveznost posameznega davčnega zavezanca in sumi, da ima ta davčni zavezanec v drugi državi bančni račun, lahko pristojni organ zahteva informacijo o tem davčnem zavezancu. To je mogoče tudi, ko je bilo identificiranih več davčnih zavezancev, na primer tistih, ki imajo offshore kreditne kartice bank v drugi državi. Zaprošena država pa mora prej uporabiti vsa domača sredstva za dostop do zaprosenih informacij. Za nadaljnje podrobnosti sta na voljo komentarja k 26. členu vzorčne davčne konvencije OECD in 5. členu vzorčnega sporazuma o izmenjavi informacij.

Pri izmenjavi informacij veljajo pravila o strogi zaupnosti. V 26. členu je izrecno določeno, da se vsaka sporočena informacija obravnava kot tajnost. Uporablja se lahko le za namene, določene v konvenciji. Sankcije za kršitev take tajnosti v vseh državah urejata upravna in kazenska zakonodaja. Praviloma je nepooblaščen razkritje davčnih informacij, ki jih je poslala druga država, kaznivo dejanje, ki se kaznuje z zaporno kaznijo.

Kakor je razvidno iz obrazložitve v komentarju k vzorčni davčni konvenciji OECD in v priložniku o izmenjavi informacij OECD, bančna tajnost ni nezdržljiva z učinkovito izmenjavo informacij za davčne namene. Vse države poznajo bančno tajnost ali pravila o zaupnosti. Izpolnjevanje mednarodno sprejetega standarda o izmenjavi informacij dovoljuje le omejene izjeme pri pravilih o bančni tajnosti in ne bi smelo ogroziti zaupanja državljanov v varstvo njihove zasebnosti.

Paragraph 5 of Article 26 of the OECD Model Tax Convention provides that bank secrecy cannot be an obstacle to exchange of information for tax purposes. Article 26 also provides for important safeguards in order to protect the confidentiality of taxpayers' information.

The standard requires information exchange on request only. Where information is requested, it must be exchanged only where it is "foreseeably relevant" to the administration or enforcement of the domestic laws of the treaty partner. Countries are not at liberty to engage in "fishing expeditions" or to request information that is unlikely to be relevant to the tax affairs of a given taxpayer. In formulating their requests, competent authorities should demonstrate the foreseeable relevance of the requested information. It would, for instance, not be possible for a State to request information randomly on bank accounts held by its residents in banks located in the other State. Also, even when auditing a taxpayer, a tax administration would not request information on a specific taxpayer when no transaction or indication of possible transactions has been identified as involving an nexus with the other state. On the other hand, for example, when a tax administration assesses the tax liability of a specific taxpayer and suspects that this taxpayer has a bank account in the other State, then the competent authority may request information on this specific taxpayer. This could also be the case where a number of taxpayers have been identified, for example, as holding offshore credit cards from banks located in the other state. The requesting State should, however, have pursued all domestic means to access the requested information. For further details, you may wish to consult the commentaries to the Article 26 of the OECD Model Tax Convention and Article 5 of the Model Agreement on Exchange of Information.

Where information is exchanged it is subject to strict confidentiality rules. It is expressly provided in Article 26 that information communicated shall be treated as secret. It can only be used for the purposes provided for in the convention. Sanctions for the violation of such secrecy are governed by administrative and penal laws in all states. Typically, unauthorised disclosure of tax related information received from another country is a criminal offence punishable by a jail sentence.

As you can see from these explanations, which you can find in the OECD Model Tax Convention commentary, as well as in the OECD Manual on Information exchange, bank secrecy is not incompatible with effective exchange of information for tax purposes. All countries have bank secrecy or confidentiality rules. Meeting the internationally agreed standard on exchange of information requires only limited exceptions to bank secrecy rules and would not undermine the confidence of citizens in the protection of their privacy.

3. člen

Za izvajanje protokola in dodatnega protokola skrbi ministrstvo, pristojno za finance.

4. člen

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

Št. 434-03/12-3/9

Ljubljana, dne 15. maja 2012

EPA 1705-IV

Državni zbor
Republike Slovenije
dr. Gregor Virant l.r.
Predsednik

36. Zakon o ratifikaciji Sporazuma med Republiko Slovenijo in Otokom Man o izmenjavi informacij v zvezi z davčnimi zadevami, s protokolom (BGBIMIDZ)

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 Otokom Man o izmenjavi informacij v zvezi z davčnimi zadevami, s protokolom (BGBIMIDZ)

Razglašam Zakon o ratifikaciji Sporazuma med Republiko Slovenijo in Otokom Man o izmenjavi informacij v zvezi z davčnimi zadevami, s protokolom (BGBIMIDZ), ki ga je sprejel Državni zbor Republike Slovenije na seji dne 14. junija 2012.

Št. 003-02-5/2012-10
Ljubljana, dne 22. junija 2012

dr. Danilo Türk l.r.
Predsednik
Republike Slovenije

Z A K O N

O RATIFIKACIJI SPORAZUMA MED REPUBLIKO SLOVENIJO IN OTOKOM MAN O IZMENJAVI INFORMACIJ V ZVEZI Z DAVČNIMI ZADEVAMI, S PROTOKOLOM (BGBIMIDZ)

1. člen

Ratificira se Sporazum med Republiko Slovenijo in Otokom Man o izmenjavi informacij v zvezi z davčnimi zadevami, s protokolom, podpisan v Douglasu 27. junija 2011.

2. člen

Sporazum s protokolom se v izvirniku v slovenskem in angleškem jeziku glasi:

**S P O R A Z U M
M E D
R E P U B L I K O S L O V E N I J O
I N O T O K O M M A N
O I Z M E N J A V I I N F O R M A C I J
V Z V E Z I Z D A V Č N I M I Z A D E V A M I**

Ker se priznava, da ima Otok Man pod pogoji iz pooblastila Združenega kraljestva pravico do pogajanja, sklepanja, izvajanja in na podlagi pogojev iz tega sporazuma do odpovedi sporazuma o izmenjavi davčnih informacij z Republiko Slovenijo;

ker se je Otok Man 13. decembra 2000 politično zavezal načelom OECD o učinkoviti izmenjavi informacij in je dejavno sodeloval pri pripravi vzorčnega sporazuma OECD o izmenjavi informacij o davčnih zadevah;

ker pogodbenika želita pospešiti izmenjavo informacij v zvezi z davki in olajšati pogoje zanjo;

sta se pogodbenika dogovorila, da bosta sklenila naslednji sporazum, ki vsebuje samo njune obveznosti:

1. člen

NAMEN IN PODROČJE UPORABE SPORAZUMA

Pristojna organa pogodbenikov zagotavljata pomoč z izmenjavo informacij, ki so predvidoma pomembne za izvajanje ali uveljavljanje domače zakonodaje pogodbenikov glede davkov iz tega sporazuma. Med tovrstne informacije spadajo informacije, ki so predvidoma pomembne za določitev, odmero, uveljavitev, izterjavo ali pobiranje takih davkov pri osebah, zavezanecih zanje, oziroma za preiskavo ali pregon oseb zaradi davčnih zadev. Pravice in zaščitni ukrepi, ki jih osebam zagotavljajo zakoni ali upravna praksa zaprosenega pogodbenika, se uporabljajo v takem obsegu, da brez razloga ne preprečujejo ali zavlačujejo učinkovite izmenjave informacij.

**A G R E E M E N T
B E T W E E N
T H E R E P U B L I C O F S L O V E N I A
A N D T H E I S L E O F M A N
F O R T H E E X C H A N G E O F I N F O R M A T I O N
R E L A T I N G T O T A X M A T T E R S**

Whereas it is acknowledged that the Isle of Man under the terms of its Entrustment from the United Kingdom has the right to negotiate, conclude, perform and, subject to the terms of this Agreement, terminate a tax information exchange agreement with the Republic of Slovenia;

Whereas the Isle of Man on the 13th December 2000 entered into a political commitment to the OECD's principles of effective exchange of information and actively participated in the drafting of the OECD Model Agreement on Exchange of Information in Tax Matters;

Whereas the Contracting Parties wish to enhance and facilitate the terms and conditions governing the exchange of information with respect to taxes;

Now, therefore, the Contracting Parties have agreed to conclude the following Agreement, which contains obligations on the part of the Contracting Parties only:

Article 1

OBJECT AND SCOPE OF THE AGREEMENT

The competent authorities of the Contracting Parties shall provide assistance through exchange of information that is foreseeably relevant to the administration and enforcement of the domestic laws of the Contracting Parties concerning taxes covered by this Agreement. Such information shall include information that is foreseeably relevant to the determination, assessment, enforcement, recovery or collection of such taxes, with respect to persons liable to such taxes, or to the investigation or prosecution of tax matters in relation to such persons. The rights and safeguards secured to persons by the laws or administrative practice of the Requested Party remain applicable to the extent that they do not unduly prevent or delay effective exchange of information.

2. člen JURISDIKCIJA

Zaprošeni pogodbenik ni zavezan dati informacij, ki jih ne hranijo njegovi organi oziroma jih nimajo osebe ali niso pod nadzorom oseb, ki so pod njegovo jurisdikcijo.

3. člen DAVKI, ZA KATERE SE UPORABLJA SPORAZUM

1. Davki, na katere se nanaša ta sporazum, so:

a) v Republiki Sloveniji:

(i) davek od dohodkov pravnih oseb,

(ii) dohodnina,

(iii) davek od dobička od odsvojitve izvedenih finančnih instrumentov,

(iv) davek od premoženja,

(v) davek na dediščine in darila;

b) na Otoku Man davki od dohodka ali dobička.

Sporazum se uporablja tudi za enake ali vsebinsko podobne davke, ki se po dnevu podpisa sporazuma uvedejo poleg obstoječih davkov ali namesto njih. Poleg tega se seznam davkov, za katere se uporablja sporazum, lahko razširi ali spremeni s skupnim dogovorom pogodbenikov v obliki izmenjave pisem. Pristojna organa pogodbenikov se uradno obveščata o vseh bistvenih spremembah obdavčevanja in z njim povezanih ukrepov zbiranja informacij, za katere se uporablja ta sporazum.

4. člen POMEN IZRAZOV

1. V tem sporazumu, razen če ni opredeljeno drugače:

a) izraz "Slovenija" pomeni Republiko Slovenijo, in kadar se uporablja v geografskem pomenu, ozemlje Slovenije in tista morska območja, na katerih lahko Slovenija izvaja svoje suverene pravice ali jurisdikcijo v skladu s svojo notranjo zakonodajo in mednarodnim pravom;

b) izraz "Otok Man" pomeni otok, ki sestavlja Otok Man, vključno z njegovim teritorialnim morjem, v skladu z mednarodnim pravom;

c) izraz "pogodbenik" pomeni Slovenijo ali Otok Man, kakor zahteva sobesedilo;

d) izraz "pristojni organ" pomeni:

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

(ii) na Otoku Man ocenjevalca/-ko davka od dohodka ali njegovega ali njenega pooblaščenca;

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) izraz "javna družba" pomeni katero koli družbo, katere glavni razred delnic kotira na priznani borzi, če lahko kdor koli njene kotirajoče delnice neovirano kupuje ali prodaja. Delnice lahko "kdor koli" kupuje ali prodaja, če nakup ali prodaja delnic nista implicitno ali eksplicitno na voljo le omejeni skupini vlagateljev;

h) izraz "glavni razred delnic" pomeni razred ali razrede delnic, ki predstavljajo večino glasovalnih pravic in vrednosti družbe;

i) izraz "priznana borza" pomeni katero koli borzo, o kateri sta se dogovorila pristojna organa pogodbenikov;

j) izraz "kolektivni naložbeni sklad ali načrt" pomeni vsak način skupnega vlaganja ne glede na pravno obliko. Izraz "javni kolektivni naložbeni sklad ali načrt" pomeni kateri koli kolektivni naložbeni sklad ali načrt, če lahko kdor koli enote, delnice ali druge deleže v skladu ali načrtu neovirano kupuje, prodaja ali unovčuje. Enote, delnice ali druge deleže v skladu ali načrtu lahko "kdor koli" neovirano kupuje, prodaja ali unovčuje, če nakup, prodaja ali unovčitev niso implicitno ali eksplicitno na voljo le omejeni skupini vlagateljev;

Article 2 JURISDICTION

A Requested Party is not obligated to provide information which is neither held by its authorities nor in the possession or control of persons who are within its jurisdiction.

Article 3 TAXES COVERED

1. The taxes which are the subject of this Agreement are:

a) in the Republic of Slovenia:

(i) tax on income of legal persons,

(ii) tax on income of individuals,

(iii) derivative instruments gains tax,

(iv) tax on property,

(v) inheritance and gift tax;

b) in the Isle of Man, taxes on income or profit.

2. This Agreement shall also apply to any identical or substantially similar taxes imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes. Furthermore, the taxes covered may be expanded or modified by mutual agreement of the Contracting Parties in the form of an exchange of letters. The competent authorities of the Contracting Parties shall notify each other of any substantial changes to the taxation and related information gathering measures covered by this Agreement.

Article 4 DEFINITIONS

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

a) the term "Slovenija" means the Republic of Slovenia and, when used in a geographical sense, means the territory of Slovenia as well as those maritime areas over which Slovenia may exercise sovereign or jurisdictional rights in accordance with its internal legislation and international law;

b) the term "Isle of Man" means the island of the Isle of Man, including its territorial sea, in accordance with international law;

c) the term "Contracting Party" means Slovenia or the Isle of Man as the context requires;

d) 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 the Isle of Man, the Assessor of Income Tax or his or her delegate;

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 that is treated as a body corporate for tax purposes;

g) the term "publicly traded company" means any company whose principal class of shares is listed on a recognised stock exchange provided its listed shares can be readily purchased or sold by the public. Shares can be purchased or sold "by the public" if the purchase or sale of shares is not implicitly or explicitly restricted to a limited group of investors;

h) the term "principal class of shares" means the class or classes of shares representing a majority of the voting power and value of the company;

i) the term "recognised stock exchange" means any stock exchange agreed upon by the competent authorities of the Contracting Parties;

j) the term "collective investment fund or scheme" means any pooled investment vehicle, irrespective of legal form. The term "public collective investment fund or scheme" means any collective investment fund or scheme provided the units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed by the public. Units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed "by the public" if the purchase, sale or redemption is not implicitly or explicitly restricted to a limited group of investors;

k) izraz "davek" pomeni kateri koli davek, za katerega se uporablja sporazum;

l) izraz "pogodbenik prosilec" pomeni pogodbenika, ki zaprosi za informacije;

m) izraz "zaprošeni pogodbenik" pomeni pogodbenika, ki je zaprosen za informacije;

n) izraz "ukrepi za zbiranje informacij" pomeni zakonodajo in upravne ali sodne postopke, ki pogodbeniku omogočajo pridobivanje in predložitev zaprosenih informacij;

o) izraz "informacija" pomeni vsako dejstvo, izjavo ali zapis v kakršni koli obliki;

p) izraz "kazenske davčne zadeve" pomeni davčne zadeve z naklepnim dejanjem, ki se preganjajo po kazenski zakonodaji pogodbenika prosilca;

q) izraz "kazenska zakonodaja" pomeni vse kazenske predpise, ki se obravnavajo kot taki po domači zakonodaji, ne glede na to, ali so vsebovani v davčni zakonodaji, kazenskem zakoniku ali drugih predpisih.

2. Kadar pogodbenik uporabi sporazum, ima izraz, ki v njem ni opredeljen, razen če sobesedilo ne zahteva drugače, pomen, ki ga ima takrat po njegovem pravu, pri čemer pomen po veljavni davčni zakonodaji tega pogodbenika prevlada nad pomenom izraza po drugi zakonodaji tega pogodbenika.

5. člen

IZMENJAVA INFORMACIJ NA ZAPROSILO

1. Pristojni organ zaprosenega pogodbenika na zaprosilo predloži informacije za namene iz 1. člena. Take informacije se izmenjajo ne glede na to, ali zaproseni pogodbenik potrebuje take informacije za svoje davčne namene in ali bi se dejanje, o katerem teče preiskava, štelo za kaznivo dejanje po zakonodaji zaprosenega pogodbenika, če bi se tako dejanje pripetilo pod jurisdikcijo zaprosenega pogodbenika.

2. Če informacije, ki jih ima pristojni organ zaprosenega pogodbenika, ne zadoščajo in ne omogočajo izpolnitve zaprosila zanje, pogodbenik uporabi vse ustrezne ukrepe za zbiranje informacij, da zaprosene informacije predloži pogodbeniku prosilcu ne glede na to, da jih zaproseni pogodbenik morda ne potrebuje za svoje davčne namene.

3. Pristojni organ zaprosenega pogodbenika na posebno zaprosilo pristojnega organa pogodbenika prosilca predloži informacije v skladu s tem členom v obsegu, ki ga omogoča domača zakonodaja, v obliki izjav prič in overjenih kopij izvornih zapisov.

4. Pogodbenika zagotovita, da imata njuna pristojna organa za namene iz 1. člena sporazuma pristojnost, da na zaprosilo pridobita in predložita:

a) informacije, ki jih hranijo banke, druge finančne ustanove in katere koli osebe, vključno s pooblaščenici in skrbniki, ki delujejo kot zastopniki ali fiduciarji;

b) (i) informacije, ki se nanašajo na zakonito in upravičeno lastništvo družb, partnerstev, fundacij, ustanov in drugih oseb in ob upoštevanju omejitev iz 2. člena vse druge osebe v lastniški verigi, vključno z informacijami o delnicah, enotah in drugih deležih pri kolektivnih naložbenih skladih ali načrtih;

(ii) pri skrbniških skladih informacije o ustanoviteljih, skrbnikih, zaščitnikih ter upravičencih in

(iii) pri fundacijah informacije o ustanoviteljih, članih sveta fundacije in upravičencih.

5. S tem sporazumom se za pogodbenika ne ustvarja obveznost pridobiti ali predložiti informacije o lastništvu javnih družb ali javnih kolektivnih naložbenih skladov ali načrtov, razen če se te informacije lahko pridobijo brez nesorazmernih težav.

6. Kadar pristojni organ pogodbenika prosilca zaprosi za informacije po tem sporazumu, priskrbi pristojnemu organu zaprosenega pogodbenika te informacije, s katerimi dokaže njihovo predvideno pomembnost glede na zaprosilo:

k) the term "tax" means any tax to which the Agreement applies;

l) the term "Requesting Party" means the Contracting Party requesting information;

m) the term "Requested Party" means the Contracting Party requested to provide information;

n) the term "information gathering measures" means laws and administrative or judicial procedures that enable a Contracting Party to obtain and provide the requested information;

o) the term "information" means any fact, statement or record in any form whatever;

p) the term "criminal tax matters" means tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the Requesting Party; and

q) the term "criminal laws" means all criminal laws designated as such under domestic law irrespective of whether contained in the tax laws, the criminal code or other statutes.

2. As regards the application of this Agreement at any time by a Contracting Party, 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 Party, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

Article 5

EXCHANGE OF INFORMATION UPON REQUEST

1. The competent authority of the Requested Party shall provide upon request information for the purposes referred to in Article 1. Such information shall be exchanged without regard to whether the Requested Party needs such information for its own tax purposes or the conduct being investigated would constitute a crime under the laws of the Requested Party if such conduct occurred in the jurisdiction of the Requested Party.

2. If the information in the possession of the competent authority of the Requested Party is not sufficient to enable it to comply with the request for information, that Party shall use all relevant information gathering measures necessary to provide the Requesting Party with the information requested, notwithstanding that the Requested Party may not need such information for its own tax purposes.

3. If specifically requested by the competent authority of the Requesting Party, the competent authority of the Requested Party shall provide information under this Article, to the extent allowable under its domestic laws, in the form of depositions of witnesses and authenticated copies of original records.

4. Each Contracting Party shall ensure that its competent authorities, for the purposes specified in Article 1 of the Agreement, have the authority to obtain and provide upon request:

a) information held by banks, other financial institutions, and any person, including nominees and trustees, acting in an agency or fiduciary capacity;

b) (i) information regarding the legal and beneficial ownership of companies, partnerships, foundations, "Anstalten" and other persons and, within the constraints of Article 2, any other persons in an ownership chain, including in the case of collective investment funds or schemes, information on shares, units and other interests;

(ii) in the case of trusts, information on settlors, trustees, protectors and beneficiaries; and

(iii) in the case of foundations, information on founders, members of the foundation council and beneficiaries.

5. This Agreement does not create an obligation for a Contracting Party to obtain or provide ownership information with respect to publicly traded companies or public collective investment funds or schemes, unless such information can be obtained without giving rise to disproportionate difficulties.

6. The competent authority of the Requesting Party shall provide the following information to the competent authority of the Requested Party when making a request for information under the Agreement to demonstrate the foreseeable relevance of the information to the request:

a) identiteto osebe, ki se zasliši ali preiskuje;

b) izjavo o zaprošenih informacijah, vključno z njihovo vrsto in obliko, v kateri želi pogodbenik prosilec prejeti informacije od zaprošenega pogodbenika;

c) davčni namen, za katerega se zaprosijo informacije;

d) razloge za prepričanje, da se zaprošene informacije hranijo na ozemlju zaprošenega pogodbenika oziroma jih ima ali so pod nadzorom osebe pod jurisdikcijo zaprošenega pogodbenika;

e) ime in naslov osebe, za katero verjame, da bi lahko imela ali imela možnost pridobiti zaprošene informacije, če jo pozna;

f) izjavo, da je zaprosilo skladno z zakonom in upravno prakso pogodbenika prosilca, da bi lahko, če bi bile zaprošene informacije pod jurisdikcijo pogodbenika prosilca, pristojni organ pogodbenika prosilca pridobil informacije po zakonodaji pogodbenika prosilca ali po redni upravni praksi, in da je skladno s tem sporazumom;

g) izjavo, da je pogodbenik prosilec na svojem ozemlju izkoristil vse načine za pridobitev informacij, razen tistih, ki bi povzročili nesorazmerne težave.

7. Pristojni organ zaprošenega pogodbenika pošlje pogodbeniku prosilcu informacije, takoj ko je mogoče. Za zagotovitev takojšnjega odgovora pristojni organ zaprošenega pogodbenika:

a) pisno potrdi prejem zaprosila pristojnemu organu pogodbenika prosilca ter ga obvesti o pomanjkljivostih zaprosila v 60 dneh od njegovega prejema in

b) če pristojni organ zaprošenega pogodbenika ni mogel pridobiti in predložiti informacij v 90 dneh od prejema zaprosila, tudi zato ne, ker je pri zagotavljanju informacij naletel na ovire ali pa je zagotovitev zavrnil, o tem nemudoma obvesti pogodbenika prosilca in pojasni razlog te nezmožnosti, vrsto ovir ali razloge za zavrnitev.

6. člen

DAVČNI PREGLEDI V TUJINI

1. Pogodbenik prosilec lahko, če to stori dovolj zgodaj, zaprosi zaprošenega pogodbenika, da dovoli vstop na svoje ozemlje predstavnikom pristojnega organa pogodbenika prosilca, da opravijo pogovore s posamezniki in proučijo zapise, s predhodnim pisnim soglasjem posameznikov ali drugih udeleženih oseb. Pristojni organ pogodbenika prosilca uradno obvesti pristojni organ zaprošenega pogodbenika o času in kraju nameravanega srečanja z udeleženi posamezniki.

2. Na zaprosilo pristojnega organa pogodbenika prosilca pristojni organ zaprošenega pogodbenika lahko dovoli predstavnikom pristojnega organa pogodbenika prosilca navzočnost pri davčnem pregledu na ozemlju zaprošenega pogodbenika.

3. Kadar se zaprosilo iz drugega odstavka ugotovi, pristojni organ zaprošenega pogodbenika, ki vodi pregled, čim prej uradno obvesti pristojni organ pogodbenika prosilca o času in kraju pregleda, organu ali uradniku, pooblaščenem za opravljanje pregleda, ter o postopkih in pogojih, ki jih zaprošeni pogodbenik zahteva za opravljanje pregleda. Zaprošeni pogodbenik, ki opravlja pregled, sprejme vse odločitve v zvezi z opravljanjem pregleda.

a) the identity of the person under examination or investigation;

b) a statement of the information sought including its nature and the form in which the Requesting Party wishes to receive the information from the Requested Party;

c) the tax purpose for which the information is sought;

d) grounds for believing that the information requested is held in the territory of the Requested Party or is in the possession or control of a person within the jurisdiction of the Requested Party;

e) to the extent known, the name and address of any person believed to be in possession of or able to obtain the requested information;

f) a statement that the request is in conformity with the law and administrative practices of the Requesting Party, that if the requested information was within the jurisdiction of the Requesting Party then the competent authority of the Requesting Party would be able to obtain the information under the laws of the Requesting Party or in the normal course of administrative practice and that it is in conformity with this Agreement;

g) a statement that the Requesting Party has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

7. The competent authority of the Requested Party shall forward the requested information as soon as reasonably possible to the Requesting Party. To ensure a prompt response, the competent authority of the Requested Party shall:

a) confirm receipt of a request in writing to the competent authority of the Requesting Party and shall notify the competent authority of the Requesting Party of deficiencies in the request, if any, within 60 days of the receipt of the request; and

b) if the competent authority of the Requested Party has been unable to obtain and provide the information within 90 days of receipt of the request, including if it encounters obstacles in furnishing the information or it refuses to furnish the information, it shall immediately inform the Requesting Party, explaining the reason for its inability, the nature of the obstacles or the reasons for its refusal.

Article 6

TAX EXAMINATIONS ABROAD

1. With reasonable notice, the Requesting Party may request that the Requested Party allow representatives of the competent authority of the Requesting Party to enter the territory of the Requested Party, to interview individuals and examine records with the prior written consent of the individuals or other persons concerned. The competent authority of the Requesting Party shall notify the competent authority of the Requested Party of the time and place of the intended meeting with the individuals concerned.

2. At the request of the competent authority of the Requesting Party, the competent authority of the Requested Party may permit representatives of the competent authority of the Requesting Party to attend a tax examination in the territory of the Requested Party.

3. If the request referred to in paragraph 2 is granted, the competent authority of the Requested Party conducting the examination shall, as soon as possible, notify the competent authority of the Requesting Party of the time and place of the examination, the authority or person authorised to carry out the examination and the procedures and conditions required by the Requested Party for the conduct of the examination. All decisions regarding the conduct of the examination shall be made by the Requested Party conducting the examination.

7. člen**MOŽNOST ZA ZAVRNITEV ZAPROSILA**

1. Od zaprosenega pogodbenika se ne zahteva pridobitev ali predložitev informacij, ki jih pogodbenik prosilec ne bi mogel pridobiti po svoji zakonodaji za izvajanje ali uveljavljanje svoje davčne zakonodaje. Kadar zaprosilo ni skladno s tem sporazumom, lahko pristojni organ zaprosenega pogodbenika pomoč zavrne.

2. Določbe tega sporazuma ne nalagajo pogodbeniku, da predloži informacije, za katere velja privilegij zaupnosti, ali da pridobi informacije, ki bi razkrile kakršno koli trgovinsko, poslovno, industrijsko, komercialno ali poklicno skrivnost ali trgovinski postopek. Ne glede na to pa se vrste informacij iz četrtega odstavka 5. člena ne obravnavajo kot tovrstna skrivnost ali trgovinski postopek zgolj zato, ker ustrezajo merilom iz omenjenega odstavka.

3. Zaprošeni pogodbenik lahko zaprosilo za informacije zavrne, kadar bi bilo njihovo razkritje v nasprotju z javnim redom.

4. Zaposilo za informacije se ne sme zavrniti zaradi nepriznavanja davčnega zahtevka, ki je njegov razlog.

5. Zaprošeni pogodbenik lahko zavrne zaprosilo za informacije, kadar pogodbenik prosilec zaprosi zanje za izvajanje ali uveljavljanje določbe svojega davčnega zakona oziroma z njo povezane zahteve, ki neenako obravnava državljana zaprosenega pogodbenika v primerjavi z državljanom pogodbenika prosilca v enakih okoliščinah.

8. člen**ZAUPNOST**

1. Vse informacije, ki jih prejmejo pristojni organi pogodbenikov, so zaupne.

2. Take informacije se razkrijejo samo osebam ali organom (vključno s sodišči in upravnimi organi) za namene, navedene v 1. členu, in jih te osebe ali organi uporabljajo samo za te namene, vključno z odločitvijo o pritožbah. Za te namene se lahko informacije razkrijejo v javnih sodnih postopkih ali sodnih odločbah.

3. Brez izrecnega pisnega soglasja pristojnega organa zaprosenega pogodbenika se te informacije ne smejo uporabljati za druge namene, kot so navedeni v 1. členu.

4. Informacije, ki se predložijo pogodbeniku prosilcu po tem sporazumu, se ne smejo razkriti nobeni drugi jurisdikciji.

9. člen**STROŠKI**

Če se pristojna organa pogodbenikov ne dogovorita drugače, zaproseni pogodbenik krije običajne stroške, ki nastanejo pri zagotavljanju pomoči, pogodbenik prosilec pa izredne stroške, ki nastanejo pri zagotavljanju pomoči (vključno s stroški za najem zunanjih svetovalcev v povezavi s pravnim postopkom ali čim drugim). Pristojna organa se občasno posvetujeta v zvezi s tem členom in še zlasti se pristojni organ zaprosenega pogodbenika vnaprej posvetuje s pristojnim organom pogodbenika prosilca, če se pričakujejo izredni stroški za zagotovitev informacij v zvezi s posebno zahtevo.

10. člen**JEZIK**

Zaprosila za pomoč in odgovori nanje se sestavljajo v angleškem ali v slovenskem in angleškem jeziku.

Article 7**POSSIBILITY OF DECLINING A REQUEST**

1. The Requested Party shall not be required to obtain or provide information that the Requesting Party would not be able to obtain under its own laws for purposes of the administration or enforcement of its own tax laws. The competent authority of the Requested Party may decline to assist where the request is not made in conformity with this Agreement.

2. The provisions of this Agreement shall not impose on a Contracting Party the obligation to provide information subject to legal privilege or to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process. Notwithstanding the foregoing, information of the type referred to in Article 5, paragraph 4 shall not be treated as such a secret or trade process merely because it meets the criteria in that paragraph.

3. The Requested Party may decline a request for information if the disclosure of the information would be contrary to public policy (*ordre public*).

4. A request for information shall not be refused on the ground that the tax claim giving rise to the request is disputed.

5. The Requested Party may decline a request for information if the information is requested by the Requesting Party to administer or enforce a provision of the tax law of the Requesting Party, or any requirement connected therewith, which discriminates against a national of the Requested Party as compared with a national of the Requesting Party in the same circumstances.

Article 8**CONFIDENTIALITY**

1. All information received by the competent authorities of the Contracting Parties shall be kept confidential.

2. Such information shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the purposes specified in Article 1, and used by such persons or authorities only for such purposes, including the determination of any appeal. For these purposes, information may be disclosed in public court proceedings or in judicial decisions.

3. Such information may not be used for any purpose other than for the purposes stated in Article 1 without the express written consent of the competent authority of the Requested Party.

4. Information provided to a Requesting Party under this Agreement may not be disclosed to any other jurisdiction.

Article 9**COSTS**

Unless the competent authorities of the Contracting Parties otherwise agree, ordinary costs incurred in providing assistance shall be borne by the Requested Party, and extraordinary costs incurred in providing assistance (including costs of engaging external advisors in connection with litigation or otherwise) shall be borne by the Requesting Party. The respective competent authorities shall consult from time to time with regard to this Article, and in particular the competent authority of the Requested Party shall consult with the competent authority of the Requesting Party in advance if the costs of providing information with respect to a specific request are expected to be extraordinary.

Article 10**LANGUAGE**

Requests for assistance and answers thereto shall be drawn up in English, or in Slovenian and English.

11. člen**POSTOPEK SKUPNEGA DOGOVORA**

1. Kadar med pogodbenikoma nastanejo težave ali dvomi o izvajanju ali razlagi sporazuma, si pristojna organa prizadevata rešiti zadevo s skupnim dogovorom.

2. Poleg dogovorov iz prvega odstavka se lahko pristojna organa pogodbenikov dogovorita o postopkih, ki se uporabljajo po 5., 6. in 9. členu.

3. Da bi pristojna organa pogodbenikov dosegla dogovor po tem členu, se lahko dogovarjata neposredno.

4. Pogodbenika se lahko dogovorita tudi o drugih oblikah reševanja sporov.

12. člen**ZAČETEK VELJAVNOSTI**

1. Pogodbenika se pisno obvestita, da so končani postopki, ki se po njihovi zakonodaji zahtevajo za začetek veljavnosti tega sporazuma. Ta sporazum začne veljati z dnem prejema zadnjega uradnega obvestila.

2. Določbe tega sporazuma se začnejo uporabljati:

- a) za kazenske davčne zadeve s tem dnem ali
- b) za vse druge zadeve iz 1. člena s tem dnem, vendar samo za davčna obdobja, ki so se začela ta dan ali po njem, ali če davčnega obdobja ni, za vsa davčna bremena, nastala ta dan ali po njem.

13. člen**PRENEHANJE VELJAVNOSTI**

1. Ta sporazum velja, dokler ga pogodbenik ne odpove. Vsak pogodbenik lahko odpove sporazum s pisnim obvestilom o odpovedi po poteku dveh let od dneva začetka njegove veljavnosti. Odpoved začne veljati prvi dan v mesecu po poteku šestmesečnega obdobja od dneva, ko je drugi pogodbenik prejel obvestilo. Vsa zaprosila, prejeta do dneva prenehanja veljavnosti, se izvajajo skladno s pogoji iz tega sporazuma.

2. Ne glede na odpoved tega sporazuma za pogodbenika še naprej velja 8. člen za vse informacije, pridobljene po tem sporazumu.

V DOKAZ NAVEDENEGA sta podpisana, ki sta bila za to pravilno pooblaščenca, podpisala sporazum.

SESTAVLJENO v dveh izvornikih v Douglasu 27. junija 2011 v slovenskem in angleškem jeziku, pri čemer sta besedili enako verodostojni.

Za Republiko Slovenijo:
Iztok Jarc l.r.

Za Otok Man:
Anne Craine l.r.

Article 11**MUTUAL AGREEMENT PROCEDURE**

1. Where difficulties or doubts arise between the Contracting Parties regarding the implementation or interpretation of the Agreement, the competent authorities shall endeavour to resolve the matter by mutual agreement.

2. In addition to the agreements referred to in paragraph 1, the competent authorities of the Contracting Parties may mutually agree on the procedures to be used under Articles 5, 6 and 9.

3. The competent authorities of the Contracting Parties may communicate with each other directly for purposes of reaching agreement under this Article.

4. The Contracting Parties may also agree on other forms of dispute resolution.

Article 12**ENTRY INTO FORCE**

1. The Contracting Parties shall notify each other in writing that the procedures required by their law for the entry into force of this Agreement have been satisfied. This Agreement shall enter into force on the date of receipt of the last notification.

2. The provisions of this Agreement shall have effect:

- a) for criminal tax matters on that date; and
- b) for all other matters covered in Article 1 on that date, but only in respect of taxable periods beginning on or after that date or, where there is no taxable period, all charges to tax arising on or after that date.

Article 13**TERMINATION**

1. This Agreement shall remain in force until terminated by a Contracting Party. Either Contracting Party may, after the expiration of two years from the date of its entry into force, terminate the Agreement by giving written notice of termination. Such termination shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of notice of termination by the other Contracting Party. All requests received up to the effective date of termination will be dealt with in accordance with the terms of this Agreement.

2. Notwithstanding any termination of this Agreement the Contracting Parties shall remain bound by the provisions of Article 8 with respect to any information obtained under this Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto, have signed the Agreement.

DONE in duplicate at Douglas this 27th day of June 2011, in the Slovenian and English languages, both texts being equally authentic.

For the Republic of Slovenia:
Iztok Jarc (s)

For the Isle of Man:
Anne Craine (s)

Protokol
k Sporazumu med
Republiko Slovenijo
in Otokom Man
o izmenjavi informacij
v zvezi z davčnimi zadevami

Ob podpisu Sporazuma med Republiko Slovenijo in Otokom Man o izmenjavi informacij v zvezi z davčnimi zadevami sta se podpisana sporazumela o teh določbah, ki so sestavni del sporazuma:

Razume se, da v 9. členu sporazuma:

a) običajni stroški vključujejo notranje upravne stroške, manjše zunanje stroške in pavšalne izdatke, ki so nastali za-prošenemu pogodbeniku pri pregledovanju in odzivanju na zaprosila pogodbenika prosilca za informacije;

b) izredni stroški vključujejo, niso pa omejeni na:

(i) razumne stroške, ki jih zaračunajo tretje stranke za kopiranje dokumentov na račun zaprosenega pogodbenika;

(ii) razumne stroške najema strokovnjakov, tolmačev ali prevajalcev, kadar je potrebno;

(iii) razumne stroške pošiljanja dokumentov pogodbeniku prosilcu;

(iv) razumne stroške pravnega postopka zaprosenega pogodbenika v neposredni povezavi s posebnim zaprosilom za informacije, vključno s stroški najema zunanjega zagovornika in svetovalcev, in

(v) razumne stroške pridobivanja izjav ali pričevanj.

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

SESTAVLJENO v dveh izvirkih v Douglasu 27. junija 2011 v slovenskem in angleškem jeziku, pri čemer sta besedili enako verodostojni.

Za Republiko Slovenijo:
Iztok Jarc l.r.

Za Otok Man:
Anne Craine l.r.

Protocol
to the Agreement
between the Republic of Slovenia
and the Isle of Man
for the exchange of information
relating to tax matters

At the signing of the Agreement between the Republic of Slovenia and the Isle of Man for the exchange of information relating to tax matters, the undersigned have agreed on the following provisions which shall form an integral part of the Agreement:

It is understood that for the purposes of Article 9 of the Agreement:

a) ordinary costs include internal administration costs, any minor external costs and overhead expenses incurred by the Requested Party in reviewing and responding to information requests submitted by the Requesting Party;

b) extraordinary costs include, but are not limited to, the following:

(i) reasonable costs charged by third parties for copying documents on behalf of the Requested Party;

(ii) reasonable costs of engaging experts, interpreters, or translators when necessary;

(iii) reasonable costs of conveying documents to the Requesting Party;

(iv) reasonable litigation costs of the Requested Party in direct relation to a specific request for information, including costs of engaging external counsel and advisers; and

(v) reasonable costs of obtaining depositions or testimony.

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

DONE in duplicate at Douglas this 27th day of June 2011, in the Slovenian and English languages, both texts being equally authentic.

For the Republic of Slovenia:
Iztok Jarc (s)

For the Isle of Man:
Anne Craine (s)

3. člen

Za izvajanje sporazuma s protokolom skrbi ministrstvo, pristojno za finance.

4. člen

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

Št. 432-01/12-6/9
 Ljubljana, dne 14. junija 2012
 EPA 365-VI

Državni zbor
 Republike Slovenije
Jakob Presečnik l.r.
 Podpredsednik

37. Zakon o ratifikaciji Sporazuma med Republiko Slovenijo in Otokom Man o izogibanju dvojnega obdavčevanja posameznikov (BGBIMIDO)

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 Otokom Man o izogibanju dvojnega obdavčevanja posameznikov (BGBIMIDO)**

Razlašam Zakon o ratifikaciji Sporazuma med Republiko Slovenijo in Otokom Man o izogibanju dvojnega obdavčevanja posameznikov (BGBIMIDO), ki ga je sprejel Državni zbor Republike Slovenije na seji dne 14. junija 2012.

Št. 003-02-5/2012-11
Ljubljana, dne 22. junija 2012

dr. Danilo Türk l.r.
Predsednik
Republike Slovenije

Z A K O N**O RATIFIKACIJI SPORAZUMA MED REPUBLIKO SLOVENIJO IN OTOKOM MAN O IZOGIBANJU DVOJNEGA OBDAVČEVANJA POSAMEZNIKOV (BGBIMIDO)**

1. člen

Ratificira se Sporazum med Republiko Slovenijo in Otokom Man o izogibanju dvojnega obdavčevanja posameznikov, podpisan v Douglasu 27. junija 2011.

2. člen

Sporazum se v izvorniku v slovenskem in angleškem jeziku glasi:

S P O R A Z U M**MED REPUBLIKO SLOVENIJO
IN OTOKOM MAN O IZOGIBANJU DVOJNEGA
OBDAVČEVANJA POSAMEZNIKOV**

Republika Slovenija in Otok Man sta se ob spoznanju, da sta sklenila sporazum o izmenjavi informacij v zvezi z davčnimi zadevami, in v želji, da bi sklenila sporazum o izogibanju dvojnega obdavčevanja posameznikov, sporazumela:

1. člen

POSAMEZNIKI, ZA KATERE SE UPORABLJA SPORAZUM

Ta sporazum se uporablja za posameznike, ki so rezidenti enega ali obeh pogodbenikov.

2. člen

DAVKI, ZA KATERE SE UPORABLJA SPORAZUM

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

- a) v Sloveniji dohodnina (v nadaljevanju "slovenski davek") in
- b) na Otoku Man davki od dohodka ali dobička (v nadaljevanju "manski davek").

2. Sporazum se uporablja tudi za enake ali vsebinsko podobne davke, ki se po dnevu podpisa sporazuma uvedejo poleg obstoječih davkov ali namesto njih. Pristojna organa pogodbenikov drug drugega uradno obveščata o vseh bistvenih spremembah njihovih davčnih zakonodaj glede posameznikov.

A G R E E M E N T**BETWEEN THE REPUBLIC OF SLOVENIA
AND THE ISLE OF MAN
FOR THE AVOIDANCE OF DOUBLE TAXATION
WITH RESPECT TO INDIVIDUALS**

The Republic of Slovenia and the Isle of Man, Recognising that they have concluded an Agreement for the Exchange of Information Relating to Tax Matters, and Desiring to conclude an Agreement for the avoidance of double taxation with respect to individuals, Have agreed as follows:

Article 1

INDIVIDUALS COVERED

This Agreement shall apply to individuals who are residents of one or both of the Contracting Parties.

Article 2

TAXES COVERED

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

- a) in Slovenia, tax on income of individuals (hereinafter referred to as "Slovenian tax"); and
- b) in the Isle of Man, taxes on income or profit (hereinafter referred to as "Manx tax").

2. The Agreement shall also apply to any identical or substantially similar taxes that are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting Parties shall notify each other of any significant changes in their taxation laws concerning individuals.

3. člen POMEN IZRAZOV

1. V tem sporazumu, razen če sobesedilo ne zahteva drugače:

a) izraz "Slovenija" pomeni Republiko Slovenijo, in kadar se uporablja v geografskem pomenu, ozemlje Slovenije in tista morska območja, na katerih lahko Slovenija izvaja svoje suverene pravice ali jurisdikcijo v skladu s svojo notranjo zakonodajo in mednarodnim pravom;

b) izraz "Otok Man" pomeni otok, ki sestavlja Otok Man, vključno z njegovim teritorialnim morjem, v skladu z mednarodnim pravom;

c) izraz "pogodbenik" pomeni Slovenijo ali Otok Man, kakor zahteva sobesedilo;

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

e) izraz "podjetje" se uporablja za kakršno koli poslovanje;

f) izraz "mednarodni promet" pomeni prevoz z ladjo ali zrakoplovom, ki ga opravlja podjetje s sedežem dejanske uprave v pogodbeniku, razen če se z ladjo ali zrakoplovom ne opravljajo prevozi samo med kraji v drugem pogodbeniku;

g) izraz "pristojni organ" pomeni:

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

(ii) na Otoku Man ocenjevalca/-ko davka od dohodka ali njegovega ali njenega pooblaščenca in

h) izraz "davek" pomeni slovenski davek ali manski davek, kakor zahteva sobesedilo.

2. Kadar pogodbenik uporabi sporazum, ima izraz, ki v njem ni opredeljen, razen če sobesedilo ne zahteva drugače, pomen, ki ga ima takrat po njegovem pravu za namene davkov, za katere se sporazum uporablja, pri čemer pomen po veljavni davčni zakonodaji tega pogodbenika prevlada nad pomenom izraza po drugi zakonodaji tega pogodbenika.

4. člen REZIDENT

1. V tem sporazumu izraz "rezident pogodbenika" pomeni v zvezi s posameznikom katerega koli posameznika, ki mora po zakonodaji tega pogodbenika plačevati davke zaradi svojega stalnega prebivališča, prebivališča ali katerega koli drugega podobnega merila. Ta izraz pa ne vključuje posameznika, ki mora plačevati davke v tem pogodbeniku samo v zvezi z dohodki iz virov v njem.

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

a) šteje se samo za rezidenta pogodbenika, v katerem ima na voljo stalni dom; če ima stalni dom na voljo v obeh pogodbenikih, se šteje samo za rezidenta pogodbenika, s katerim ima tesnejše osebne in gospodarske stike (središče življenjskih interesov);

b) če ni mogoče opredeliti pogodbenika, v katerem ima središče življenjskih interesov, ali če nima v nobenem od obeh pogodbenikov na voljo stalnega doma, se šteje samo za rezidenta pogodbenika, v katerem ima običajno bivališče;

c) če ima običajno bivališče v obeh pogodbenikih ali v nobenem od njiju, si pristojna organa pogodbenikov prizadevata rešiti vprašanje s skupnim dogovorom.

Article 3 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, means the territory of Slovenia as well as those maritime areas over which Slovenia may exercise sovereign or jurisdictional rights in accordance with its internal legislation and international law;

b) the term "Isle of Man" means the island of the Isle of Man, including its territorial sea, in accordance with international law;

c) the term "Contracting Party" means Slovenia or the Isle of Man, as the context requires;

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

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

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

g) 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 the Isle of Man, the Assessor of Income Tax or his or her delegate; and

h) the term "tax" means Slovenian tax or Manx tax, as the context requires.

2. As regards the application of this Agreement at any time by a Contracting Party, 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 Contracting Party, for the purposes of the taxes to which this Agreement applies, with any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Contracting Party.

Article 4 RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting Party" means in respect of an individual any individual who, under the laws of that Contracting Party, is liable to tax therein by reason of his domicile, residence or any other criterion of a similar nature. This term, however, does not include an individual who is liable to tax in that Contracting Party in respect only of income from sources in that Contracting Party.

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

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

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

c) if he has an habitual abode in both Contracting Parties or in neither of them, the competent authorities of the Contracting Parties shall endeavour to resolve the question by mutual agreement.

5. člen**DOHODEK IZ ZAPOSLOTITVE**

1. Ob upoštevanju določb 6., 7., 8. in 9. člena se plače, mezde in drugi podobni prejemki, ki jih dobi rezident pogodbenika iz zaposlitve, obdavčijo samo v tem pogodbeniku, razen če se zaposlitev ne izvaja v drugem pogodbeniku. Če se zaposlitev izvaja tako, se lahko tako dobljeni prejemki obdavčijo v tem drugem pogodbeniku.

2. Ne glede na določbe prvega odstavka se prejemek, ki ga dobi rezident pogodbenika iz zaposlitve, ki se izvaja v drugem pogodbeniku, obdavči samo v prvem omenjenem pogodbeniku, če:

a) je prejemnik navzoč v drugem pogodbeniku v obdobju ali obdobjih, ki skupno ne presegajo 183 dni v katerem koli dvanajstmesečnem obdobju, ki se začne ali konča v posameznem davčnem letu, in

b) prejemek plača delodajalec, ki ni rezident drugega pogodbenika, ali se plača v njegovem imenu in

c) prejemka ne krije stalno mesto poslovanja, prek katerega v celoti ali delno potekajo posli, ki ga ima delodajalec v drugem pogodbeniku.

3. Ne glede na prejšnje določbe tega člena se lahko prejemek, ki izhaja iz zaposlitve na ladji ali zrakoplovu, s katerim se opravljajo prevozi v mednarodnem prometu, obdavči v pogodbeniku, v katerem je sedež dejanske uprave podjetja.

6. člen**PREJEMKI DIREKTORJEV**

Prejemki direktorjev in druga podobna plačila, ki jih dobi rezident pogodbenika kot član upravnega odbora družbe, ki je rezident drugega pogodbenika, se lahko obdavčijo v tem drugem pogodbeniku. Izraz "upravni odbor" vključuje organe družb, ki so po funkciji podobni upravnemu odboru.

7. člen**UMETNIKI IN ŠPORTNIKI**

1. Dohodek, ki ga dobi rezident pogodbenika kot nastopajoči izvajalec, kakor je gledališki, filmski, radijski ali televizijski umetnik ali glasbenik, ali kot športnik iz takih osebnih dejavnosti, ki jih opravlja v drugem pogodbeniku, se lahko obdavči v tem drugem pogodbeniku.

2. Kadar dohodek iz osebnih dejavnosti, ki jih opravlja nastopajoči izvajalec ali športnik kot tak, ne priraste samemu nastopajočemu izvajalcu ali športniku, temveč drugi osebi, se ta dohodek lahko obdavči v pogodbeniku, v katerem je nastopil izvajalec ali športnik.

3. Določbe prvega in drugega odstavka se ne uporabljajo, če se dejavnosti, opravljene v pogodbeniku, v celoti ali pretežno krijejo iz javnih sredstev drugega pogodbenika ali njegove politične enote ali lokalne oblasti. V tem primeru se dohodek, dosežen iz takih dejavnosti, obdavči samo v tem drugem pogodbeniku.

8. člen**POKOJNINE**

Ob upoštevanju določb drugega odstavka 9. člena se pokojnine in drugi podobni prejemki, ki se izplačujejo rezidentu pogodbenika za preteklo zaposlitev, obdavčijo samo v tem pogodbeniku.

Article 5**INCOME FROM EMPLOYMENT**

1. Subject to the provisions of Articles 6, 7, 8 and 9, salaries, wages and other similar remuneration derived by a resident of a Contracting Party in respect of an employment shall be taxable only in that Contracting Party unless the employment is exercised in the other Contracting Party. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Contracting Party.

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

a) the recipient is present in the other Contracting Party 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 Contracting Party; and

c) the remuneration is not borne by a fixed place of business through which the business is wholly or partly carried on which the employer has in the other Contracting Party.

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 Party in which the place of effective management of the enterprise is situated.

Article 6**DIRECTORS' FEES**

Directors' fees and other similar payments derived by a resident of a Contracting Party in his capacity as a member of the board of directors of a company which is a resident of the other Contracting Party may be taxed in that other Contracting Party. The term "board of directors" includes organs of companies which are similar in function to a board of directors.

Article 7**ARTISTES AND SPORTSMEN**

1. Income derived by a resident of a Contracting Party 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 Party, may be taxed in that other Contracting Party.

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 be taxed in the Contracting Party in which the activities of the entertainer or sportsman are exercised.

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

Article 8**PENSIONS**

Subject to the provisions of paragraph 2 of Article 9, pensions and other similar remuneration paid to a resident of a Contracting Party in consideration of past employment shall be taxable only in that Contracting Party.

9. člen**DRŽAVNA SLUŽBA**

1. a) Plače, mezde in drugi podobni prejemki, ki jih pogodbenik ali njegova politična enota ali lokalna oblast plačuje posamezniku za storitve, ki jih opravi za tega pogodbenika ali enoto ali oblast, se obdavčijo samo v tem pogodbeniku.

b) Take plače, mezde in drugi podobni prejemki se obdavčijo samo v drugem pogodbeniku, če se storitve opravljajo v tem pogodbeniku in je posameznik rezident tega pogodbenika, ki ni postal rezident tega pogodbenika samo zaradi opravljanja storitev.

2. Ne glede na določbe prvega odstavka se pokojnine in drugi podobni prejemki, ki jih plačuje pogodbenik ali njegova politična enota ali lokalna oblast ali se plačujejo iz njihovih skladov posamezniku za storitve, opravljene za tega pogodbenika ali enoto ali oblast, obdavčijo samo v tem pogodbeniku.

3. Za plače, mezde, pokojnine in druge podobne prejemke za storitve, opravljene v zvezi s poslovanjem pogodbenika ali njegove politične enote ali z zakonom določenega organa ali lokalne oblasti, se uporabljajo določbe 5., 6., 7. in 8. člena.

10. člen**ŠTUDENTI**

Plačila, ki jih prejme za svoje vzdrževanje, izobraževanje ali usposabljanje študent ali pripravnik, ki je ali je bil tik pred obiskom pogodbenika rezident drugega pogodbenika in je v prvem omenjenem pogodbeniku navzoč samo zaradi svojega izobraževanja ali usposabljanja, se ne obdavčijo v tem pogodbeniku, če taka plačila izhajajo iz virov zunaj tega pogodbenika.

11. člen**ODPRAVA DVOJNEGA OBDAVČEVANJA**

Dvojno obdavčevanje se odpravi tako:

1. v Sloveniji:

a) kadar rezident Slovenije doseže dohodek, ki se v skladu z določbami tega sporazuma lahko obdavči na Otoku Man, Slovenija dovoli kot odbitek od davka od dohodka tega rezidenta znesek, ki je enak davku od dohodka, plačanemu na Otoku Man. Tak odbitek ne sme presežati tistega dela pred odbitkom izračunanega davka od dohodka, ki se nanaša na dohodek, ki se lahko obdavči na Otoku Man;

b) kadar je v skladu s katero koli določbo tega sporazuma dohodek, ki ga doseže rezident Slovenije, oproščen davka v Sloveniji, lahko Slovenija pri izračunu davka od preostalega dohodka takega rezidenta kljub temu upošteva oproščeni dohodek;

2. na Otoku Man:

ob upoštevanju določb manske zakonodaje o olajšavi kot odbitku davka, ki se plača na teritoriju zunaj Otoka Man, od manskega davka (kar ne vpliva na splošno načelo);

a) ob upoštevanju določb pododstavka c), kadar rezident Otoka Man doseže dohodek, ki se v skladu z določbami tega sporazuma lahko obdavči v Sloveniji, Otok Man dovoli kot odbitek od davka od dohodka tega rezidenta znesek, ki je enak davku od dohodka, plačanemu v Sloveniji;

b) tak odbitek ne sme presežati tistega dela pred odbitkom izračunanega davka od dohodka, ki se nanaša na dohodek, ki se lahko obdavči v Sloveniji;

Article 9**GOVERNMENT SERVICE**

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

b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting Party if the services are rendered in that Contracting Party and the individual is a resident of that Contracting Party who did not become a resident of that Contracting Party solely for the purpose of rendering the services.

2. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds created by, a Contracting Party or a political subdivision or a local authority thereof to an individual in respect of services rendered to that Contracting Party or subdivision or authority shall be taxable only in that Contracting Party.

3. The provisions of Articles 5, 6, 7 and 8 shall apply to salaries, wages, pensions, and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting Party or a political subdivision or a statutory body or a local authority thereof.

Article 10**STUDENTS**

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

Article 11**ELIMINATION OF DOUBLE TAXATION**

Double taxation shall be avoided as follows:

1. In Slovenia:

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

b) Where in accordance with any provision of this Agreement income derived by a resident of Slovenia is exempt from tax in Slovenia, Slovenia may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

2. In the Isle of Man:

Subject to the provisions of the laws of the Isle of Man regarding the allowance as a credit against Manx tax of tax payable in a territory outside the Isle of Man (which shall not affect the general principle hereof);

a) subject to the provisions of sub-paragraph c), where a resident of the Isle of Man derives income which, in accordance with the provisions of this Agreement, may be taxed in Slovenia, the Isle of Man shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Slovenia;

b) such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in Slovenia;

c) kadar rezident Otoka Man doseže dohodek, ki se v skladu z določbami tega sporazuma obdavči le v Sloveniji, lahko Otok Man vključi ta dohodek v davčno osnovo, vendar dovoli kot odbitek od davka od dohodka tisti del davka od dohodka, ki se nanaša na dohodek, dosežen v Sloveniji.

12. člen

POSTOPKI SKUPNEGA DOGOVORA

1. Kadar rezident meni, da imajo ali bodo imela dejanja enega ali obeh pogodbenikov zanj za posledico obdavčenje, ki ni v skladu z določbami tega sporazuma, lahko ne glede na pravna sredstva, ki mu jih omogoča domače pravo teh pogodbenikov, predloži zadevo pristojnemu organu pogodbenika, katerega rezident je. Zadeva mora biti predložena v treh letih od prvega uradnega obvestila o dejanju, ki je imelo za posledico obdavčenje, ki ni v skladu z določbami sporazuma.

2. Če se pristojnemu organu zdi pritožba upravičena in če sam ne najde zadovoljive rešitve, si prizadeva rešiti primer s skupnim dogovorom s pristojnim organom drugega pogodbenika, da bi se izognili obdavčenju, ki ni v skladu s sporazumom. Vsak dosežen dogovor se izvaja ne glede na roke v domačem pravu pogodbenikov.

3. Pristojna organa pogodbenikov si prizadevata s skupnim dogovorom razrešiti kakršne koli težave ali dvome, ki nastanejo pri razlagi ali uporabi sporazuma.

4. Da bi dosegla dogovor v skladu s prejšnjimi odstavki, se lahko pristojna organa pogodbenikov dogovarjata neposredno, vključno v skupni komisiji, ki jo sestavljata sama ali njuni predstavniki.

13. člen

ZAČETEK VELJAVNOSTI

1. Pogodbenika se pisno obvestita, da so končani postopki, ki se po njuni zakonodaji zahtevajo za začetek veljavnosti tega sporazuma. Ta sporazum začne veljati z dnem prejema zadnjega uradnega obvestila, če med pogodbenikoma velja sporazum o izmenjavi informacij v zvezi z davčnimi zadevami.

2. Določbe tega sporazuma se uporabljajo:

a) v Sloveniji:

(i) v zvezi s slovenskimi davki, odtegnjenimi pri viru, za dohodek, dosežen 1. januarja ali po njem v koledarskem letu po letu, v katerem začne veljati ta sporazum;

(ii) v zvezi z drugimi slovenskimi davki od dohodkov za davke, obračunane za katero koli davčno leto, ki se začne 1. januarja ali po njem v koledarskem letu po letu, v katerem začne veljati sporazum;

b) na Otoku Man v zvezi z manskimi davki za katero koli davčno obdobje, ki se začne 6. aprila ali po njem v koledarskem letu po letu, v katerem začne veljati ta sporazum.

14. člen

PRENEHANJE VELJAVNOSTI

1. Ta sporazum velja, dokler ga pogodbenik ne odpove. Vsak pogodbenik lahko odpove sporazum s pisnim obvestilom o odpovedi po poteku dveh let od dneva začetka njegove veljavnosti. Odpoved začne veljati prvi dan v mesecu po poteku šestmesečnega obdobja od dneva, ko je drugi pogodbenik prejel obvestilo.

c) where a resident of the Isle of Man derives income which, in accordance with the provisions of this Agreement shall be taxable only in Slovenia, the Isle of Man may include this income in the tax base, but shall allow as a deduction from the income tax that part of the income tax which is attributable to the income derived from Slovenia.

Article 12

MUTUAL AGREEMENT PROCEDURES

1. Where a resident considers that the actions of one or both of the Contracting Parties 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 Contracting Parties, present his case to the competent authority of the Contracting Party of which he is a resident. 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. 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 Party, 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 Parties.

3. The competent authorities of the Contracting Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement.

4. The competent authorities of the Contracting Parties 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 13

ENTRY INTO FORCE

1. The Contracting Parties shall notify each other in writing that the procedures required by their law for the entry into force of this Agreement have been satisfied. This Agreement shall enter into force on the date of receipt of the last notification, provided an Agreement for the Exchange of Information in Relation to Tax Matters is in force between the Contracting Parties.

2. The provisions of this Agreement shall have effect:

a) in Slovenia:

(i) in respect of Slovenian taxes withheld at source, to income derived on or after the first day of January of the calendar year next following that in which this Agreement enters into force;

(ii) in respect of other Slovenian taxes on income, to taxes chargeable for any taxable year beginning on or after the first day of January of the calendar year next following that in which the Agreement enters into force;

b) in the Isle of Man, in respect of Manx tax, for any taxable period beginning on or after 6 April in the calendar year next following that in which this Agreement enters into force.

Article 14

TERMINATION

1. This Agreement shall remain in force until terminated by a Contracting Party. Either Contracting Party may, after the expiration of two years from the date of its entry into force, terminate the Agreement by giving written notice of termination. Such termination shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of notice of termination by the other Contracting Party.

2. Ne glede na določbe prvega odstavka se ta sporazum, če je prejeto obvestilo o odpovedi sporazuma o izmenjavi informacij v zvezi z davčnimi zadevami med pogodbenikoma, odpove in preneha uporabljati z dnem prenehanja uporabe nazadnje omenjenega sporazuma.

V DOKAZ NAVEDENEGA sta podpisana, ki sta bila za to pravilno pooblaščenca, podpisala ta sporazum.

SESTAVLJENO v dveh izvornikih v Douglasu 27. junija 2011 v slovenskem in angleškem jeziku, pri čemer sta besedili enako verodostojni.

Za Republiko Slovenijo:
Iztok Jarc l.r.

Za Otok Man:
Anne Craine l.r.

2. Notwithstanding the provisions of paragraph 1, this Agreement shall, on receipt of written notice of termination of the Agreement for the Exchange of Information Relating to Tax Matters between the Contracting Parties, terminate and cease to be effective on the date the last-mentioned Agreement ceases to be effective.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto, signed this Agreement.

DONE in duplicate at Douglas this 27th day of June 2011, in the Slovenian and English languages, both texts being equally authentic.

For the Republic of Slovenia:
Iztok Jarc (s)

For the Isle of Man:
Anne Craine (s)

3. člen

Za izvajanje sporazuma skrbi ministrstvo, pristojno za finance.

4. člen

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

Št. 432-01/12-7/9
Ljubljana, dne 14. junija 2012
EPA 366-VI

Državni zbor
Republike Slovenije
Jakob Presečnik l.r.
Podpredsednik

38. Zakon o ratifikaciji Sporazuma med Republiko Slovenijo in Guernseyjem o izmenjavi informacij v zvezi z davčnimi zadevami, s protokolom (BGBGIDZ)

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 Guernseyjem o izmenjavi informacij v zvezi z davčnimi zadevami, s protokolom (BGBGIDZ)**

Razglašam Zakon o ratifikaciji Sporazuma med Republiko Slovenijo in Guernseyjem o izmenjavi informacij v zvezi z davčnimi zadevami, s protokolom (BGBGIDZ), ki ga je sprejel Državni zbor Republike Slovenije na seji dne 14. junija 2012.

Št. 003-02-5/2012-12

Ljubljana, dne 22. junija 2012

dr. Danilo Türk l.r.
Predsednik
Republike Slovenije

Z A K O N**O RATIFIKACIJI SPORAZUMA MED REPUBLIKO SLOVENIJO IN GUERNSEYJEM O IZMENJAVI INFORMACIJ V ZVEZI Z DAVČNIMI ZADEVAMI, S PROTOKOLOM (BGBGIDZ)****1. člen**

Ratificira se Sporazum med Republiko Slovenijo in Guernseyjem o izmenjavi informacij v zvezi z davčnimi zadevami, s protokolom, podpisan v St. Peter Portu 26. septembra 2011.

2. člen

Sporazum s protokolom se v izvorniku v slovenskem in angleškem jeziku glasi:

S P O R A Z U M**MED REPUBLIKO SLOVENIJO
IN GUERNSEYJEM O IZMENJAVI INFORMACIJ
V ZVEZI Z DAVČNIMI ZADEVAMI**

KER želita Republika Slovenija in Guernsey (v nadaljnjem besedilu: pogodbenika) pospešiti izmenjavo informacij v zvezi z davki in olajšati pogoje zanjo,

KER se priznava, da ima Guernsey pod pogoji iz pooblastila Združenega kraljestva Velika Britanija in Severna Irska pravico do pogajanja, sklepanja, izvajanja sporazuma in na podlagi pogojev iz tega sporazuma do odpovedi sporazuma o izmenjavi davčnih informacij z Republiko Slovenijo,

KER se je Guernsey 21. februarja 2002 politično zavezal načelom OECD o učinkoviti izmenjavi informacij,

STA SE pogodbenika dogovorila, da bosta sklenila ta sporazum, ki vsebuje samo njune obveznosti:

1. člen**NAMEN IN PODROČJE UPORABE SPORAZUMA**

Pogodbenika prek pristojnih organov zagotavljata pomoč z izmenjavo informacij, ki so predvidoma pomembne za izvajanje in uveljavljanje domače zakonodaje pogodbenikov glede davkov iz tega sporazuma, vključno z informacijami, ki so predvidoma pomembne za določitev, odmero, uveljavitev ali pobiranje davkov pri osebah, ki so zavezane zanje oziroma za preiskavo davčnih zadev ali pregon kazenskih davčnih zadev takih oseb. Zaprošeni pogodbenik ni zavezan dati informacij, ki jih ne hranijo njegovi organi oziroma jih nimajo ali jih ne morejo pridobiti osebe, ki so pod njegovo ozemeljsko jurisdikcijo. Pravice in zaščitni ukrepi, ki jih osebam zagotavljajo zakoni ali upravna praksa zaprosenega pogodbenika, se uporabljajo, če brez razloga ne preprečujejo ali zavlačujejo učinkovite izmenjave informacij.

A G R E E M E N T**BETWEEN THE REPUBLIC OF SLOVENIA
AND THE STATES OF GUERNSEY
FOR THE EXCHANGE OF INFORMATION
RELATING TO TAX MATTERS**

WHEREAS the Republic of Slovenia and the States of Guernsey ("the Contracting Parties") wish to enhance and facilitate the terms and conditions governing the exchange of information relating to taxes;

WHEREAS it is acknowledged that the States of Guernsey has the right, under the terms of the Entrustment from the United Kingdom of Great Britain and Northern Ireland, to negotiate, conclude, perform and subject to the terms of this Agreement terminate a tax information exchange agreement with the Republic of Slovenia;

WHEREAS the States of Guernsey on the 21st February 2002 entered into a political commitment to the OECD's principles of effective exchange of information;

NOW, therefore, the Contracting Parties have agreed to conclude the following Agreement which contains obligations on the part of the Contracting Parties only:

Article 1**OBJECT AND SCOPE OF THE AGREEMENT**

The Contracting Parties, through their competent authorities, shall provide assistance through exchange of information that is foreseeably relevant to the administration and enforcement of the domestic laws of the Contracting Parties concerning the taxes covered by this Agreement, including information that is foreseeably relevant to the determination, assessment, enforcement or collection of tax with respect to persons subject to such taxes, or to the investigation of tax matters or the prosecution of criminal tax matters in relation to such persons. A requested Party is not obliged to provide information which is neither held by its authorities nor in the possession of or obtainable by persons who are within its territorial jurisdiction. The rights and safeguards secured to persons by the laws or administrative practices of the requested Party remain applicable to the extent that they do not unduly prevent or delay effective exchange of information.

2. člen**DAVKI, ZA KATERE SE UPORABLJA SPORAZUM**

1. Davki, na katere se nanaša ta sporazum, so:

a) v Sloveniji:

- (i) davek od dohodkov pravnih oseb,
- (ii) dohodnina,

(iii) davek od dobička od odsvojitve izvedenih finančnih instrumentov,

(iv) davek od premoženja,

(v) davek na dediščino in darila;

b) v Guernseyju:

(i) davek od dohodka,

(ii) davek od dobička iz stanovanj.

2. Sporazum se uporablja tudi za enake davke, ki se po dnevu podpisa sporazuma uvedejo poleg obstoječih davkov ali namesto njih, ali za vsebinsko podobne davke, če se tako dogovorita pogodbenika prek pristojnih organov. Poleg tega se seznam davkov, za katere se uporablja ta sporazum, lahko razširi ali spremeni s skupnim dogovorom pogodbenikov v obliki izmenjave pisem. Pristojni organ pogodbenika obvesti drugega o pomembnih spremembah zakonodaje, ki bi lahko vplivale na obveznosti tega pogodbenika po tem sporazumu.

3. člen**POMEN IZRAZOV**

1. V tem sporazumu:

a) izraz "Slovenija" pomeni Republiko Slovenijo, in kadar se uporablja v geografskem pomenu, ozemlje Slovenije in tista morska območja, na katerih lahko Slovenija izvaja svoje suverene pravice ali jurisdikcijo v skladu s svojo notranjo zakonodajo in mednarodnim pravom;

b) izraz "Guernsey" pomeni Guernsey, Alderney in Herm skupaj s teritorialnim morjem teh otokov v skladu z mednarodnim pravom;

c) izraz "kolektivni naložbeni sklad ali načrt" pomeni kateri koli način skupnega vlaganja ne glede na pravno obliko. Izraz "javni kolektivni naložbeni sklad ali načrt" pomeni kateri koli kolektivni naložbeni sklad ali načrt, če lahko kdor koli enote, delnice ali druge deleže v skladu ali načrtu neovirano kupuje, prodaja ali unovčuje. Enote, delnice ali druge deleže v skladu ali načrtu lahko "kdor koli" neovirano kupuje, prodaja ali unovčuje, če nakup, prodaja ali unovčitev ni implicitno ali eksplicitno na voljo le omejeni skupini vlagateljev;

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

e) izraz "pristojni organ" pomeni:

(i) v Sloveniji Ministrstvo za finance Republike Slovenije ali njegovega pooblaščenega predstavnika,

(ii) v Guernseyju direktorja za davek od dohodka ali njegovega pooblaščenca,

f) izraz "kazenska zakonodaja" pomeni vse kazenske določbe, ki se obravnavajo kot take po domačem pravu, ne glede na to, ali so vsebovane v davčni zakonodaji, kazenskem zakoniku ali drugih zakonih;

g) izraz "kazenske davčne zadeve" pomeni davčne zadeve z naklepnim dejanjem pred začetkom veljavnosti tega sporazuma ali po njem, ki se preganjajo po kazenski zakonodaji pogodbenika prosilca;

h) izraz "informacija" pomeni vsako dejstvo, izjavo, listino ali zapis v kakršni koli obliki;

i) izraz "ukrepi za zbiranje informacij" pomeni zakonodajo in upravne ali sodne postopke, ki zaprosenemu pogodbeniku omogočajo pridobivanje in predložitev zaprosenih informacij;

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

k) izraz "glavni razred delnic" pomeni razred ali razrede delnic, ki predstavljajo večino glasovalnih pravic in vrednosti družbe;

Article 2**TAXES COVERED**

1. The taxes which are the subject of this Agreement are:

a) in Slovenia:

- (i) tax on income of legal persons;
- (ii) tax on income of individuals;

(iii) derivative instruments gains tax;

(iv) tax on property;

(v) inheritance and gift tax;

b) in Guernsey:

(i) income tax;

(ii) dwellings profits tax.

2. This Agreement shall apply also to any identical taxes imposed after the date of signature of the Agreement in addition to or in place of the existing taxes, or any substantially similar taxes if the Contracting Parties, through their competent authorities, so agree. Furthermore, the taxes covered may be expanded or modified by mutual agreement of the Contracting Parties in the form of an exchange of letters. The competent authority of each Contracting Party shall notify the other of substantial changes in laws which may affect the obligations of that Contracting Party pursuant to this Agreement.

Article 3**DEFINITIONS**

1. In this Agreement:

a) the term "Slovenia" means the Republic of Slovenia and, when used in a geographical sense, means the territory of Slovenia as well as those maritime areas over which Slovenia may exercise sovereign or jurisdictional rights in accordance with its internal legislation and international law;

b) the term "Guernsey" means Guernsey, Alderney and Herm, including the territorial sea adjacent to those islands, in accordance with international law;

c) the term "collective investment fund or scheme" means any pooled investment vehicle, irrespective of legal form. The term "public collective investment fund or scheme" means any collective investment fund or scheme provided the units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed by the public. Units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed "by the public" if the purchase, sale or redemption is not implicitly or explicitly restricted to a limited group of investors;

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

e) 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 Guernsey, the Director of Income Tax or his delegate;

f) the term "criminal laws" means all criminal laws designated as such under domestic law, irrespective of whether such are contained in the tax laws, the criminal code or other statutes;

g) the term "criminal tax matters" means tax matters involving intentional conduct whether before or after the entry into force of this Agreement which is liable to prosecution under the criminal laws of the requesting Party;

h) the term "information" means any fact, statement, document or record in whatever form;

i) the term "information gathering measures" means laws and administrative or judicial procedures enabling a requested Party to obtain and provide the information requested;

j) the term "person" means an individual, a company or any other body of persons;

k) the term "principal class of shares" means the class or classes of shares representing a majority of the voting power and value of the company;

l) izraz "javna družba" pomeni družbo, katere glavni razred delnic kotira na priznani borzi, če lahko kdor koli nje ne kotirajoče delnice neovirano kupuje ali prodaja. Delnice lahko "kdor koli" kupuje ali prodaja, če nakup ali prodaja delnic ni implicitno ali eksplicitno na voljo le omejeni skupini vlagateljev;

m) izraz "priznana borza" pomeni borzo, o kateri sta se dogovorila pristojna organa pogodbenikov;

n) izraz "zaprošeni pogodbenik" pomeni pogodbenika, ki je zaprosen, da zagotovi ali je zagotovil informacije ali pomoč kot odgovor na zaprosilo;

o) izraz "pogodbenik prosilec" pomeni pogodbenika, ki predloži zaprosilo ali je prejel informacije ali pomoč od zaprosenega pogodbenika;

p) izraz "davek" pomeni kateri koli davek, za katerega se uporablja ta sporazum.

2. Kadar pogodbenik uporabi sporazum, ima izraz, ki v njem ni opredeljen, razen če sobesedilo ne zahteva drugače, pomen, ki ga ima takrat po njegovem pravu, pri čemer pomen po veljavni davčni zakonodaji tega pogodbenika prevlada nad pomenom izraza po drugi zakonodaji tega pogodbenika.

4. člen

IZMENJAVA INFORMACIJ NA ZAPRSILO

1. Pristojni organ zaprosenega pogodbenika na zaprosilo pogodbenika prosilca predloži informacije za namene iz 1. člena. Take informacije se izmenjajo ne glede na to, ali zaproseni pogodbenik potrebuje take informacije za svoje davčne namene in ali bi se dejanje, o katerem teče preiskava, štelo za kaznivo dejanje po zakonodaji zaprosenega pogodbenika, če bi se pripetilo na ozemlju zaprosenega pogodbenika. Pristojni organ pogodbenika prosilca zaprosi za informacije v skladu s tem členom le takrat, ko jih ne more pridobiti kako drugače na lastnem ozemlju, razen kadar bi uporaba takih sredstev povzročila nesorazmerne težave.

2. Če informacije, ki jih ima pristojni organ zaprosenega pogodbenika ne zadoščajo in ne omogočajo izpolnitve zaprosila zanje, zaproseni pogodbenik uporabi vse ustrezne ukrepe za zbiranje informacij, da zaprosene informacije predloži pogodbeniku prosilcu ne glede na to, da jih zaproseni pogodbenik morda ne potrebuje za svoje davčne namene.

3. Pristojni organ zaprosenega pogodbenika na posebno zaprosilo pristojnega organa pogodbenika prosilca predloži informacije v skladu s tem členom v obsegu, ki ga omogoča domača zakonodaja, v obliki izjav prič in overjenih kopij izvornih zapisov.

4. Pogodbenika zagotovita, da imata njuna pristojna organa za namene iz 1. člena sporazuma pristojnost, da na zaprosilo pridobita in predložita:

a) informacije, ki jih hranijo banke, druge finančne ustanove in katere koli osebe, vključno s pooblaščenici in skrbniki, ki delujejo kot zastopniki ali fiduciarji;

b) (i) informacije, ki se nanašajo na zakonito in upravičeno lastništvo družb, partnerstev, fundacij in drugih oseb ter ob upoštevanju omejitev iz 2. člena katere koli druge osebe v lastniški verigi, vključno z informacijami o delnicah, enotah in drugih deležih pri kolektivnih naložbenih skladih ali načrtih;

(ii) pri skrbniških skladih informacije o ustanoviteljih, skrbnikih, zaščitnikih ter upravičencih in

(iii) pri fundacijah informacije o ustanoviteljih, članih sveta fundacije in upravičencih.

5. Ta sporazum pogodbenikoma ne nalaga obveznosti za pridobitev ali predložitev informacij o lastništvu javnih družb ali javnih kolektivnih naložbenih skladov ali načrtov, razen če se te informacije lahko pridobijo brez nesorazmernih težav.

l) the term "publicly traded company" means any company whose principal class of shares is listed on a recognised stock exchange provided its listed shares can be readily purchased or sold by the public. Shares can be purchased or sold "by the public" if the purchase or sale of shares is not implicitly or explicitly restricted to a limited group of investors;

m) the term "recognised stock exchange" means any stock exchange agreed upon by the competent authorities of the Contracting Parties;

n) the term "requested Party" means the Contracting Party which is requested to provide or has provided information or assistance in response to a request;

o) the term "requesting Party" means the Contracting Party submitting a request for or having received information or assistance from the requested Contracting Party;

p) the term "tax" means any tax covered by this Agreement.

2. As regards the application of this Agreement at any time by a Contracting Party, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the laws of that Contracting Party, any meaning under the applicable tax laws of that Contracting Party prevailing over a meaning given to the term under other laws of that Contracting Party.

Article 4

EXCHANGE OF INFORMATION UPON REQUEST

1. The competent authority of the requested Party shall provide upon request by the requesting Party information for the purposes referred to in Article 1. Such information shall be exchanged without regard to whether the requested Party needs such information for its own tax purposes or the conduct being investigated would constitute a crime under the laws of the requested Party if it had occurred in the territory of the requested Party. The competent authority of the requesting Party shall only make a request for information pursuant to this Article when it is unable to obtain the requested information by other means within its own territory, except where recourse to such means would give rise to disproportionate difficulty.

2. If the information in the possession of the competent authority of the requested Party is not sufficient to enable it to comply with the request for information, the requested Party shall use all relevant information gathering measures necessary to provide the requesting Party with the information requested, notwithstanding that the requested Party may not need such information for its own tax purposes.

3. If specifically requested by the competent authority of the requesting Party, the competent authority of the requested Party shall provide information under this Article, to the extent allowable under its domestic laws, in the form of depositions of witnesses and authenticated copies of original records.

4. Each Contracting Party shall ensure that its competent authorities for the purposes specified in Article 1 of the Agreement, have the authority to obtain and provide upon request:

a) information held by banks, other financial institutions, and any person, including nominees and trustees, acting in an agency or fiduciary capacity;

b) (i) information regarding the legal and beneficial ownership of companies, partnerships, foundations and other persons, and within the constraints of Article 2 any other person in an ownership chain, including in the case of collective investment funds or schemes, information on shares, units and other interests;

(ii) in the case of trusts, information on settlors, trustees, protectors and beneficiaries; and

(iii) in the case of foundations, information on founders, members of the foundation council and beneficiaries.

5. This Agreement does not create an obligation on the Contracting Parties to obtain or provide ownership information with respect to publicly traded companies or public collective investment funds or schemes unless such information can be obtained without giving rise to disproportionate difficulties.

6. Zaposilo za informacijo mora biti oblikovano čim natančneje in mora pisno določati:

- a) identiteto osebe, ki se zasliši ali preiskuje;
- b) obdobje, za katero se zaprosijo informacije;
- c) vrsto zaprošenih informacij in obliko, v kateri jih pogodbenik prosilec želi prejeti;
- d) davčni namen, za katerega se zaprosijo informacije;
- e) razloge za prepričanje, da so zaprošene informacije predvidoma pomembne za izvajanje in uveljavljanje davkov v pogodbeniku prosilcu v zvezi z osebo iz pododstavka a tega odstavka;
- f) razloge za prepričanje, da so zaprošene informacije v zaprosenem pogodbeniku ali jih ima ali bi jih lahko pridobila oseba pod jurisdikcijo zaprosenega pogodbenika;
- g) ime in naslov osebe, za katero se verjame, da ima ali bi lahko pridobila zaprošene informacije, če je znana;
- h) izjavo, da je zaposilo skladno z zakonodajo in upravno prakso pogodbenika prosilca, da bi lahko, če bi bile zaprošene informacije pod jurisdikcijo pogodbenika prosilca, pristojni organ pogodbenika prosilca pridobil informacije po zakonodaji pogodbenika prosilca ali z običajno upravno prakso, in da je skladno s tem sporazumom;
- i) izjavo, da je pogodbenik prosilec na svojem ozemlju izkoristil vse načine za pridobitev informacij, razen tistih, ki bi povzročili nesorazmerne težave.

7. Pristojni organ zaprosenega pogodbenika pošlje pogodbeniku prosilcu zaprošene informacije, takoj ko je mogoče. Za zagotovitev takojšnjega odgovora pristojni organ zaprosenega pogodbenika:

- a) pisno potrdi prejem zaprosila pristojnemu organu pogodbenika prosilca ter ga obvesti o pomanjkljivostih zaprosila v 60 dneh od njegovega prejema,
- b) če pristojni organ zaprosenega pogodbenika ni mogel pridobiti in predložiti informacij v 90 dneh od prejema zaprosila, tudi zato ne, ker je pri zagotavljanju informacij naletel na ovire ali pa je zagotovitev zavrnil, o tem nemudoma obvesti pogodbenika prosilca in pojasni vzrok te nezmožnosti, vrsto ovir ali razloge za zavrnitev.

5. člen

DAVČNI PREGLEDI V TUJINI

1. Pogodbenik prosilec lahko, če to stori vnaprej in dovolj zgodaj, zaprosi zaprosenega pogodbenika, da dovoli vstop na svoje ozemlje predstavnikom pristojnega organa pogodbenika prosilca v obsegu, ki ga omogoča njegova domača zakonodaja, da opravijo pogovore s posamezniki in proučijo zapise s predhodnim pisnim soglasjem posameznikov ali drugih udeleženih oseb. Pristojni organ pogodbenika prosilca obvesti pristojni organ zaprosenega pogodbenika o času in kraju nameravanega srečanja z udeleženi posamezniki.

2. Na zaposilo pristojnega organa pogodbenika prosilca pristojni organ zaprosenega pogodbenika lahko dovoli predstavnikom pristojnega organa pogodbenika prosilca navzočnost pri davčnem pregledu na ozemlju zaprosenega pogodbenika.

3. Kadar se zaposilu iz drugega odstavka ugotovi, pristojni organ zaprosenega pogodbenika, ki vodi pregled, čim prej obvesti pristojni organ pogodbenika prosilca o času in kraju pregleda, organu ali uradniku, pooblaščenem za opravljanje pregleda, ter o postopkih in pogojih, ki jih zaproseni pogodbenik zahteva za opravljanje pregleda. Zaprošeni pogodbenik, ki opravlja pregled, sprejme vse odločitve v zvezi z opravljanjem pregleda.

6. Any request for information shall be formulated with the greatest detail possible and shall specify in writing:

- a) the identity of the person under examination or investigation;
- b) the period for which the information is requested;
- c) the nature of the information requested and the form in which the requesting Party would prefer to receive it;
- d) the tax purpose for which the information is sought;
- e) the reasons for believing that the information requested is foreseeably relevant to tax administration and enforcement of the requesting Party, with respect to the person identified in subparagraph a) of this paragraph;
- f) the grounds for believing that the information requested is present in the requested Party or is in the possession of or obtainable by a person within the jurisdiction of the requested Party;
- g) to the extent known, the name and address of any person believed to be in possession of or able to obtain the requested information;
- h) a statement that the request is in conformity with the laws and administrative practices of the requesting Party, that if the requested information was within the jurisdiction of the requesting Party then the competent authority of the requesting Party would be able to obtain the information under the laws of the requesting Party or in the normal course of administrative practice and that it is in conformity with this Agreement;
- i) a statement that the requesting Party has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

7. The competent authority of the requested Party shall forward the requested information as promptly as possible to the requesting Party. To ensure a prompt response, the competent authority of the requested Party shall:

- a) confirm receipt of a request in writing to the competent authority of the requesting Party and shall notify the competent authority of the requesting Party of deficiencies in the request, if any, within 60 days of the receipt of the request;
- b) if the competent authority of the requested Party has been unable to obtain and provide the information within 90 days of receipt of the request, including if it encounters obstacles in furnishing the information or it refuses to furnish the information, it shall immediately inform the requesting Party, explaining the reason for its inability, the nature of the obstacles or the reasons for its refusal.

Article 5

TAX EXAMINATIONS ABROAD

1. With reasonable notice, given in advance, the requesting Party may request that the requested Party allow representatives of the competent authority of the requesting Party to enter the territory of the requested Party, to the extent permitted under its domestic laws, to interview individuals and examine records with the prior written consent of the individuals or other persons concerned. The competent authority of the requesting Party shall notify the competent authority of the requested Party of the time and place of the intended meeting with the individuals concerned.

2. At the request of the competent authority of the requesting Party, the competent authority of the requested Party may permit representatives of the competent authority of the requesting Party to attend a tax examination in the territory of the requested Party.

3. If the request referred to in paragraph 2 is granted, the competent authority of the requested Party conducting the examination shall, as soon as possible, notify the competent authority of the requesting Party of the time and place of the examination, the authority or official authorised to carry out the examination and the procedures and conditions required by the requested Party for the conduct of the examination. All decisions regarding the conduct of the examination shall be made by the requested Party conducting the examination.

4. V tem členu se izraz "domača zakonodaja" nanaša na zakone ali instrumente, ki urejajo vstop na ozemlja pogodbenikov in izstop z njih.

6. člen

MOŽNOST ZA ZAVRNITEV ZAPROSILA

1. Pristojni organ zaprosenega pogodbenika lahko zavrne pomoč:

a) kadar zaprosilo ni skladno s tem sporazumom,

b) kadar pogodbenik prosilec na svojem ozemlju ni izkoristil vseh načinov za pridobitev informacij, razen tistih, ki bi povzročili nesorazmerne težave, ali

c) kadar bi bilo razkritje zaprosenih informacij v nasprotju z javnim redom.

2. Ta sporazum ne nalaga zaprosenemu pogodbeniku, da predloži informacije, za katere velja privilegij zaupnosti ali kakršna koli trgovinska, poslovna, industrijska, komercialna ali poklicna skrivnost ali trgovinski postopek, pri čemer se informacije iz četrtega odstavka 4. člena samo zaradi tega dejstva ne bodo obravnavale kot taka skrivnost ali trgovinski postopek.

3. Zaposilo za informacije se ne sme zavrniti zaradi nepriznavanja davčnega zahtevka, ki je razlog za zaposilo.

4. Od zaprosenega pogodbenika se ne zahteva pridobitev ali predložitev informacij, ki jih, če bi bile zaprosene informacije pod jurisdikcijo pogodbenika prosilca, pristojni organ pogodbenika prosilca ne bi mogel pridobiti po svoji zakonodaji ali z običajno upravno prakso.

5. Zaprošeni pogodbenik lahko zavrne zaposilo za informacije, kadar pogodbenik prosilec zaprosi zanje zaradi izvajanja ali uveljavljanja določbe svojega davčnega zakona oziroma zahteve povezane s tem, ki neenako obravnava državljana zaprosenega pogodbenika v primerjavi z državljanom pogodbenika prosilca v enakih okoliščinah.

7. člen

ZAUPNOST

1. Vse informacije, ki jih predložita in prejmeta pristojna organa pogodbenikov, so zaupne.

2. Take informacije se razkrijejo samo osebam ali organom (vključno s sodišči in upravnimi organi) za namene, navedene v 1. členu, in jih te osebe ali organi uporabljajo samo za te namene, vključno z odločitvijo o pritožbah. Za te namene se lahko informacije razkrijejo v javnih sodnih postopkih ali sodnih odločbah.

3. Brez izrecnega pisnega soglasja pristojnega organa zaprosenega pogodbenika se te informacije ne smejo uporabljati za druge namene kot so navedeni v 1. členu.

4. Informacije, ki se predložijo pogodbeniku prosilcu po tem sporazumu, se ne smejo razkriti nobeni drugi jurisdikciji.

8. člen

STROŠKI

Če se pristojna organa pogodbenikov ne dogovorita drugače, zaproseni pogodbenik krije običajne stroške, ki nastanejo pri zagotavljanju pomoči, pogodbenik prosilec pa izredne stroške, ki nastanejo pri zagotavljanju pomoči (vključno s stroški za najem zunanjih svetovalcev v povezavi s pravnim postopkom ali čim drugim). Pristojna organa se občasno posvetujeta v zvezi s tem členom, in še zlasti se pristojni organ zaprosenega pogodbenika vnaprej posvetuje s pristojnim organom pogodbenika prosilca, če se pričakujejo izredni stroški za zagotovitev informacij v zvezi s posamezno zahtevo.

4. For the purposes of this Article, the term "domestic laws" refers to laws or instruments governing entry into, or exit from, the territories of the Contracting Parties.

Article 6

POSSIBILITY OF DECLINING A REQUEST

1. The competent authority of the requested Party may decline to assist:

a) where the request is not made in conformity with this Agreement;

b) where the requesting Party has not pursued all means available in its own territory to obtain the information, except where recourse to such means would give rise to disproportionate difficulty; or

c) where the disclosure of the information requested would be contrary to public policy.

2. This Agreement shall not impose upon a requested Party any obligation to provide items subject to legal privilege, or any trade, business, industrial, commercial or professional secret or trade process, provided that information described in Article 4, paragraph 4, shall not by reason of that fact alone be treated as such a secret or trade process.

3. A request for information shall not be refused on the ground that the tax claim giving rise to the request is disputed.

4. The requested Party shall not be required to obtain and provide information which if the requested information was within the jurisdiction of the requesting Party the competent authority of the requesting Party would not be able to obtain under its laws or in the normal course of administrative practice.

5. The requested Party may decline a request for information if the information is requested by the requesting Party to administer or enforce a provision of the tax law of the requesting Party, or any requirement connected therewith, which discriminates against a citizen of the requested Party as compared with a citizen of the requesting Party in the same circumstances.

Article 7

CONFIDENTIALITY

1. All information provided and received by the competent authorities of the Contracting Parties shall be kept confidential.

2. Such information shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the purposes specified in Article 1, and used by such persons or authorities only for such purposes, including the determination of any appeal. For these purposes, information may be disclosed in public court proceedings or in judicial decisions.

3. Such information may not be used for any purpose other than for the purposes stated in Article 1 without the express written consent of the competent authority of the requested Party.

4. Information provided to a requesting Party under this Agreement may not be disclosed to any other jurisdiction.

Article 8

COSTS

Unless the competent authorities of the Contracting Parties otherwise agree, ordinary costs incurred in providing assistance shall be borne by the requested Party, and extraordinary costs incurred in providing assistance (including costs of engaging external advisors in connection with litigation or otherwise) shall be borne by the requesting Party. The respective competent authorities shall consult from time to time with regard to this Article, and in particular the competent authority of the requested Party shall consult with the competent authority of the requesting Party in advance if the costs of providing information with respect to a specific request are expected to be extraordinary.

9. člen**JEZIK**

Zaprosila za pomoč in odgovori nanje se sestavljajo v angleškem ali v slovenskem in angleškem jeziku.

10. člen**POSTOPEK SKUPNEGA DOGOVORA**

1. Kadar med pogodbenikoma nastanejo težave ali dvoimi o izvajanju ali razlagi tega sporazuma, si pristojna organa prizadevata po najboljših močeh rešiti zadevo s skupnim dogovorom.

2. Poleg dogovorov iz prvega odstavka se lahko pristojna organa pogodbenikov dogovorita o postopkih, ki se uporabljajo po 4., 5. in 8. členu.

3. Pogodbenika se lahko po potrebi dogovorita tudi o drugih oblikah reševanja sporov.

11. člen**ZAČETEK VELJAVNOSTI**

1. Pogodbenika se pisno obvestita o končanih postopkih, ki se po njunem pravu zahtevajo za začetek veljavnosti tega sporazuma. Sporazum začne veljati z dnem prejema zadnjega uradnega obvestila.

2. Z dnem začetka veljavnosti tega sporazuma se določbe tega sporazuma začnejo uporabljati:

- a) za kazenske davčne zadeve s tem dnem in
- b) za vse druge zadeve iz 1. člena s tem dnem, vendar samo za davčna obdobja, ki so se začela na ta dan ali po njem, ali če davčnega obdobja ni, za vsa davčna bremena, nastala ta dan ali po njem.

12. člen**PRENEHANJE VELJAVNOSTI**

1. Ta sporazum velja, dokler ga pogodbenik ne odpove. Pogodbenik lahko odpove sporazum s pisnim obvestilom o odpovedi. Odpoved začne veljati prvi dan v mesecu po poteku šestmesečnega obdobja od dneva, ko je drugi pogodbenik prejel obvestilo o odpovedi. Vsa zaprosila, prejeta do dneva prenehanja veljavnosti, se izvajajo skladno s pogoji iz tega sporazuma.

2. Ne glede na odpoved tega sporazuma za pogodbenika še naprej velja 7. člen za vse informacije, pridobljene po tem sporazumu.

V DOKAZ NAVEDENEGA sta podpisana, ki sta bila za to pravilno pooblaščenca, podpisala sporazum.

SESTAVLJENO v dveh izvornikih v St Peter Portu 26. 9. 2011 v slovenskem in angleškem jeziku, pri čemer sta besedili enako verodostojni.

Za Republiko Slovenijo:
Iztok Jarc l.r.

Za Guernsey:
Lyndon Trott l.r.

Article 9**LANGUAGE**

Requests for assistance and responses thereto shall be drawn up in English, or in Slovenian and English.

Article 10**MUTUAL AGREEMENT PROCEDURE**

1. Where difficulties or doubts arise between the Contracting Parties regarding the implementation or interpretation of this Agreement, the respective competent authorities shall use their best efforts to resolve the matter by mutual agreement.

2. In addition to the agreements referred to in paragraph 1, the competent authorities of the Contracting Parties may mutually agree on the procedures to be used under Articles 4, 5 and 8.

3. The Contracting Parties may also agree on other forms of dispute resolution should this become necessary.

Article 11**ENTRY INTO FORCE**

1. The Contracting Parties shall notify each other in writing that the procedures required by their law for the entry into force of this Agreement have been completed. This Agreement shall enter into force on the date of receipt of the last notification.

2. Upon the date of entry into force, the provisions of this Agreement shall have effect:

- a) for criminal tax matters on that date; and
- b) for all other matters covered in Article 1 on that date, but only in respect of taxable periods beginning on or after that date or, where there is no taxable period, all charges to tax arising on or after that date.

Article 12**TERMINATION**

1. This Agreement shall remain in force until terminated by a Contracting Party. Either Contracting Party may terminate the Agreement by giving written notice of termination. Such termination shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of notice of termination by the other Contracting Party. All requests received up to the effective date of termination will be dealt with in accordance with the terms of this Agreement.

2. Notwithstanding any termination of this Agreement the Contracting Parties shall remain bound by the provisions of Article 7 with respect to any information obtained under this Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto, have signed the Agreement.

DONE in duplicate at St Peter Port this 26th day of September 2011, in the Slovenian and English languages, both texts being equally authentic.

For the Republic of Slovenia: **Iztok Jarc** (s) For the States of Guernsey: **Lyndon Trott** (s)

Protokol
k Sporazumu med Republiko Slovenijo
in Guernseyjem o izmenjavi informacij
v zvezi z davčnimi zadevami

Ob podpisu Sporazuma med Republiko Slovenijo in Guernseyjem o izmenjavi informacij v zvezi z davčnimi zadevami sta se podpisana sporazumela o teh določbah, ki so sestavni del sporazuma:

1. Razume se, da v 8. členu sporazuma:

a) običajni stroški vključujejo notranje upravne stroške, manjše zunanje stroške in pavšalne izdatke, ki so nastali zaprosenemu pogodbeniku pri pregledovanju zaprosil za informacije pogodbenika prosilca in odzivanju nanje;

b) izredni stroški vključujejo, niso pa omejeni na:

(i) razumne stroške, ki jih zaračunajo tretje osebe za kopiranje dokumentov za zaprosenega pogodbenika,

(ii) razumne stroške najema strokovnjakov, tolmačev ali prevajalcev, kadar je potrebno,

(iii) razumne stroške pošiljanja izredno veliko dokumentov pogodbeniku prosilcu,

(iv) razumne stroške pravnega postopka zaprosenega pogodbenika v neposredni povezavi s posameznim zaprosilom za informacije, vključno s stroški najema zunanjega zagovornika in svetovalcev, in

(v) razumne stroške pridobivanja izjav ali pričevanj.

2. Kadar pristojna organa pogodbenikov menita, da je to ustrezno, se lahko dogovorita, da izmenjavata strokovno znanje in izkušnje, razvijata nove inšpekcijske metode, ugotavljata katera so nova področja nezakonitega ravnanja in jih skupaj proučujeta.

V DOKAZ NAVEDENEGA sta podpisana, ki sta bila za to pravilno pooblaščenca, podpisala protokol.

SESTAVLJENO v dveh izvirkih v St Peter Portu 26. 9. 2011 v slovenskem in angleškem jeziku, pri čemer sta besedili enako verodostojni.

Za Republiko Slovenijo:
Iztok Jarc l.r.

Za Guernsey:
Lyndon Trott l.r.

Protocol
to the Agreement between
the Republic of Slovenia
and the States of Guernsey for the exchange
of information relating to tax matters

At the signing of the Agreement between the Republic of Slovenia and the States of Guernsey for the exchange of information relating to tax matters, the undersigned have agreed on the following provisions which shall form an integral part of the Agreement:

1. It is understood that for the purposes of Article 8 of the Agreement:

a) ordinary costs include internal administration costs, any minor external costs and overhead expenses incurred by the requested Party in reviewing and responding to information requests submitted by the requesting Party;

b) extraordinary costs include, but are not limited to, the following:

(i) reasonable costs charged by third parties for copying documents on behalf of the requested Party;

(ii) reasonable costs of engaging experts, interpreters, or translators when necessary;

(iii) reasonable costs of conveying an extraordinary amount of documents to the requesting Party;

(iv) reasonable litigation costs of the requested Party in direct relation to a specific request for information, including costs of engaging external counsel and advisers; and

(v) reasonable costs of obtaining depositions or testimony.

2. If both competent authorities of the Contracting Parties consider it appropriate to do so they may agree to exchange technical know-how, develop new audit techniques, identify new areas of non-compliance, and jointly study non-compliance areas.

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

DONE in duplicate at St Peter Port this 26th day of September 2011, in the Slovenian and English languages, both texts being equally authentic.

For the Republic of Slovenia:
Iztok Jarc (s)

For the States of Guernsey:
Lyndon Trott (s)

3. člen

Za izvajanje sporazuma s protokolom skrbi ministrstvo, pristojno za finance.

4. člen

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

Št. 432-01/12-8/9
 Ljubljana, dne 14. junija 2012
 EPA 369-VI

Državni zbor
 Republike Slovenije
Jakob Presečnik l.r.
 Podpredsednik

Obvestila o začetku oziroma prenehanju veljavnosti mednarodnih pogodb

39. Obvestilo o začetku veljavnosti Sporazuma med Vlado Republike Slovenije in Vlado Republike Armenije o sodelovanju v izobraževanju, znanosti in kulturi

Na podlagi drugega odstavka 77. člena Zakona o zunanjih zadevah (Uradni list RS, št. 113/03 – uradno prečiščeno besedilo, 20/06 – ZNOMCMO, 76/08, 108/09 in 80/10 – ZUTD) Ministrstvo za zunanje zadeve

s p o r o č a,

da je dne 28. februarja 2012 začel veljati Sporazum med Vlado Republike Slovenije in Vlado Republike Armenije o sodelovanju v izobraževanju, znanosti in kulturi, podpisan v Erevanu 11. oktobra 2010 in objavljen v Uradnem listu Republike Slovenije – Mednarodne pogodbe, št. 5/11 (Uradni list Republike Slovenije, št. 38/11).

Ljubljana, dne 6. junija 2012

Ministrstvo za zunanje zadeve
Republike Slovenije

40. Obvestilo o začetku veljavnosti Sporazuma med Vlado Republike Slovenije in Vlado Republike Indonezije o odpravi vizumske obveznosti za imetnike diplomatskih in službenih potnih listov

Na podlagi drugega odstavka 77. člena Zakona o zunanjih zadevah (Uradni list RS, št. 113/03 – uradno prečiščeno besedilo, 20/06 – ZNOMCMO, 76/08, 108/09 in 80/10 – ZUTD) Ministrstvo za zunanje zadeve

s p o r o č a,

da je dne 2. junija 2012 začel veljati Sporazum med Vlado Republike Slovenije in Vlado Republike Indonezije o odpravi vizumske obveznosti za imetnike diplomatskih in službenih potnih listov, podpisan 26. novembra 2010 v Ljubljani in objavljen v Uradnem listu Republike Slovenije – Mednarodne pogodbe, št. 2/11 (Uradni list Republike Slovenije, št. 16/11).

Ljubljana, dne 11. junija 2012

Ministrstvo za zunanje zadeve
Republike Slovenije

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