

93. Uredba o ratifikaciji Sporazuma v obliki izmenjave pisem o obdavčevanju dohodka od prihrankov in začasni uporabi tega sporazuma, sklenjenega med Republiko Slovenijo in Otokom Man

Na podlagi petega odstavka 75. 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) izdaja Vlada Republike Slovenije

U R E D B O

o ratifikaciji Sporazuma v obliki izmenjave pisem o obdavčevanju dohodka od prihrankov in začasni uporabi tega sporazuma, sklenjenega med Republiko Slovenijo in Otokom Man

1. člen

Ratificira se Sporazum v obliki izmenjave pisem o obdavčevanju dohodka od prihrankov in začasni uporabi tega sporazuma, sklenjen z izmenjavo pisem 19. novembra 2004 med Republiko Slovenijo in Otokom Man.

2. člen

Besedilo sporazuma se v izvorniku v slovenskem in angleškem jeziku glasi:

S P O R A Z U M

V OBLIKI IZMENJAVE PISEM O OBDAVČEVANJU DOHODKA OD PRIHRANKOV IN ZAČASNI UPORABI TEGA SPORAZUMA

A. Pismo Republike Slovenije

Spoštovani!

V čast mi je, da se sklicujem na besedili "Predlaganega vzorčnega sporazuma med vsakim od otokov Guernsey, Otok Man in Jersey in vsako posamezno državo članico EU, ki bo uporabljala avtomatično izmenjavo podatkov", in "Predlaganega vzorčnega sporazuma med vsakim od otokov Guernsey, Otok Man in Jersey in vsako posamezno državo članico EU, ki bo v prehodnem obdobju uporabljala davčni odtegljaj", ki sta rezultat pogajanj z otoškimi organi o Sporazumu o obdavčevanju prihrankov in sta bila kot Priloga I oziroma Priloga II priložena izidom posvetovanja Skupine na visoki ravni Sveta ministrov Evropske unije 12. marca (Dok. 7408/04 FISC 58).

V čast mi je, da vam v zvezi z zgoraj omenjenima besediloma lahko predložim "Sporazum o obdavčevanju dohodka od prihrankov", kot je naveden v Dodatku 1 tega pisma, in predlagam, da se obe strani zavežeta čimprej opraviti formalnosti, predvidene v njihovih ustavah, za začetek veljavnosti tega sporazuma ter o zaključku teh formalnosti druga drugo nemudoma obvestita.

V pričakovanju zaključka teh notranjih postopkov in začetka veljavnosti "Sporazuma o obdavčevanju dohodka od prihrankov" predlagam, da Republika Slovenija in Otok Man ta sporazum začasno uporabljata v okviru naših notranjih ustavnih zahtev od 1. januarja 2005 ali datuma začetka uporabe Direktive Sveta 2003/48/ES z dne 3. junija 2003 o obdavčevanju dohodka od prihrankov v obliki plačil obresti, katerikoli je kasnejši.

A G R E E M E N T

IN THE FORM OF AN EXCHANGE OF LETTERS ON THE TAXATION OF SAVINGS INCOME AND THE PROVISIONAL APPLICATION THEREOF

A. Letter from the Republic of Slovenia

Sir,

I have the honour to refer to the texts of respectively the "Proposed Model Agreement between each of Guernsey, Isle of Man, and Jersey and each individual EU Member State that is to apply automatic exchange of information" and the "Proposed Model Agreement between each of Guernsey, Isle of Man, and Jersey and each individual EU Member State that is to apply the withholding tax in the transitional period", that resulted from the negotiations with the Island Authorities on a Savings Tax Agreement, and that were annexed, respectively as Annex I and Annex II, to the Outcome of Proceedings of the High Level Working Party of the Council of Ministers of the European Union of 12 March (Doc. 7408/04 FISC 58).

In view of the above mentioned texts I have the honour to propose to you the "Agreement on the taxation of savings income" as contained in Appendix 1 to this letter, and our mutual undertaking to comply at the earliest possible date with our internal constitutional formalities for the entry into force of this Agreement and to notify each other without delay when such formalities are completed.

Pending the completion of these internal procedures and the entry into force of this "Agreement on the taxation of savings income", I have the honour to propose to you that the Republic of Slovenia and the Isle of Man apply this Agreement provisionally, within the framework of our respective domestic constitutional requirements, as from 1 January 2005, or the date of application of Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments, whichever is later.

Če se vaša vlada z navedenim strinja, predlagam, da to pismo in vaš odgovor nanj skupaj tvorita sporazum med Republiko Slovenijo in Otokom Man.

Prosim, sprejmite izraze našega najglobljega spoštovanja.

Za Republiko Slovenijo
Dušan Mramor l.r.
Minister za finance

V Ljubljani, dne 7. maja 2004 v slovenskem in angleškem jeziku v treh izvodih.

B. Pismo Otoka Man
Spoštovani!

V čast mi je potrditi prejem vašega današnjega pisma, v katerem je zapisano:

"Spoštovani!

V čast mi je, da se sklicujem na besedilo "Predlaganega vzorčnega sporazuma med vsakim od otokov Guernsey, Otok Man in Jersey in vsako posamezno državo članico EU, ki bo uporabljala avtomatično izmenjavo podatkov", in "Predlaganega vzorčnega sporazuma med vsakim od otokov Guernsey, Otok Man in Jersey in vsako posamezno državo članico EU, ki bo v prehodnem obdobju uporabljala davčni odtegljaj", ki sta rezultat pogajanj z otoškimi organi o Sporazumu o obdavčevanju prihrankov in sta bila kot Priloga I oziroma Priloga II priložena izidom posvetovanja Skupine na visoki ravni Sveta ministrov Evropske unije 12. marca (Dok. 7408/04 FISC 58).

V čast mi je, da vam v zvezi z zgoraj omenjenima besediloma lahko predložim "Sporazum o obdavčevanju dohodka od prihrankov", kot je naveden v Dodatku 1 tega pisma, in predlagam, da se obe strani zavežeta čimprej opraviti formalnosti, predvidene v njihovih ustavah, za začetek veljavnosti tega sporazuma ter o zaključku teh formalnosti druga drugo nemudoma obvestita.

V pričakovanju zaključka teh notranjih postopkov in začetka veljavnosti "Sporazuma o obdavčevanju dohodka od prihrankov" predlagam, da Republika Slovenija in Otok Man ta sporazum začasno uporabljata v okviru naših notranjih ustavnih zahtev od 1. januarja 2005 ali datuma začetka uporabe Direktive Sveta 2003/48/ES z dne 3. junija 2003 o obdavčevanju dohodka od prihrankov v obliki plačil obresti, katerikoli je kasnejši.

Če se vaša vlada z navedenim strinja, predlagam, da to pismo in vaš odgovor nanj skupaj tvorita sporazum med Republiko Slovenijo in Otokom Man.

Prosim, sprejmite izraze našega najglobljega spoštovanja."

Potrdim lahko, da se Otok Man strinja z vsebino vašega pisma.

Prosim, sprejmite izraze mojega najglobljega spoštovanja.

Za Otok Man
Allan R. Bell l.r.
Finančni minister

V Douglasu, 19. 11. 2004 v angleškem in slovenskem jeziku v treh izvodih.

I have the honour to propose that, if the above is acceptable to your Government, this letter and your confirmation shall together constitute an Agreement between the Republic of Slovenia and the Isle of Man.

Please accept, Sir, the assurance of our highest consideration,

For the Republic of Slovenia
Dušan Mramor (s)
Minister of Finance

Done at Ljubljana, on 7 May 2004 in the Slovenian and English languages in three copies.

B. Letter from the Isle of Man
Sir,

I have the honour to acknowledge receipt of your letter of today's date, which reads as follows:

"Sir,

I have the honour to refer to the texts of respectively the "Proposed Model Agreement between each of Guernsey, Isle of Man, and Jersey and each individual EU member State that is to apply automatic exchange of information" and the "Proposed Model Agreement between each of Guernsey, Isle of Man, and Jersey and each individual EU member State that is to apply the withholding tax in the transitional period", that resulted from the negotiations with the Island Authorities on a Savings Tax Agreement, and that were annexed, respectively as Annex I and Annex II, to the Outcome of Proceedings of the High Level Working Party of the Council of Ministers of the European Union of 12 March (Doc. 7408/04 FISC 58).

In view of the above mentioned texts I have the honour to propose to you the "Agreement on the taxation of savings income" as contained in Appendix 1 to this letter, and our mutual undertaking to comply at the earliest possible date with our internal constitutional formalities for the entry into force of this Agreement and to notify each other without delay when such formalities are completed.

Pending the completion of these internal procedures and the entry into force of this "Agreement on the taxation of savings income", I have the honour to propose to you that the Republic of Slovenia and the Isle of Man apply this Agreement provisionally, within the framework of our respective domestic constitutional requirements, as from 1 January 2005, or the date of application of Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments, whichever is later.

I have the honour to propose that, if the above is acceptable to your Government, this letter and your confirmation shall together constitute an Agreement between the Republic of Slovenia and the Isle of Man.

Please accept, Sir, the assurance of our highest consideration,"

I am able to confirm that the Isle of Man is in agreement with the contents of your letter.

Please accept, Sir, the assurance of my highest consideration,

For the Isle of Man
Allan R. Bell (s)
Treasury Minister

Done at Douglas on 19. 11. 2004 in the English and Slovenian languages in three copies.

Dodatek 1

Appendix 1

SPORAZUM O OBDAVČEVANJU DOHODKA
OD PRIHRANKOV MED OTOKOM MAN
IN REPUBLIKO SLOVENIJO

OB UPOŠTEVANJU NASLEDNJEGA:

1. Člen 17 Direktive 2003/48/EGS ("Direktiva") Sveta Evropske unije ("Svet") o obdavčevanju dohodka od prihrankov predvideva, da države članice do 1. januarja 2004 sprejmejo in objavijo zakone in druge predpise, potrebne za uskladitev s to direktivo, katere določbe se uporabljajo od 1. januarja 2005, pod pogojem, da

"i) Švicarska konfederacija, Kneževina Lihtenštajn, Republika San Marino, Kneževina Monako in Kneževina Andora z istim dnem uporabljajo ukrepe, ki so enakovredni ukrepom iz te direktive, skladno s sporazumi, ki jih te države sklenejo z Evropsko skupnostjo na podlagi soglasne odločitve Sveta;

ii) so v veljavi vsi sporazumi ali drugi dogovori, ki zagotavljajo, da vsa odvisna ali pridružena ozemlja z istim dnem uporabljajo avtomatično izmenjavo podatkov na enak način, kot je določeno v poglavju II te direktive, (ali v prehodnem obdobju, ki ga določa člen 10, uporabljajo davčni odtegljaj pod enakimi pogoji, kot jih vsebuje člena 11 in 12)".

2. Odnose med Otokom Man in EU ureja Protokol št. 3 Pogodbe o pristopu Združenega kraljestva k Evropski skupnosti. Skladno s Protokolom Otok Man ni del davčnega območja EU.

3. Otok Man ugotavlja, da je sicer končni cilj držav članic EU omogočiti učinkovito obdavčevanje plačil obresti v državi članici, katere rezident je upravičeni lastnik za davčne namene, z izmenjavo podatkov o plačilih obresti med državami članicami, da pa trem državam članicam, in sicer Avstriji, Belgiji in Luksemburgu, v prehodnem obdobju ni treba uporabljati avtomatične izmenjave podatkov, temveč morajo uvesti davčni odtegljaj za dohodek od prihrankov, zajet v Direktivi.

4. "Davčni odtegljaj" iz Direktive bo v domači zakonodaji Otoka Man označen kot "retencijski davek". Za namene tega sporazuma se zato oba termina pišeta skupaj kot "davčni odtegljaj /retencijski davek" in imata enak pomen.

5. Otok Man je privolil v uporabo retencijskega davka z učinkom od 1. januarja 2005, pod pogojem, da države članice sprejmejo zakone in druge predpise, potrebne za uskladitev z Direktivo, in pod pogojem, da so na splošno izpolnjene zahteve člena 17 Direktive in člena 17(2) tega sporazuma.

6. Otok Man je privolil v uporabo avtomatične izmenjave podatkov na enak način, kot je predviden v poglavju II Direktive, od konca prehodnega obdobja, določenega v členu 10(2) Direktive.

7. Otok Man razpolaga z zakonodajo o kolektivnih naložbenih podjetjih, za katero se šteje, da ima enak učinek kakor zakonodaja ES iz členov 2 in 6 Direktive.

Otok Man in Republika Slovenija, v nadaljevanju "pogodbena" ali "pogodbenici", razen če sobesedilo ne zahteva drugače,

sta se dogovorili o sklenitvi naslednjega sporazuma, ki vsebuje obveznosti samo za pogodbenici in predvideva:

a) avtomatično izmenjavo podatkov pristojnega organa Republike Slovenije pristojnemu organu Otoka Man na enak način kot pristojnemu organu države članice;

AGREEMENT ON THE TAXATION OF SAVINGS INCOME
BETWEEN THE ISLE OF MAN AND THE REPUBLIC
OF SLOVENIA

WHEREAS:

1. Article 17 of Directive 2003/48/EEC ("the Directive") of the Council of the European Union ("the Council") on taxation of savings income provides that before 1 January 2004 Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive which provisions shall be applied from 1 January 2005 provided that:

"(i) the Swiss Confederation, the Principality of Liechtenstein, the Republic of San Marino, the Principality of Monaco and the Principality of Andorra apply from that same date measures equivalent to those contained in this Directive, in accordance with agreements entered into by them with the European Community, following unanimous decisions of the Council;

(ii) all agreements or other arrangements are in place, which provide that all the relevant dependent or associated territories apply from that same date automatic exchange of information in the same manner as is provided for in Chapter II of this Directive, (or, during the transitional period defined in Article 10, apply a withholding tax on the same terms as are contained in Articles 11 and 12)".

2. The relationship of the Isle of Man with the EU is determined by Protocol 3 of the Treaty of Accession of the United Kingdom to the European Community. Under the terms of the Protocol the Isle of Man is not within the EU fiscal territory.

3. The Isle of Man notes that, while it is the ultimate aim of the EU Member States to bring about effective taxation of interest payments in the beneficial owner's Member State of residence for tax purposes through the exchange of information concerning interest payments between themselves, three Member States, namely Austria, Belgium and Luxembourg, during a transitional period, shall not be required to exchange information but shall apply a withholding tax to the savings income covered by the Directive.

4. The "withholding tax" referred to in the Directive will be referred to as the "retention tax" in the Isle of Man's domestic legislation. For the purposes of this Agreement the two terms therefore are to be read coterminously as "withholding/retention tax" and shall have the same meaning.

5. The Isle of Man has agreed to apply a retention tax with effect from 1 January 2005 provided the Member States have adopted the laws, regulations, and administrative provisions necessary to comply with the Directive, and the requirements of Article 17 of the Directive and Article 17(2) of this Agreement have generally been met.

6. The Isle of Man has agreed to apply automatic exchange of information in the same manner as is provided for in Chapter II of the Directive from the end of the transitional period as defined in Article 10(2) of the Directive.

7. The Isle of Man has legislation relating to undertakings for collective investment that is deemed to be equivalent in its effect to the EC legislation referred to in Articles 2 and 6 of the Directive.

The Isle of Man and the Republic of Slovenia hereinafter referred to as a "contracting party" or the "contracting parties" unless the context otherwise requires,

Have agreed to conclude the following agreement which contains obligations on the part of the contracting parties only and provides for:

(a) the automatic exchange of information by the competent authority of the Republic of Slovenia to the competent authority of the Isle of Man in the same manner as to the competent authority of a Member State;

b) uporabo retencijskega davka s strani Otoka Man v prehodnem obdobju, določenem v členu 10 Direktive, od enakega datuma in pod enakimi pogoji, kot so določeni v členih 11 in 12 te Direktive;

c) avtomatično izmenjavo podatkov pristojnega organa Otoka Man pristojnemu organu Republike Slovenije v skladu s členom 13 Direktive;

d) prenos 75 % prihodka od retencijskega davka s strani pristojnega organa Otoka Man pristojnemu organu Republike Slovenije;

v zvezi s plačili obresti, ki jih opravi plačilni zastopnik, ustanovljen v državi pogodbenici fizični osebi, rezidentu druge države pogodbenice.

Za namene tega sporazuma pomeni izraz 'pristojni organ', kadar se uporablja za pogodbenici, Ministrstvo za finance Republike Slovenije ali pooblaščenega zastopnika ministrstva, ko gre za Republiko Slovenijo, in The Chief Financial Officer of the Treasury or his delegate, ko gre za Otok Man.

Člen 1 Zadržanje davka s strani plačilnih zastopnikov

Za plačila obresti v smislu člena 8 tega sporazuma, ki jih opravijo plačilni zastopniki, ustanovljeni na Otoku Man upravičenim lastnikom v smislu člena 5 tega sporazuma, ki so rezidenti Republike Slovenije, se po členu 3 tega sporazuma v prehodnem obdobju iz člena 14 tega sporazuma od datuma, predvidenega v členu 15 tega sporazuma, uporablja retencijski davek. Stopnja retencijskega davka v prvih treh letih prehodnega obdobja znaša 15 %, v naslednjih treh letih 20 % in nato 35 %.

Člen 2 Podatki, ki jih poročajo plačilni zastopniki

(1) Kadar plačila obresti, kot jih opredeljuje člen 8 tega sporazuma, plačilni zastopnik, ustanovljen v Republici Sloveniji plača upravičenim lastnikom, kot jih opredeljuje člen 5 tega sporazuma, ki so rezidenti Otoka Man, ali če se uporabljajo določbe člena 3(1)(a) tega sporazuma, plačilni zastopnik pristojnemu organu poroča:

- a) identiteto in rezidentstvo upravičenega lastnika, ugotovljeno v skladu s členom 6 tega sporazuma;
- b) naziv in naslov plačilnega zastopnika;
- c) številko računa upravičenega lastnika ali, če nima računa, podatke o dolžniški terjatvi, iz katere izhajajo obresti;

d) podatke o plačilu obresti v skladu s členom 4(1) tega sporazuma. Vsaka pogodbenica pa lahko omeji minimalne podatke o plačilu obresti, ki jih mora poročati plačilni zastopnik, na skupni znesek obresti ali dohodka in na skupni znesek prihodka od prodaje, odkupa ali povračila,

Republika Slovenija pa bo ravnala v skladu z odstavkom 2 tega člena.

(2) V šestih mesecih po koncu njihovega davčnega leta pristojni organ Republike Slovenije avtomatično sporoči podatke iz odstavka (1)(a)–(d) tega člena pristojnemu organu Otoka Man za vsa plačila obresti v tem letu.

Člen 3 Izjeme pri postopku retencije davka

(1) Otok Man, ki pobira retencijski davek v skladu s členom 1 tega sporazuma, predpiše enega ali oba izmed naslednjih postopkov, po katerih lahko upravičeni lastnik zahteva, da se davek ne odtegne:

a) postopek, ki omogoča, da se upravičeni lastnik, kot ga opredeljuje člen 5 tega sporazuma, izogne retencijskemu davku v skladu s členom 1 tega sporazuma z izrecnim pooblastilom plačilnega zastopnika za poročanje podatkov pristojnemu organu pogodbenice, v kateri je plačilni zastopnik ustanovljen. Tako pooblastilo zajema vsa plačila obresti, ki jih upravičenemu lastniku plača ta plačilni zastopnik;

(b) the application by the Isle of Man, during the transitional period defined in Article 10 of the Directive, of a retention tax from the same date and on the same terms as are contained in Articles 11 and 12 of that Directive;

(c) the automatic exchange of information by the competent authority of the Isle of Man to the competent authority of the Republic of Slovenia in accordance with Article 13 of the Directive;

(d) the transfer by the competent authority of the Isle of Man to the competent authority of the Republic of Slovenia of 75 % of the revenue of the retention tax;

in respect of interest payments made by a paying agent established in a contracting party to an individual resident in the other contracting party.

For the purposes of this Agreement the term 'competent authority' when applied to the contracting parties means "the Ministry of Finance of the Republic of Slovenia or its authorised representative" in respect of the Republic of Slovenia and "the Chief Financial Officer of the Treasury or his delegate" in respect of the Isle of Man.

Article 1 Retention of Tax by Paying Agents

Interest payments as defined in Article 8 of this Agreement which are made by a paying agent established in the Isle of Man to beneficial owners within the meaning of Article 5 of this Agreement who are residents of the Republic of Slovenia shall, subject to Article 3 of this Agreement, be subject to a retention from the amount of interest payment during the transitional period referred to in Article 14 of this Agreement starting at the date referred to in Article 15 of this Agreement. The rate of retention tax shall be 15 % during the first three years of the transitional period, 20 % for the subsequent three years and 35 % thereafter.

Article 2 Reporting of Information by Paying Agents

(1) Where interest payments, as defined in Article 8 of this Agreement, are made by a paying agent established in the Republic of Slovenia to beneficial owners, as defined in Article 5 of this Agreement, who are residents of the Isle of Man, or where the provisions of Article 3(1)(a) of this Agreement apply, the paying agent shall report to its competent authority:

- (a) the identity and residence of the beneficial owner established in accordance with Article 6 of this Agreement;
- (b) the name and address of the paying agent;
- (c) the account number of the beneficial owner or, where there is none, identification of the debt claim giving rise to the interest;

(d) information concerning the interest payment specified in Article 4(1) of this Agreement. However, each contracting party may restrict the minimum amount of information concerning interest payment to be reported by the paying agent to the total amount of interest or income and to the total amount of the proceeds from sale, redemption or refund;

and the Republic of Slovenia will comply with paragraph (2) of this Article.

(2) Within six months following the end of the tax year, the competent authority of the Republic of Slovenia shall communicate to the competent authority of the Isle of Man, automatically, the information referred to in paragraph (1) (a)–(d) of this Article, for all interest payments made during that year.

Article 3 Exceptions to the Retention Tax Procedure

(1) The Isle of Man when levying a retention tax in accordance with Article 1 of this Agreement shall provide for one or both of the following procedures in order to ensure that the beneficial owners may request that no tax be retained:

(a) a procedure which allows the beneficial owner as defined in Article 5 of this Agreement to avoid the retention tax specified in Article 1 of this Agreement by expressly authorising his paying agent to report the interest payments to the competent authority of the contracting party in which the paying agent is established. Such authorisation shall cover all interest payments made to the beneficial owner by that paying agent;

b) postopek, ki zagotavlja, da se retencijski davek ne odtegne, če upravičeni lastnik plačilnemu zastopniku predloži potrdilo, ki se glasi na njegovo ime in ga je izdal pristojni organ pogodbenice, katere rezident je upravičeni lastnik za davčne namene, v skladu z odstavkom 2 tega člena.

(2) Na zahtevo upravičenega lastnika pristojni organ pogodbenice, katere rezident je za davčne namene, izda potrdilo, ki vsebuje:

i) ime, naslov in davčno ali drugo identifikacijsko številko ali, če takšna številka ne obstaja, datum in kraj rojstva upravičenega lastnika;

ii) naziv in naslov plačilnega zastopnika;

iii) številko računa upravičenega lastnika ali, če račun ne obstaja, podatke o vrednostnem papirju.

Takšno potrdilo velja v obdobju, ki ni daljše od treh let. Potrdilo se izda vsakemu upravičenemu lastniku, ki ga zahteva, v dveh mesecih od vložitve take zahteve.

(3) Če se uporablja odstavek (1)(a) tega člena, pristojni organ Otoka Man, kjer je plačilni zastopnik ustanovljen, sporoči podatke iz člena 2(1) tega sporazuma pristojnemu organu Republike Slovenije, katere rezident je upravičeni lastnik. Takšno sporočanje podatkov je avtomatično in se opravi vsaj enkrat letno v šestih mesecih po koncu davčnega leta, določenega z zakoni pogodbenice, za vsa plačila obresti v tem letu.

Člen 4 Osnova za odmero retencijskega davka

(1) Plačilni zastopnik, ustanovljen na Otoku Man pobira davek v skladu s členom 1 tega sporazuma na naslednji način:

a) v primeru plačila obresti v smislu člena 8(1)(a) tega sporazuma: od bruto zneska plačanih ali pripisanih obresti;

b) v primeru plačila obresti v smislu člena 8(1)(a) ali (d) tega sporazuma: od zneska obresti ali dohodka iz točke (b) ali (d) tega pododstavka ali z enakovredno dajatvijo na skupni znesek prihodkov od prodaje, odkupa ali povračila, ki bremeni prejemnika;

c) v primeru plačila obresti v smislu člena 8(1)(c) tega sporazuma: od zneska obresti iz navedenega pododstavka;

d) v primeru plačila obresti v smislu člena 8(4) tega sporazuma: od zneska obresti, pripisanih vsakemu članu subjekta iz člena 7(2) tega sporazuma, ki izpolnjujejo pogoje iz členov 5(1) tega sporazuma;

e) če Otok Man izkoristi možnost iz člena 8(5) tega sporazuma: od zneska letno obračunanih obresti.

(2) Za namene točke (a) in (b) odstavka (1) tega člena se retencijski davek pobira sorazmerno dolžini obdobja, v katerem je upravičeni lastnik imel dolžniško terjatev. Kadar plačilni zastopnik na podlagi podatkov, ki jih ima na voljo, ne more ugotoviti dolžine obdobja, v katerem je upravičeni lastnik imel terjatev, šteje, da je upravičeni lastnik imel terjatev ves čas njegove obstoja, razen če upravičeni lastnik ne predloži dokazila o datumu pridobitve terjatve.

(3) Obdavčenje z retencijskim davkom na Otoku Man drugi pogodbenici, katere rezident je upravičeni lastnik za davčne namene, ne preprečuje obdavčevanja dohodka v skladu z njeno nacionalno zakonodajo.

(4) V prehodnem obdobju lahko Otok Man določi, da se nosilec gospodarske dejavnosti, ki plača obresti ali zagotovi obresti za subjekt iz člena 7(2) tega sporazuma v drugi pogodbenici, šteje za plačilnega zastopnika namesto subjekta in pobira retencijski davek od teh obresti, razen če se subjekt ni uradno strinjal, da se podatki o njegovem nazivu, naslovu in skupnem znesku plačanih ali zagotovljenih obresti sporočijo v skladu z zadnjim odstavkom člena 7(2) tega sporazuma.

(b) a procedure which ensures that retention tax shall not be levied where the beneficial owner presents to his paying agent a certificate drawn up in his name by the competent authority of the contracting party of residence for tax purposes in accordance with paragraph (2) of this Article.

(2) At the request of the beneficial owner, the competent authority of the contracting party of the country of residence for tax purposes shall issue a certificate indicating:

(i) the name, address and tax or other identification number or, failing such, the date and place of birth of the beneficial owner;

(ii) the name and address of the paying agent;

(iii) the account number of the beneficial owner or, where there is none, the identification of the security.

Such certificate shall be valid for a period not exceeding three years. It shall be issued to any beneficial owner who requests it, within two months following such request.

(3) Where paragraph (1)(a) of this Article applies, the competent authority of the Isle of Man in which the paying agent is established shall communicate the information referred to in Article 2(1) of this Agreement to the competent authority of the Republic of Slovenia as the country of residence of the beneficial owner. Such communications shall be automatic and shall take place at least once a year, within six months following the end of the tax year established by the laws of a contracting party, for all interest payments made during that year.

Article 4 Basis of assessment for retention tax

(1) A paying agent established in the Isle of Man shall levy retention tax in accordance with Article 1 of this Agreement as follows:

(a) in the case of an interest payment within the meaning of Article 8(1)(a) of this Agreement: on the gross amount of interest paid or credited;

(b) in the case of an interest payment within the meaning of Article 8(1)(b) or (d) of this Agreement: on the amount of interest or income referred to in (b) or (d) of that paragraph or by a levy of equivalent effect to be borne by the recipient on the full amount of the proceeds of the sale, redemption or refund;

(c) in the case of an interest payment within the meaning of Article 8(1)(c) of this Agreement: on the amount of interest referred to in that sub-paragraph;

(d) in the case of an interest payment within the meaning of Article 8(4) of this Agreement: on the amount of interest attributable to each of the members of the entity referred to in Article 7(2) of this Agreement who meet the conditions of Article 5(1) of this Agreement;

(e) where the Isle of Man exercises the option under Article 8(5) of this Agreement: on the amount of annualised interest.

(2) For the purposes of sub-paragraphs (a) and (b) of paragraph (1) of this Article, the retention tax shall be deducted on a pro rata basis to the period during which the beneficial owner held the debt-claim. If the paying agent is unable to determine the period of holding on the basis of the information made available to him, the paying agent shall treat the beneficial owner as having been in possession of the debt-claim for the entire period of its existence, unless the latter provides evidence of the date of the acquisition.

(3) The imposition of retention tax by the Isle of Man shall not preclude the other contracting party of residence for tax purposes of the beneficial owner from taxing income in accordance with its national law.

(4) During the transitional period, the Isle of Man may provide that an economic operator paying interest to, or securing interest for, an entity referred to in Article 7(2) of this Agreement in the other contracting party shall be considered the paying agent in place of the entity and shall levy the retention tax on that interest, unless the entity has formally agreed to its name, address and the total amount of the interest paid to it or secured for it being communicated in accordance with the last paragraph of Article 7(2) of this Agreement.

Člen 5 Opredelitev upravičenega lastnika

(1) V tem sporazumu "upravičeni lastnik" pomeni vsakega posameznika, ki prejme plačilo obresti ali posameznika, za katerega se zagotovi plačilo obresti, razen če predloži dokazilo, da obresti ni prejel v lastno korist ali da niso bile zagotovljene v njegovo korist. Posameznik se ne šteje za upravičenega lastnika, če:

a) deluje kot plačilni zastopnik v smislu člena 7(1) tega sporazuma;

b) deluje v imenu pravne osebe, subjekta, katerega dobiček se obdavčuje po splošni ureditvi za podjetniško obdavčitev, KNPVP, priznan v skladu z Direktivo 85/611/EGS, ali enakovrednega kolektivnega naložbenega podjetja ustanovljenega na Otoku Man, ali v imenu subjekta iz člena 7(2) tega sporazuma, pri čemer v zadnjem primeru naziv in naslov subjekta razkrije nosilcu gospodarske dejavnosti, ki izvrši plačilo obresti, ta pa te podatke sporoči pristojnemu organu države članice, v kateri je ustanovljen;

c) deluje v imenu drugega posameznika, ki je upravičeni lastnik, in identiteto upravičenega lastnika razkrije plačilnemu zastopniku.

(2) Kadar ima plačilni zastopnik podatke, ki kažejo na to, da posameznik, ki prejme plačilo obresti ali za katerega se zagotovi plačilo obresti, ni nujno tudi upravičeni lastnik, in kadar se za navedenega posameznika ne uporablja nobeden od odstavkov (1)(a) in (1)(b) tega člena, izvede vse razumne ukrepe za ugotovitev identitete upravičenega lastnika. Če plačilni zastopnik ne more ugotoviti identitete upravičenega lastnika, zadevnega posameznika obravnava kot upravičenega lastnika.

Člen 6 Identiteta in rezidentstvo upravičenih lastnikov

(1) Vsaka pogodbenica na svojem ozemlju sprejme in zagotovi uporabo potrebnih postopkov, ki plačilnemu zastopniku omogočajo identificirati upravičene lastnike in njihovo rezidentstvo za namene tega sporazuma. Takšni postopki so v skladu z minimalnimi standardi, določenimi v odstavkih (2) in (3).

(2) Plačilni zastopnik ugotavlja identiteto upravičenega lastnika na podlagi minimalnih standardov, ki se razlikujejo glede na to, kdaj se vzpostavi razmerje med plačilnim zastopnikom in prejemnikom obresti, na naslednji način:

a) pri pogodbenih razmerjih, ki so bila sklenjena pred 1. januarjem 2004, plačilni zastopnik ugotavlja identiteto upravičenega lastnika, ki jo sestavljata njegovo ime in naslov, iz podatkov, ki jih ima na voljo, zlasti v skladu z veljavnimi predpisi države, v kateri je ustanovljen ter v skladu z Direktivo Sveta 91/308/EGS z dne 10. junija 1991 v primeru Republike Slovenije ali z enakovredno zakonodajo o preprečevanju uporabe finančnega sistema za pranje denarja v primeru Otoka Man;

b) pri pogodbenih razmerjih, ki so bila sklenjena, ali pri transakcijah, ki so bile opravljene brez pogodbenega razmerja na dan 1. januarja 2004 ali po njem, plačilni zastopnik k ugotavlja identiteto upravičenega lastnika, ki jo sestavljajo njegovo ime, naslov in morebitna davčna identifikacijska številka, ki mu jo je dodelila država članica, katere rezident je za davčne namene. Ti podatki se ugotavljajo na podlagi potnega lista ali uradne osebne izkaznice, ki jo predloži upravičeni lastnik. Če v potnem listu ali na uradni osebni izkaznici ni naslova, se ta ugotavlja na podlagi katerega koli drugega dokazila o identiteti, ki ga predloži upravičeni lastnik. Če na potnem listu, na uradni osebni izkaznici ali na katerem koli drugem dokazilu o identiteti, po možnosti vključno s potrdilom o rezidentstvu za davčne namene, ki ga predloži upravičeni lastnik, davčna identifikacijska številka ni navedena, se identiteta dopolni z datumom in krajem rojstva upravičenega lastnika, ki se ugotovi iz potnega lista ali uradne osebne izkaznice.

Article 5 Definition of beneficial owner

(1) For the purposes of this Agreement, "beneficial owner" shall mean any individual who receives an interest payment or any individual for whom an interest payment is secured, unless such individual can provide evidence that the interest payment was not received or secured for his own benefit. An individual is not deemed to be the beneficial owner when he:

(a) acts as a paying agent within the meaning of Article 7(1) of this Agreement;

(b) acts on behalf of a legal person, an entity which is taxed on its profits under the general arrangements for business taxation, an UCITS authorised in accordance with Directive 85/611/EEC or an equivalent undertaking for collective investment established in the Isle of Man, or an entity referred to in Article 7(2) of this Agreement and, in the last mentioned case, discloses the name and address of that entity to the economic operator making the interest payment and the latter communicates such information to the competent authority of its contracting party of establishment;

(c) acts on behalf of another individual who is the beneficial owner and discloses to the paying agent the identity of that beneficial owner.

(2) Where a paying agent has information suggesting that the individual who receives an interest payment or for whom an interest payment is secured may not be the beneficial owner, and where neither paragraph (1)(a) nor (1)(b) of this Article applies, it shall take reasonable steps to establish the identity of the beneficial owner. If the paying agent is unable to identify the beneficial owner, it shall treat the individual in question as the beneficial owner.

Article 6 Identity and residence of beneficial owners

(1) Each Party shall, within its territory, adopt and ensure the application of the procedures necessary to allow the paying agent to identify the beneficial owners and their residence for the purposes of this Agreement. Such procedures shall comply with the minimum standards established in paragraphs (2) and (3).

(2) The paying agent shall establish the identity of the beneficial owner on the basis of minimum standards which vary according to when relations between the paying agent and the recipient of the interest are entered into, as follows:

(a) for contractual relations entered into before 1 January 2004, the paying agent shall establish the identity of the beneficial owner, consisting of his name and address, by using the information at its disposal, in particular pursuant to the regulations in force in its country of establishment and to Council Directive 91/308/EEC of the 10th June, 1991 in the case of the Republic of Slovenia or equivalent legislation in the case of the Isle of Man on prevention of the use of the financial system for the purpose of money laundering;

(b) for contractual relations entered into, or transactions carried out in the absence of contractual relations, on or after 1 January, 2004 the paying agent shall establish the identity of the beneficial owner, consisting of the name, address and, if there is one, the tax identification number allocated by the Member State of residence for tax purposes. These details should be established on the basis of the passport or of the official identity card presented by the beneficial owner. If it does not appear on that passport or official identity card, the address shall be established on the basis of any other documentary proof of identity presented by the beneficial owner. If the tax identification number is not mentioned on the passport, on the official identity card or any other documentary proof of identity, including, possibly the certificate of residence for tax purposes, presented by the beneficial owner, the identity shall be supplemented by a reference to the latter's date and place of birth established on the basis of his passport or official identification card.

(3) Plačilni zastopnik ugotavlja rezidentstvo upravičenega lastnika na podlagi minimalnih standardov, ki se razlikujejo glede na to, kdaj se vzpostavi razmerje med plačilnim zastopnikom in prejemnikom obresti. Ob upoštevanju spodaj navedenih pogojev se šteje, da je rezidentstvo v državi, v kateri ima upravičeni lastnik stalni naslov:

a) pri pogodbenih razmerjih, ki so bila sklenjena pred 1. januarjem 2004, plačilni zastopnik ugotavlja rezidentstvo upravičenega lastnika iz podatkov, ki jih ima na voljo, zlasti v skladu z veljavnimi predpisi države, v kateri je ustanovljen, in z Direktivo 91/308/EGS v primeru Republike Slovenije ali enakovredno zakonodajo v primeru Otoka Man;

b) pri pogodbenih razmerjih, ki so bila sklenjena, ali pri transakcijah, ki so bile opravljene brez pogodbenega razmerja, na dan 1. januarja 2004 ali po njem, plačilni zastopnik ugotavlja rezidentstvo upravičenega lastnika na podlagi naslova, navedenega v potnem listu, na uradni osebni izkaznici ali, po potrebi, na podlagi drugega dokumentarnega dokazila o identiteti, ki ga predloži upravičeni lastnik, in skladno z naslednjim postopkom: pri posameznikih, ki predložijo potni list ali uradno osebno izkaznico, ki jo je izdala država članica, in ki izjavijo, da so rezidenti tretje države, se rezidentstvo ugotavlja na podlagi potrdila o davčnem rezidentstvu, ki ga izda pristojni organ tretje države, za katero posameznik trdi, da je njen rezident. Če posameznik takšnega potrdila ne predloži, se za državo rezidentstva šteje država članica, ki je izdala potni list ali drug uradni osebni dokument.

Člen 7 Opredelitev plačilnega zastopnika

(1) V tem sporazumu "plačilni zastopnik" pomeni vsakega nosilca gospodarske dejavnosti, ki plača ali zagotovi plačilo obresti v neposredno korist upravičenega lastnika, bodisi da je nosilec dolžnik terjatve, za katero se plačajo obresti, ali nosilec, ki po nalogu dolžnika ali upravičenega lastnika plača ali zagotovi plačilo obresti.

(2) Vsak subjekt, ki je ustanovljen v pogodbenici, kateremu se plačajo obresti ali zagotovi plačilo obresti v korist upravičenega lastnika, se ob takem plačilu ali ob zagotovitvi takega plačila šteje za plačilnega zastopnika. Ta določba se ne uporablja, če nosilec e dejavnosti na podlagi uradnih dokazil, ki jih ta subjekt predloži, utemeljeno domneva, da:

- a) je subjekt pravna oseba, z izjemo pravnih oseb iz odstavka (5) tega člena; ali
- b) so dobički subjekta obdavčeni po splošni ureditvi za podjetniško obdavčitev; ali
- c) je subjekt KNPVP, priznan v skladu z Direktivo 85/611/EGS Sveta ali enakovreden kolektivni naložbeni podjetem, ustanovljen Otoku Man.

Nosilec gospodarske dejavnosti, ki plača ali zagotovi plačilo obresti takšnemu subjektu, ki je ustanovljen v drugi pogodbenici, ki se po tem odstavku šteje za plačilnega zastopnika, sporoči naziv in naslov subjekta ter skupni znesek subjektu plačanih ali zagotovljenih obresti pristojnemu organu pogodbenice, v kateri je ustanovljen, ta pa te podatke pošlje pristojnemu organu pogodbenice, v kateri je subjekt ustanovljen.

(3) Vendar ima subjekt iz odstavka (2) tega člena možnost, da se ga za namene tega sporazuma obravnava kot KNPVP ali enakovreden podjetem iz odstavka (2)(c). To možnost lahko subjekt izkoristi tako, da nosilcu gospodarske dejavnosti predloži potrdilo, ki ga izda pogodbenica, v kateri je subjekt ustanovljen. Pogodbenica določi podrobna pravila glede možnosti za subjekte, ki so ustanovljeni na njenem ozemlju.

(3) The paying agent shall establish the residence of the beneficial owner on the basis of minimum standards which vary according to when relations between the paying agent and the recipient of the interest are entered into. Subject to the conditions set out below, residence shall be considered to be situated in the country where the beneficial owner has his permanent address:

(a) for contractual relations entered into before 1 January, 2004 the paying agent shall establish the residence of the beneficial owner by using the information at its disposal, in particular pursuant to the regulations in force in its country of establishment and to Directive 91/308/EEC in the case of the Republic of Slovenia or equivalent legislation in the case of the Isle of Man;

(b) for contractual relations entered into, or transactions carried out in the absence of contractual relations, on or after 1 January, 2004, the paying agents shall establish the residence of the beneficial owner on the basis of the address mentioned on the passport, on the official identity card or, if necessary, on the basis of any documentary proof of identity presented by the beneficial owner and according to the following procedure: for individuals presenting a passport or official identity card issued by a Member State who declare themselves to be resident in a third country, residence shall be established by means of a tax residence certificate issued by the competent authority of the third country in which the individual claims to be resident. Failing the presentation of such a certificate, the Member State which issued the passport or other official identity document shall be considered to be the country of residence.

Article 7 Definition of paying agent

(1) For the purposes of this Agreement, 'paying agent' means any economic operator who pays interest to or secures the payment of interest for the immediate benefit of the beneficial owner, whether the operator is the debtor of the debt claim which produces the interest or the operator charged by the debtor or the beneficial owner with paying interest or securing the payment of interest.

(2) Any entity established in a contracting party to which interest is paid or for which interest is secured for the benefit of the beneficial owner shall also be considered a paying agent upon such payment or securing of such payment. This provision shall not apply if the economic operator has reason to believe, on the basis of official evidence produced by that entity that:

- (a) it is a legal person with the exception of those legal persons referred to in paragraph (5) of this Article; or
- (b) its profits are taxed under the general arrangements for business taxation; or
- (c) it is an UCITS recognised in accordance with Directive 85/611/EEC of the Council or an equivalent undertaking for collective investment established in the Isle of Man.

An economic operator paying interest to, or securing interest for, such an entity established in the other contracting party which is considered a paying agent under this paragraph shall communicate the name and address of the entity and the total amount of interest paid to, or secured for, the entity to the competent authority of its contracting party of establishment, which shall pass this information on to the competent authority of the contracting party where the entity is established.

(3) The entity referred to in paragraph (2) of this Article shall, however, have the option of being treated for the purposes of this Agreement as an UCITS or equivalent undertaking as referred to in sub-paragraph (c) of paragraph (2) of this article. The exercise of this option shall require a certificate to be issued by the contracting party in which the entity is established and presented to the economic operator by that entity. A contracting party shall lay down the detailed rules for this option for entities established in its territory.

(4) Kadar sta nosilec gospodarske dejavnosti in subjekt iz odstavka (2) tega člena ustanovljena v isti pogodbenici, ta pogodbenica sprejme potrebne ukrepe, s katerimi zagotovi, da subjekt izpolnjuje vsa določila tega sporazuma, kadar deluje kot plačilni zastopnik.

(5) Pravne osebe, izvzete iz odstavka (2)(a) tega člena so:

- a) na Finskem: avoin yhtiö (Ay) in kommandiittiyhtiö (Ky)/öppet bolag in kommanditbolag;
- b) na Švedskem: handelsbolag (HB) in kommanditbolag (KB).

Člen 8 Opredelitev plačila obresti

(1) Za namene tega sporazuma "plačilo obresti" pomeni:

a) obresti, ki se plačajo ali pripišejo na račun in se nanašajo na dolžniške terjatve vseh vrst ne glede na to, ali so zavarovane s hipoteko, in ne glede na to, ali imajo pravico do udeležbe v dolžnikovem dobičku, in še posebej dohodek od državnih vrednostnih papirjev ter dohodek iz obveznic ali zadolžnic, vključno s premijami in nagradami od takih vrednostnih papirjev, obveznic ali zadolžnic; kazni zaradi zamude pri plačilu se ne štejejo za plačilo obresti;

b) obračunane ali h glavnici pripisane obresti pri prodaji, povračilu ali odkupu dolžniških terjatev iz točke (a);

c) dohodek, ki bodisi neposredno ali posredno preko subjekta iz člena 7(2) tega sporazuma izvira iz plačila obresti in ki ga razdelijo:

- i) KNPVP, priznani v skladu z ES Direktivo 85/611/EGS Sveta;
- ii) enakovreden kolektivni naložbeni podjem s sedežem Otoku Man;
- iii) subjekti, ki izpolnjujejo pogoje za možnost iz člena 7(3) tega sporazuma;
- iv) kolektivni naložbeni podjem, ustanovljen zunaj ozemlja, na katerega se nanaša Pogodba o ustanovitvi Evropske skupnosti na podlagi člena 229 te pogodbe in zunaj Otoka Man.

d) dohodek, dosežen s prodajo, povračilom ali odkupom delnic ali enot v naslednjih podjetjih in subjektih, če ti neposredno ali posredno prek drugih kolektivnih naložbenih podjetij ali subjektov, ki so navedeni spodaj, naložijo več kot 40 % svojih sredstev v dolžniške terjatve iz točke (a):

- i) KNPVP, priznani v skladu z Direktivo 85/611/EGS;
- ii) enakovreden kolektivni naložbeni podjem, ustanovljen na Otoku Man;
- iii) subjekti, ki izpolnjujejo pogoje za možnost iz člena 7(3) tega sporazuma;
- iv) kolektivni naložbeni podjetji, ustanovljeni zunaj ozemlja, za katerega velja Pogodba o ustanovitvi Evropske skupnosti na podlagi njenega člena 299 in zunaj Otoka Man.

Pogodbenici pa imata možnost, da v opredelitev obresti vključita dohodek iz odstavka (1)(d) tega člena samo v višini dobičkov, ki neposredno ali posredno izvirajo iz plačil obresti v smislu odstavkov (1)(a) in (b) tega člena.

(2) Glede odstavkov (1)(c) in (d) tega člena, kadar plačilni zastopnik nima podatkov o deležu dohodka, ki izvira iz plačil obresti, se celoten znesek dohodka šteje za plačilo obresti.

(3) Glede odstavka (1)(d) tega člena, kadar plačilni zastopnik nima podatkov o odstotku sredstev, ki so bila naložena v dolžniške terjatve ali v delnice ali enote, kot določa navedeni odstavek, se šteje, da ta odstotek presega 40 %. Kadar plačilni zastopnik ne more določiti zneska dohodka upravičenega lastnika, se šteje, da je dohodek enak prihodku od prodaje, povračila ali odkupa delnic ali enot.

(4) Where the economic operator and the entity referred to in paragraph (2) of this Article are established in the same contracting party, that contracting party shall take the necessary measures to ensure that the entity complies with the provisions of this Agreement when it acts as a paying agent.

(5) The legal persons exempted from sub-paragraph (a) of paragraph (2) of this Article are

- (a) in Finland: avoin yhtiö (Ay) and kommandiittiyhtiö (Ky)/öppet bolag and kommanditbolag;
- (b) in Sweden: handelsbolag (HB) and kommanditbolag (KB).

Article 8 Definition of interest payment

(1) For the purposes of this Agreement "interest payment" shall mean:

(a) interest paid, or credited to an account, relating to debt claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and, in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures; penalty charges for late payment shall not be regarded as interest payment;

(b) interest accrued or capitalised at the sale, refund or redemption of the debt claims referred to in (a);

(c) income deriving from interest payments either directly or through an entity referred to in Article 7(2) of this Agreement, distributed by:

- (i) an UCITS authorised in accordance with EC Directive 85/611/EEC of the Council;
- (ii) an equivalent undertaking for collective investment established in the Isle of Man;
- (iii) entities which qualify for the option under Article 7(3) of this Agreement;
- (iv) undertakings for collective investment established outside the territory to which the Treaty establishing the European Community applies by virtue of Article 299 thereof and outside the Isle of Man.

(d) income realised upon the sale, refund or redemption of shares or units in the following undertakings and entities, if they invest directly or indirectly, via other undertakings for collective investment or entities referred to below, more than 40 % of their assets in debt claims as referred to in (a):

- (i) an UCITS authorised in accordance with Directive 85/611/EEC;
- (ii) an equivalent undertaking for collective investment established in the Isle of Man.
- (iii) entities which qualify for the option under Article 7(3) of this Agreement;
- (iv) undertakings for collective investment established outside the territory to which the Treaty establishing the European Community applies by virtue of Article 299 thereof and outside the Isle of Man.

However, the contracting parties shall have the option of including income mentioned under paragraph (1)(d) of this Article in the definition of interest only to the extent that such income corresponds to gains directly or indirectly deriving from interest payments within the meaning of paragraphs (1)(a) and (b) of this Article.

(2) As regards paragraphs (1)(c) and (d) of this Article, when a paying agent has no information concerning the proportion of the income which derives from interest payments, the total amount of the income shall be considered an interest payment.

(3) As regards paragraph (1)(d) of this Article, when a paying agent has no information concerning the percentage of the assets invested in debt claims or in shares or units as defined in that paragraph, that percentage shall be considered to be above 40 %. Where he cannot determine the amount of income realised by the beneficial owner, the income shall be deemed to correspond to the proceeds of the sale, refund or redemption of the shares or units.

(4) Kadar se obresti, kot jih opredeljuje odstavek (1) tega člena, plačajo ali pripisejo na račun subjekta iz člena 7(2) tega sporazuma, pri čemer ta subjekt ne izpolnjuje pogojev za možnost po členu 7(3) tega sporazuma, se to šteje za plačilo obresti takega subjekta.

(5) Glede odstavkov (1)(b) in (d) tega člena ima pogodbenica možnost, da od plačilnih zastopnikov na svojem ozemlju zahteva obračun obresti v obdobju, ki ne sme presegati eno leto, ter da tako obračunane obresti obravnavajo kot plačilo obresti, četudi v tem obdobju ne pride do prodaje, odkupa ali povračila.

(6) Z odstopanjem od odstavkov (1)(c) in (d) tega člena ima pogodbenica možnost, da iz opredelitve plačil obresti izključijo dohodek iz navedenih določb od podjetij ali subjektov, ki so ustanovljeni na njenem ozemlju, če naložbe v dolžniške terjatve iz odstavka (1)(a) tega člena takšnih subjektov ne presegajo 15 % njihovih sredstev. Prav tako ima pogodbenica možnost, da z odstopanjem od odstavka (4) tega člena iz opredelitve plačil obresti iz odstavka (1) tega člena izključi obresti, ki se plačajo ali pripisejo na račun subjekta iz člena 7(2) tega sporazuma, ki ne izpolnjuje pogojev za možnost iz člena 7(3) tega sporazuma in je ustanovljen na njenem ozemlju, če naložbe takega subjekta v dolžniške terjatve iz odstavka (1)(a) tega člena ne presegajo 15 % njegovih sredstev.

Če pogodbenica uporabi takšno možnost, je to zavezujoče za drugo pogodbenico.

(7) Od 1. januarja 2011 bo odstotek iz odstavka (1)(d) tega člena in odstavka (3) tega člena znašal 25 %.

(8) Odstotki iz odstavka (1)(d) tega člena in odstavka (6) tega člena se določajo glede na naložbeno politiko kot jo določajo pravila sklada ali ustanovna listina zadevnih podjetij ali subjektov, ali, če te ni, glede na dejansko sestavo sredstev zadevnih podjetij ali subjektov.

Člen 9 Delitev prihodkov iz retencijskega davka

(1) Otok Man zadrži 25 % retencijskega davka, odbitega po določilih tega sporazuma, preostalih 75 % pa prenese na drugo pogodbenico.

(2) Otok Man, ki pobira retencijski davek v skladu s členom 4(4) tega sporazuma, zadrži 25 % prihodkov in prenese 75 % na Republiko Slovenijo, sorazmerno s prenosi, izvedenimi v skladu z odstavkom (1) tega člena.

(3) Taki prenosi se izvršijo za vsako leto v enem obroku, najkasneje v obdobju šestih mesecev po zaključku davčnega leta, določenega z zakoni Otoka Man.

(4) Otok Man pri pobiranju retencijskega davka sprejme potrebne ukrepe, s katerimi zagotovi pravilno delovanje sistema delitve prihodka.

Člen 10 Odprava dvojnega obdavčevanja

(1) Pogodbenica, katere rezident je upravičeni lastnik za davčne namene, zagotovi, odpravo vsakršnega dvojnega obdavčevanja, ki bi lahko bilo posledica uvedbe retencijskega davka iz tega sporazuma s strani Otoka Man, v skladu z naslednjimi določbami:

i) če je bil od obresti, ki jih je prejel upravičeni lastnik, odtegnjen retencijski davek na Otoku Man, mu druga pogodbenica v skladu s svojo nacionalno zakonodajo prizna davčni odbitek v znesku, enakem višini odtegnjenega davka. Kadar ta znesek presega znesek davčne obveznosti v skladu z njeno nacionalno zakonodajo, druga pogodbenica upravičenemu lastniku povrne presežni znesek odtegnjenega davka;

(4) When interest, as defined in paragraph (1) of this Article, is paid to or credited to an account held by an entity referred to in Article 7(2) of this Agreement, such entity not having qualified for the option under Article 7(3) of this Agreement, such interest shall be considered an interest payment by such entity.

(5) As regards paragraphs (1)(b) and (d) of this Article, a contracting party shall have the option of requiring paying agents in its territory to annualise the interest over a period of time which may not exceed one year, and treating such annualised interest as an interest payment even if no sale, redemption or refund occurs during that period.

(6) By way of derogation from paragraphs (1)(c) and (d) of this Article, a contracting party shall have the option of excluding from the definition of interest payment any income referred to in those provisions from undertakings or entities established within its territory where the investment in debt claims referred to in paragraph (1)(a) of this Article of such entities has not exceeded 15 % of their assets. Likewise, by way of derogation from paragraph (4) of this Article, a contracting party shall have the option of excluding from the definition of interest payment in paragraph (1) of this Article interest paid or credited to an account of an entity referred to in Article 7(2) of this Agreement which has not qualified for the option under Article 7(3) of this Agreement and is established within its territory, where the investment of such an entity in debt claims referred to in paragraph (1)(a) of this Article has not exceeded 15 % of its assets.

The exercise of such option by one contracting party shall be binding on the other contracting party.

(7) The percentage referred to in paragraph (1)(d) of this Article and paragraph (3) of this Article shall from 1 January, 2011 be 25 %.

(8) The percentages referred to in paragraph (1)(d) of this Article and in paragraph (6) of this Article shall be determined by reference to the investment policy as laid down in the fund rules or instruments of incorporation of the undertakings or entities concerned or, failing which, by reference to the actual composition of the assets of the undertakings or entities concerned.

Article 9 Retention Tax Revenue sharing

(1) the Isle of Man shall retain 25 % of the retention tax deducted under this Agreement and transfer the remaining 75 % of the revenue to the other contracting party.

(2) the Isle of Man levying retention tax in accordance with Article 4(4) of this Agreement shall retain 25 % of the revenue and transfer 75 % to the Republic of Slovenia proportionate to the transfers carried out pursuant to paragraph (1) of this Article.

(3) Such transfers shall take place for each year in one instalment at the latest within a period of six months following the end of the tax year established by the laws of the Isle of Man.

(4) the Isle of Man levying retention tax shall take the necessary measures to ensure the proper functioning of the revenue sharing system.

Article 10 Elimination of double taxation

(1) A contracting party in which the beneficial owner is resident for tax purposes shall ensure the elimination of any double taxation which might result from the imposition by the Isle of Man of the retention tax to which this Agreement refers in accordance with the following provisions:

(i) if interest received by a beneficial owner has been subject to retention tax in the Isle of Man, the other contracting party shall grant a tax credit equal to the amount of the tax retained in accordance with its national law. Where this amount exceeds the amount of tax due in accordance with its national law, the other contracting party shall repay the excess amount of tax retained to the beneficial owner;

ii) če je bil od obresti, ki jih je prejel upravičeni lastnik, poleg retencijskega davka iz člena 4 tega sporazuma, odtegnjen kakršen koli drug davčni odtegljaj/retencijski davek, in pogodbenica, v kateri je upravičeni lastnik rezident za davčne namene, v skladu s svojo nacionalno zakonodajo ali konvencijami o dvojnem obdavčevanju zagotavlja davčni odbitek za takšen davčni odtegljaj/retencijski davek, se takšen davčni odtegljaj/retencijski davek odbije pred uporabo postopka iz pododstavka (i) tega člena.

(2) Pogodbenica, katere rezident je upravičeni lastnik za davčne namene, lahko mehanizem davčnega odbitka iz odstavka (1) tega člena nadomesti z vračilom retencijskega davka iz člena 1 tega sporazuma.

Člen 11 Prehodne določbe o prenosljivih dolžniških vrednostnih papirjih

(1) V prehodnem obdobju iz člena 14 tega sporazuma, vendar najpozneje do 31. decembra 2010, se domače in mednarodne obveznice in drugi prenosljivi dolžniški vrednostni papirji, ki so bili prvič izdani pred 1. marcem 2001 ali za katere so pristojni organi v smislu Direktive Sveta 80/390/EGS ali odgovorni organi v tretjih državah odobrili prvotne prospekte za izdajo pred tem datumom, ne štejejo za dolžniške terjatve v smislu člena 8(1)(a) tega sporazuma, pod pogojem, da od vključno 1. marca 2002 naprej ni bila izdana nadaljna izdaja takšnih prenosljivih dolžniških vrednostnih papirjev. Če pa bi se prehodno obdobje nadaljevalo tudi po 31. decembru 2010, se določbe tega člena še naprej uporabljajo samo za takšne prenosljive dolžniške vrednostne papirje:

– ki vsebujejo klavzuli o obrutjenju in predčasnem odkupu ter

– kadar je plačilni zastopnik ustanovljen v pogodbenici, ki uporablja retencijski davek in ta plačilni zastopnik plača ali zagotovi plačilo obresti v neposredno korist upravičenega lastnika, ki je rezident druge pogodbenice.

Če država ali z njo povezan subjekt, ki deluje kot organ oblasti ali katerega vloga je priznana z mednarodno pogodbo, kot je opredeljena v prilogi k temu sporazumu, na dan 1. marca 2002 ali po njem izda dodatno izdajo prej omenjenega prenosljivega dolžniškega vrednostnega papirja, se celotna izdaja takšnega vrednostnega papirja, ki je sestavljena iz prvotne izdaje in vseh naslednjih izdaj, šteje za dolžniško terjatev v smislu člena 8(1)(a) tega sporazuma.

Če kateri koli drug izdajatelj, ki ni zajet v drugem pododstavku, na dan 1. marca 2002 ali po njem izda dodatno izdajo prej omenjenega prenosljivega dolžniškega vrednostnega papirja, se takšna dodatna izdaja šteje za dolžniško terjatev v smislu člena 8(1)(a) tega sporazuma.

(2) Nobena določba tega člena pogodbenicam ne preprečuje obdavčevanja dohodka od prenosljivih dolžniških vrednostnih papirjev iz odstavka (1) v skladu s svojo nacionalno zakonodajo.

Člen 12 Postopek medsebojnega dogovora

Kadar se med pogodbenicami pojavijo težave ali nejasnosti glede izvajanja ali tolmačenja tega sporazuma, si pogodbenice po svojih najboljših močeh prizadevajo rešiti zadevo z medsebojnim dogovorom.

Člen 13 Zaupnost

(1) Vse informacije, ki jih pristojni organi pogodbenice posredujejo in prejmejo, se obravnavajo kot zaupne.

(2) Informacije, ki jih prejmejo pristojni organi pogodbenice, se brez predhodnega pisnega soglasja druge pogodbenice ne smejo uporabiti za noben drug namen razen neposrednega obdavčevanja.

(ii) if, in addition to the retention tax referred to in Article 4 of this Agreement, interest received by a beneficial owner has been subject to any other type of withholding/retention tax and the contracting party of residence for tax purposes grants a tax credit for such withholding/retention tax in accordance with its national law or double taxation conventions, such other withholding/retention tax shall be credited before the procedure in sub-paragraph (i) of this Article is applied.

(2) The contracting party which is the country of residence for tax purposes of the beneficial owner may replace the tax credit mechanism referred to in paragraph (1) of this Article by a refund of the retention tax referred to in Article 1 of this Agreement.

Article 11 Transitional provisions for negotiable debt securities

(1) During the transitional period referred to in Article 14 of this Agreement, but until 31 December 2010 at the latest, domestic and international bonds and other negotiable debt securities which have been first issued before 1 March 2001 or for which the original issuing prospectuses have been approved before that date by the competent authorities within the meaning of Council Directive 80/390/EEC or by the responsible authorities in third countries shall not be considered as debt claims within the meaning of Article 8(1)(a) of this Agreement, provided that no further issues of such negotiable debt securities are made on or after 1 March 2002. However, should the transitional period continue beyond 31 December 2010, the provisions of this Article shall only continue to apply in respect of such negotiable debt securities:

– which contain gross up and early redemption clauses; and,

– where the paying agent is established in a contracting party applying retention tax and that paying agent pays interest to, or secures the payment of interest for the immediate benefit of a beneficial owner resident in the other contracting party.

If a further issue is made on or after 1 March 2002 of an aforementioned negotiable debt security issued by a Government or a related entity acting as a public authority or whose role is recognised by an international treaty, as defined in the Annex to this Agreement, the entire issue of such security, consisting of the original issue and any further issue, shall be considered a debt claim within the meaning of Article 8(1)(a) of this Agreement.

If a further issue is made on or after 1 March 2002 of an aforementioned negotiable debt security issued by any other issuer not covered by the second sub-paragraph, such further issue shall be considered a debt claim within the meaning of Article 8(1)(a) of this Agreement.

(2) Nothing in this Article shall prevent the contracting parties from taxing the income from the negotiable debt securities referred to in paragraph (1) in accordance with their national laws.

Article 12 Mutual agreement procedure

Where difficulties or doubts arise between the parties regarding the implementation or interpretation of this Agreement, the contracting parties shall use their best endeavours to resolve the matter by mutual agreement.

Article 13 Confidentiality

(1) All information provided and received by the competent authority of a contracting party shall be kept confidential.

(2) Information provided to the competent authority of a contracting party may not be used for any purpose other than for the purposes of direct taxation without the prior written consent of the other contracting party.

(3) Prejete informacije se lahko razkrijejo le osebam ali organom oblasti, ki se ukvarjajo z neposrednim obdavčevanjem; te osebe ali organi oblasti jih lahko uporabijo le v ta namen ali v namen pregleda nad delovanjem, vključno z reševanjem pritožb. V te namene se informacije lahko razkrijejo v upravnih ali sodnih postopkih.

(4) Kadar pristojni organ pogodbenice meni, da so informacije, ki jih je prejel od pristojnega organa druge pogodbenice, uporabne za pristojni organ druge države članice, jih temu pristojnemu organu lahko posreduje ob dogovoru s pristojnim organom, ki je informacije priskrbel.

Člen 14 Prehodno obdobje

Ob koncu prehodnega obdobja iz člena 10(2) direktive bo Otok Man prenehal uporabljati retencijski davek in delitev prihodkov, kot določa ta sporazum, in začel za drugo pogodbenico uporabljati določbe o avtomatični izmenjavi podatkov na enak način, kot je določeno v poglavju II Direktive. Če se v prehodnem obdobju Otok Man odloči, da bo začel uporabljati določbe o avtomatični izmenjavi podatkov na enak način, kot je določeno v poglavju II Direktive, bo prenehal uporabljati davčni odtegljaj/retencijski davek in delitev prihodkov iz člena 9 tega sporazuma.

Člen 15 Začetek veljavnosti

Ob upoštevanju določb člena 17 tega sporazuma, ta sporazum začne veljati 1. januarja 2005.

Člen 16 Prenehanje veljavnosti

(1) Ta sporazum velja, dokler ga ne odpove ena od pogodbenic.

(2) Vsaka pogodbenica lahko odpove ta sporazum tako, da s pisnim obvestilom o odpovedi uradno obvesti drugo pogodbenico, takšno pisno obvestilo naj opredeljuje okoliščine, ki so pripeljale do odpovedi. V takem primeru ta sporazum preneha veljati 12 mesecev po predložitvi uradnega obvestila.

Člen 17 Uporaba in ustavitev uporabe

(1) Ta sporazum se lahko uporablja pod pogojem, da vse države članice Evropske unije, Združene države Amerike, Švica, Andora, Lihtenštajn, Monako in San Marino in vsa odvisna in pridružena ozemlja držav članic Evropske skupnosti sprejmejo in izvajajo ukrepe, ki so skladni ali enaki ukrepom v Direktivi ali v tem sporazumu in predvidevajo enake datume začetka izvajanja.

(2) Pogodbenici vsaj šest mesecev pred datumom iz člena 15 tega sporazuma v medsebojnem soglasju odločita, ali bodo izpolnjeni pogoji iz odstavka (1), pri čemer upoštevata datume začetka veljavnosti ustreznih ukrepov v zadevnih državah članicah, imenovanih tretjih državah in odvisnih ali pridruženih ozemljih.

(3) V primeru, da se direktiva začasno ali stalno ne more več uporabljati v skladu s pravom Evropske skupnosti ali v primeru, da država članica ustavi uporabo svojih izvedbenih predpisov, lahko katera koli pogodbenica, ob upoštevanju postopka medsebojnega dogovora iz člena 12 tega sporazuma, z uradnim obvestilom s takojšnjim učinkom drugi pogodbenici ustavi uporabo tega sporazuma ali delov tega sporazuma in v takem uradnem obvestilu opredeli okoliščine, ki so pripeljale do takega obvestila. Sporazum se ponovno uporablja takoj, ko so odpravljene okoliščine, ki so pripeljale do ustavitve njegove uporabe.

(3) Information provided shall be disclosed only to persons or authorities concerned with the purposes of direct taxation, and used by such persons or authorities only for such purposes or for oversight purposes, including the determination of any appeal. For these purposes, information may be disclosed in public court proceedings or in judicial proceedings.

(4) Where a competent authority of a contracting party considers that information which it has received from the competent authority of the other contracting party is likely to be useful to the competent authority of another Member State, it may transmit it to the latter competent authority with the agreement of the competent authority which supplied the information.

Article 14 Transitional Period

At the end of the transitional period as defined in Article 10(2) of the Directive, the Isle of Man shall cease to apply the retention tax and revenue sharing provided for in this Agreement and shall apply in respect of the other contracting party the automatic exchange of information provisions in the same manner as is provided for in Chapter II of the Directive. If during the transitional period the Isle of Man elects to apply the automatic exchange of information provisions in the same manner as is provided for in Chapter II of the Directive, it shall no longer apply the withholding/retention tax and the revenue sharing provided for in Article 9 of this Agreement.

Article 15 Entry into force

Subject to the provisions of Article 17 of this Agreement, this Agreement shall come into force on 1 January 2005.

Article 16 Termination

(1) This Agreement shall remain in force until terminated by either contracting party.

(2) Either contracting party may terminate this Agreement by giving notice of termination in writing to the other contracting party, such notice to specify the circumstances leading to the giving of such notice. In such a case, this Agreement shall cease to have effect 12 months after the serving of notice.

Article 17 Application and suspension of application

(1) The application of this Agreement shall be conditional on the adoption and implementation by all the Member States of the European Union, by the United States of America, Switzerland, Andorra, Liechtenstein, Monaco and San Marino, and by all the relevant dependent and associated territories of the Member States of the European Community, respectively, of measures which conform with or are equivalent to those contained in the Directive or in this Agreement, and providing for the same dates of implementation.

(2) The contracting parties shall decide, by common accord, at least six months before the date referred to in Article 15 of this Agreement, whether the condition set out in paragraph (1) will be met having regard to the dates of entry into force of the relevant measures in the Member States, the named third countries and the dependent or associated territories concerned.

(3) Subject to the mutual agreement procedure provided for in Article 12 of this Agreement, the application of this Agreement or parts thereof may be suspended by either contracting party with immediate effect through notification to the other specifying the circumstances leading to such notification should the Directive cease to be applicable either temporarily or permanently in accordance with European Community law or in the event that a Member State should suspend the application of its implementing legislation. Application of the Agreement shall resume as soon as the circumstances leading to the suspension no longer apply.

(4) V primeru, da ena od tretjih držav ali ozemelj iz poglavja (1) preneha uporabljati ukrepe iz omenjenega odstavka, lahko katera koli pogodbenica, ob upoštevanju postopka medsebojnega dogovora iz člena 12 tega sporazuma, z uradnim obvestilom drugi pogodbenici odloži uporabo tega sporazuma ali delov tega sporazuma in v takem uradnem obvestilu opredeli okoliščine, ki so pripeljale do takega obvestila. Odložitev uporabe se ne začne izvajati pred potekom dveh mesecev od takega uradnega obvestila. Uporaba sporazuma se nadaljuje takoj, ko zadevna tretja država ali ozemlje obnovi uporabo ukrepov.

Sestavljeno v slovenskem in angleškem jeziku, pri čemer sta obe besedili enako verodostojni.

(4) Subject to the mutual agreement procedure provided for in Article 12 of this Agreement, either contracting party may suspend the application of this Agreement through notification to the other specifying the circumstances leading to such notification in the event that one of the third countries or territories referred to in paragraph (1) should subsequently cease to apply the measures referred to in that paragraph. Suspension of application shall take place no earlier than two months after notification. Application of the Agreement shall resume as soon as the measures are reinstated by the third country or territory in question.

Done in the Slovenian and English languages, all texts being equally authentic.

PRILOGA

ANNEX

Seznam povezanih subjektov iz člena 11

List of related entities referred to in Article 11

Za namene člena 11 tega sporazuma se za "povezane subjekte, ki delujejo kot državni organi ali katerih vloga je priznana z mednarodno pogodbo," štejejo naslednji subjekti:

For the purposes of Article 11 of this Agreement, the following entities will be considered to be a "related entity acting as a public authority or whose role is recognised by an international treaty":

SUBJEKTI V EVROPSKI UNIJI:**ENTITIES WITHIN THE EUROPEAN UNION:****Belgija**

Vlaams Gewest (Flamska regija)
Région wallonne (Valonska regija)
Région bruxelloise/Brussels Gewest (Regija glavnega mesta Bruslja)
Communauté française (Francoska skupnost)
Vlaamse Gemeenschap (Flamska skupnost)
Deutschsprachige Gemeinschaft (Nemško govoreča skupnost)

Belgium

Vlaams Gewest (Flemish Region)
Région wallonne (Walloon Region)
Région bruxelloise/Brussels Gewest (Brussels Region)

Communauté française (French Community)
Vlaamse Gemeenschap (Flemish Community)
Deutschsprachige Gemeinschaft (German-speaking Community)

Španija

Xunta de Galicia (Regionalni zakonodajni svet Galicije)
Junta de Andalucía (Regionalni zakonodajni svet Andaluzije)
Junta de Extremadura (Regionalni zakonodajni svet Extremadure)
Junta de Castilla-La Mancha (Regionalni zakonodajni svet Kastilje-La Manche)
Junta de Castilla-León (Regionalni zakonodajni svet Kastilje-León)
Gobierno Foral de Navarra (Regionalna vlada Navarre)

Govern de les Illes Balears (Vlada Balearskih otokov)

Generalitat de Catalunya (Avtonomna vlada Katalonije)

Generalitat de Valencia (Avtonomna vlada Valencije)

Diputación General de Aragón (Regionalni svet Aragona)
Gobierno de las Islas Canarias (Vlada Kanarskih otokov)

Gobierno de Murcia (Vlada Murcie)
Gobierno de Madrid (Vlada Madrida)
Gobierno de la Comunidad Autónoma del País Vasco/Euzkadi (Vlada avtonomne skupnosti Baskije)

Spain

Xunta de Galicia (Regional Executive of Galicia)
Junta de Andalucía (Regional Executive of Andalusia)

Junta de Extremadura (Regional Executive of Extremadura)
Junta de Castilla-La Mancha (Regional Executive of Castilla-La Mancha)
Junta de Castilla-León (Regional Executive of Castilla-León)
Gobierno Foral de Navarra (Regional Government of Navarre)
Govern de les Illes Balears (Government of the Balearic Islands)
Generalitat de Catalunya (Autonomous Government of Catalonia)
Generalitat de Valencia (Autonomous Government of Valencia)
Diputación General de Aragón (Regional Council of Aragon)
Gobierno de las Islas Canarias (Government of the Canary Islands)
Gobierno de Murcia (Government of Murcia)
Gobierno de Madrid (Government of Madrid)
Gobierno de la Comunidad Autónoma del País Vasco/Euzkadi (Government of the Autonomous Community of the Basque Country)
Diputación Foral de Guipúzcoa (Regional Council of Guipúzcoa)
Diputación Foral de Vizcaya/Bizkaia (Regional Council of Vizcaya)
Diputación Foral de Alava (Regional Council of Alava)
Ayuntamiento de Madrid (City Council of Madrid)
Ayuntamiento de Barcelona (City Council of Barcelona)
Cabildo Insular de Gran Canaria (Island Council of Gran Canaria)
Cabildo Insular de Tenerife (Island Council of Tenerife)
Instituto de Crédito Oficial (Javna kreditna institucija)
Instituto Catalán de Finanzas (Finančna institucija Katalonije)
Instituto Valenciano de Finanzas (Finančna institucija Valencije)

Grčija

Οργανισμός Τηλεπικοινωνιών Ελλάδος (Državna telekomunikacijska organizacija)
Οργανισμός Σιδηροδρόμων Ελλάδος (Državne železnice)
Δημόσια Επιχείρηση Ηλεκτρισμού (Javno elektrogospodarstvo)

Greece

Οργανισμός Τηλεπικοινωνιών Ελλάδος (National Telecommunications Organisation)
Οργανισμός Σιδηροδρόμων Ελλάδος (National Railways Organisation)
Δημόσια Επιχείρηση Ηλεκτρισμού (Public Electricity Company)

Francija

La Caisse d'amortissement de la dette sociale (CADES) (Sklad za odkup socialnega dolga) L'Agence française de développement (AFD) (Francoska razvojna agencija) Réseau Ferré de France (RFF) (Francoske železnice) Caisse Nationale des Autoroutes (CNA) (Državni sklad za avtoceste) Assistance publique Hôpitaux de Paris (APHP) (Državna pomoč pariškim bolnišnicam) Charbonnages de France (CDF) (Francoska uprava za premog) Entreprise minière et chimique (EMC) (Podjetje za rudarstvo in kemikalije)

Italija

Regije
Province
Občine
Cassa Depositi e Prestiti (Sklad za depozite in posojila)

Latvija

Pašvaldības (lokalne vlade)

Poljska

gminy (občine)
powiaty (okraji)
województwa (vojvodstva)
związki gmin (skupnosti občin)
powiatów (skupnosti okrajev)
województw (skupnosti vojvodstev)
miasto stołeczne Warszawa (glavno mesto Varšava)
Agencja Restrukturyzacji i Modernizacji Rolnictwa (Agencija za prestrukturiranje in modernizacijo kmetijstva)
Agencja Nieruchomości Rolnych (Agencija za kmetijsko premoženje)

Portugalska

Região Autónoma da Madeira (Avtonomna regija Madeira)
Região Autónoma dos Açores (Avtonomna regija Azorskih otokov)
Občine

Slovaška

mestá a obce (občine)
Železnice Slovenskej republiky (Slovaške železnice)
Štátny fond cestného hospodárstva (Državni sklad cestnega gospodarstva)
Slovenské elektrárne (Slovaške elektrarne)
Vodohospodárska výstavba (Družba za vodnogospodarske gradnje)

MEDNARODNI SUBJEKTI:

Evropska banka za obnovo in razvoj
Evropska investicijska banka
Azijska razvojna banka
Afriška razvojna banka
Svetovna banka / Mednarodna banka za obnovo in razvoj
/ Mednarodni denarni sklad Mednarodna finančna korporacija
Medameriška razvojna banka
Sklad Sveta Evrope za socialni razvoj
EURATOM
Evropska skupnost
Corporación Andina de Fomento (CAF) (Andska razvojna korporacija)
Eurofima
Evropska skupnost za premog in jeklo
Nordijska investicijska banka
Karibska razvojna banka
Določbe člana 11 ne vplivajo na morebitne mednarodne obveznosti, ki jih imajo pogodbenice do zgoraj navedenih mednarodnih subjektov.

France

La Caisse d'amortissement de la dette sociale (CADES) (Social Debt Redemption Fund) L'Agence française de développement (AFD) (French Development Agency) Réseau Ferré de France (RFF) (French Rail Network) Caisse Nationale des Autoroutes (CNA) (National Motorways Fund) Assistance publique Hôpitaux de Paris (APHP) (Paris Hospitals Public Assistance) Charbonnages de France (CDF) (French Coal Board) Entreprise minière et chimique (EMC) (Mining and Chemicals Company)

Italy

Regions
Provinces
Municipalities
Cassa Depositi e Prestiti (Deposits and Loans Fund)

Latvia

Pašvaldības (Local governments)

Poland

gminy (communes)
powiaty (districts)
województwa (provinces)
związki gmin (associations of communes)
związki powiatów (association of districts)
związki województw (association of provinces)
miasto stołeczne Warszawa (capital city of Warsaw)
Agencja Restrukturyzacji i Modernizacji Rolnictwa (Agency for Restructuring and Modernisation of Agriculture)
Agencja Nieruchomości Rolnych (Agricultural Property Agency)

Portugal

Região Autónoma da Madeira (Autonomous Region of Madeira)
Região Autónoma dos Açores (Autonomous Region of Azores)
Municipalities

Slovakia

mestá a obce (municipalities)
Železnice Slovenskej republiky (Slovak Railway Company)
Štátny fond cestného hospodárstva (State Road Management Fund)
Slovenské elektrárne (Slovak Power Plants)
Vodohospodárska výstavba (Water Economy Building Company)

INTERNATIONAL ENTITIES:

European Bank for Reconstruction and Development
European Investment Bank
Asian Development Bank
African Development Bank
World Bank / IBRD / IMF
International Finance Corporation
Inter-American Development Bank
Council of Europe Social Development Fund
EURATOM
European Community
Corporación Andina de Fomento (CAF) (Andean Development Corporation)
Eurofima
European Coal & Steel Community
Nordic Investment Bank
Caribbean Development Bank
The provisions of Article 11 are without prejudice to any international obligations that the Contracting Parties may have entered into with respect to the above mentioned international entities.

SUBJEKTI V TRETJIH DRŽAVAH:

Subjekti, ki izpolnjujejo naslednje pogoje:

1) Subjekt se po nacionalnih merilih jasno šteje za osebo javnega prava.

2) Takšna oseba javnega prava je netržni proizvajalec, ki upravlja in financira skupino dejavnosti, predvsem dobavo netržnega blaga in storitev, ki so namenjene v korist skupnosti in ki jih država dejansko nadzira.

3) Takšna oseba javnega prava se v velikem obsegu in redno zadolžuje.

4) Zadevna država lahko jamči, da takšna oseba javnega prava v primeru klavzul o obrutenju ne bo izvedla predčasnega odkupa.

POGOJI ZA SPREMEMBO TE PRILOGE:

Seznam povezanih subjektov iz te priloge se lahko spremeni z medsebojnim dogovorom.

ENTITIES IN THIRD COUNTRIES:

The entities that meet the following criteria:

1) The entity is clearly considered to be a public entity according to the national criteria.

2) Such public entity is a non-market producer which administers and finances a group of activities, principally providing non-market goods and services, intended for the benefit of the community and which are effectively controlled by general government.

3) Such public entity is a large and regular issuer of debt.

4) The State concerned is able to guarantee that such public entity will not exercise early redemption in the event of gross-up clauses.

CONDITIONS FOR AMENDING THE PRESENT ANNEX:

The list of related entities in this Annex may be amended by mutual agreement.

3. člen

Za izvajanje sporazuma skrbi ministrstvo, pristojno za finance.

4. člen

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

Št. 00724-57/2012

Ljubljana, dne 6. decembra 2012

EVA 2012-1811-0091

Vlada Republike Slovenije

Janez Janša l.r.
Predsednik

94. Uredba o ratifikaciji Sporazuma v obliki izmenjave pism o obdavčevanju dohodka od prihrankov in začasni uporabi tega sporazuma, sklenjenega med Republiko Slovenijo in Guernseyjem

Na podlagi petega odstavka 75. 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) izdaja Vlada Republike Slovenije

U R E D B O

o ratifikaciji Sporazuma v obliki izmenjave pism o obdavčevanju dohodka od prihrankov in začasni uporabi tega sporazuma, sklenjenega med Republiko Slovenijo in Guernseyjem

1. člen

Ratificira se Sporazum v obliki izmenjave pism o obdavčevanju dohodka od prihrankov in začasni uporabi tega sporazuma, sklenjen z izmenjavo pism 19. novembra 2004 med Republiko Slovenijo in Guernseyjem.

2. člen

Besedilo sporazuma se v izvorniku v slovenskem in angleškem jeziku glasi:

S P O R A Z U M

V OBLIKI IZMENJAVE PISEM O OBDAVČEVANJU DOHODKA OD PRIHRANKOV IN ZAČASNI UPORABI TEGA SPORAZUMA

A. Pismo Republike Slovenije

Spoštovani!

čast mi je, da se sklicujem na besedili "Predlaganega vzorčnega sporazuma med vsakim od otokov Guernsey, Otok Man in Jersey in vsako posamezno državo članico EU, ki bo uporabljala avtomatično izmenjavo podatkov", in "Predlaganega vzorčnega sporazuma med vsakim od otokov Guernsey, Otok Man in Jersey in vsako posamezno državo članico EU, ki bo v prehodnem obdobju uporabljala davčni odtegljaj", ki sta rezultat pogajanj z otoškimi organi o Sporazumu o obdavčevanju prihrankov in sta bila kot Priloga I oziroma Priloga II priložena izidom posvetovanja Skupine na visoki ravni Sveta ministrov Evropske unije 12. marca (Dok. 7408/04 FISC 58).

V čast mi je, da vam v zvezi z zgoraj omenjenima besediloma lahko predložim "Sporazum o obdavčevanju dohodka od prihrankov", kot je naveden v Dodatku 1 tega pisma, in predlagam, da se obe strani zavežeta čimprej opraviti formalnosti, predvidene v njihovih ustavah, za začetek veljavnosti tega sporazuma ter o zaključku teh formalnosti druga drugo nemudoma obvestita.

V pričakovanju zaključka teh notranjih postopkov in začetka veljavnosti "Sporazuma o obdavčevanju dohodka od prihrankov" predlagam, da Republika Slovenija in Guernsey ta sporazum začasno uporabljata v okviru naših notranjih ustavnih zahtev od 1. januarja 2005 ali datuma začetka uporabe Direktive Sveta 2003/48/ES z dne 3. junija 2003 o obdavčevanju dohodka od prihrankov v obliki plačil obresti, katerikoli je kasnejši.

Če se vaša vlada z navedenim strinja, predlagam, da to pismo in vaš odgovor nanj skupaj tvorita sporazum med Republiko Slovenijo in Guernseyjem.

Prosim, sprejmite izraze našega najglobljega spoštovanja.

Za Republiko Slovenijo
Dušan Mramor l.r.
Minister za finance

V Ljubljani, dne 7. maja 2004 v slovenskem in angleškem jeziku v treh izvodih.

A G R E E M E N T

IN THE FORM OF AN EXCHANGE OF LETTERS ON THE TAXATION OF SAVINGS INCOME AND THE PROVISIONAL APPLICATION THEREOF

A. Letter from the Republic of Slovenia

Sir,

I have the honour to refer to the texts of respectively the "Proposed Model Agreement between each of Guernsey, Isle of Man, and Jersey and each individual EU Member State that is to apply automatic exchange of information" and the "Proposed Model Agreement between each of Guernsey, Isle of Man, and Jersey and each individual EU Member State that is to apply the withholding tax in the transitional period", that resulted from the negotiations with the Island Authorities on a Savings Tax Agreement, and that were annexed, respectively as Annex I and Annex II, to the Outcome of Proceedings of the High Level Working Party of the Council of Ministers of the European Union of 12 March (Doc. 7408/04 FISC 58).

In view of the above mentioned texts I have the honour to propose to you the "Agreement on the taxation of savings income" as contained in Appendix 1 to this letter, and our mutual undertaking to comply at the earliest possible date with our internal constitutional formalities for the entry into force of this Agreement and to notify each other without delay when such formalities are completed.

Pending the completion of these internal procedures and the entry into force of this "Agreement on the taxation of savings income", I have the honour to propose to you that the Republic of Slovenia and Guernsey apply this Agreement provisionally, within the framework of our respective domestic constitutional requirements, as from 1 January 2005, or the date of application of Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments, whichever is later.

I have the honour to propose that, if the above is acceptable to your Government, this letter and your confirmation shall together constitute an Agreement between the Republic of Slovenia and Guernsey.

Please accept, Sir, the assurance of our highest consideration,

For the Republic of Slovenia
Dušan Mramor (s)
Minister of Finance

Done at Ljubljana on 7 May 2004 in the Slovenian and English languages in three copies.

B. Pismo Guernseyja

Spoštovani!

V čast mi je potrditi prejem vašega današnjega pisma, v katerem je zapisano:

"Spoštovani!

čast mi je, da se sklicujem na besedili "Predlaganega vzorčnega sporazuma med vsakim od otokov Guernsey, Otok Man in Jersey in vsako posamezno državo članico EU, ki bo uporabljala avtomatično izmenjavo podatkov", in "Predlaganega vzorčnega sporazuma med vsakim od otokov Guernsey, Otok Man in Jersey in vsako posamezno državo članico EU, ki bo v prehodnem obdobju uporabljala davčni odtegljaj", ki sta rezultat pogajanj z otoškimi organi o Sporazumu o obdavčevanju prihrankov in sta bila kot Priloga I oziroma Priloga II priložena izidom posvetovanja Skupine na visoki ravni Sveta ministrov Evropske unije 12. marca (Dok. 7408/04 FISC 58).

V čast mi je, da vam v zvezi z zgoraj omenjenima besediloma lahko predložim "Sporazum o obdavčevanju dohodka od prihrankov", kot je naveden v Dodatku 1 tega pisma, in predlagam, da se obe strani zavežeta čimprej opraviti formalnosti, predvidene v njihovih ustavah, za začetek veljavnosti tega sporazuma ter o zaključku teh formalnosti druga drugo nemudoma obvestita.

V pričakovanju zaključka teh notranjih postopkov in začetka veljavnosti "Sporazuma o obdavčevanju dohodka od prihrankov" predlagam, da Republika Slovenija in Guernsey ta sporazum začasno uporabljata v okviru naših notranjih ustavnih zahtev od 1. januarja 2005 ali datuma začetka uporabe Direktive Sveta 2003/48/ES z dne 3. junija 2003 o obdavčevanju dohodka od prihrankov v obliki plačil obresti, katerikoli je kasnejši.

Če se vaša vlada z navedenim strinja, predlagam, da to pismo in vaš odgovor nanj skupaj tvorita sporazum med Republiko Slovenijo in Guernseyjem.

Prosim, sprejmite izraze našega najglobljega spoštovanja."

Potrdim lahko, da se Guernsey strinja z vsebino vašega pisma.

Prosim, sprejmite izraze mojega najglobljega spoštovanja.

Za Guernsey
Mike Brown l.r.
Prvi minister

V St. Peter Portu, 19. 11. 2004 v angleškem in slovenskem jeziku v treh izvodih.

B. Letter from Guernsey

Sir,

I have the honour to acknowledge receipt of your letter of today's date, which reads as follows:

"Sir,

I have the honour to refer to the texts of respectively the "Proposed Model Agreement between each of Guernsey, Isle of Man, and Jersey and each individual EU member State that is to apply automatic exchange of information" and the "Proposed Model Agreement between each of Guernsey, Isle of Man, and Jersey and each individual EU member State that is to apply the withholding tax in the transitional period", that resulted from the negotiations with the Island Authorities on a Savings Tax Agreement, and that were annexed, respectively as Annex I and Annex II, to the Outcome of Proceedings of the High Level Working Party of the Council of Ministers of the European Union of 12 March (Doc. 7408/04 FISC 58).

In view of the above mentioned texts I have the honour to propose to you the "Agreement on the taxation of savings income" as contained in Appendix 1 to this letter, and our mutual undertaking to comply at the earliest possible date with our internal constitutional formalities for the entry into force of this Agreement and to notify each other without delay when such formalities are completed.

Pending the completion of these internal procedures and the entry into force of this "Agreement on the taxation of savings income", I have the honour to propose to you that the Republic of Slovenia and Guernsey apply this Agreement provisionally, within the framework of our respective domestic constitutional requirements, as from 1 January 2005, or the date of application of Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments, whichever is later.

I have the honour to propose that, if the above is acceptable to your Government, this letter and your confirmation shall together constitute an Agreement between the Republic of Slovenia and Guernsey.

Please accept, Sir, the assurance of our highest consideration,"

I am able to confirm that Guernsey is in agreement with the contents of your letter.

Please accept, Sir, the assurance of my highest consideration,

For Guernsey
Mike Brown (s)
Chief Minister

Done at St. Peter Port on 19. 11. 2004 in the English and Slovenian languages in three copies.

Dodatek 1

Appendix 1

SPORAZUM O OBDAVČEVANJU DOHODKA
OD PRIHRANKOV MED GUERNSEYJEM
IN REPUBLIKO SLOVENIJO

AGREEMENT ON THE TAXATION OF SAVINGS INCOME
BETWEEN GUERNSEY AND THE REPUBLIC
OF SLOVENIA

OB UPOŠTEVANJU NASLEDNJEGA:

WHEREAS:

1. Člen 17 Direktive 2003/48/EGS ("Direktiva") Sveta Evropske unije ("Svet") o obdavčevanju dohodka od prihrankov predvideva, da države članice do 1. januarja 2004 sprejmejo in objavijo zakone in druge predpise, potrebne za uskladitev s to direktivo, katere določbe se uporabljajo od 1. januarja 2005, pod pogojem, da

1. Article 17 of Directive 2003/48/EEC ("the Directive") of the Council of the European Union ("the Council") on taxation of savings income provides that before 1 January 2004 Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive which provisions shall be applied from 1 January 2005 provided that:

"i) Švicarska konfederacija, Kneževina Lihtenštajn, Republika San Marino, Kneževina Monako in Kneževina Andora z istim dnem uporabljajo ukrepe, ki so enakovredni ukrepom iz te direktive, skladno s sporazumi, ki jih te države sklenejo z Evropsko skupnostjo na podlagi soglasne odločitve Sveta;

"(i) the Swiss Confederation, the Principality of Liechtenstein, the Republic of San Marino, the Principality of Monaco and the Principality of Andorra apply from that same date measures equivalent to those contained in this Directive, in accordance with agreements entered into by them with the European Community, following unanimous decisions of the Council;

ii) so v veljavi vsi sporazumi ali drugi dogovori, ki zagotavljajo, da vsa odvisna ali pridružena ozemlja z istim dnem uporabljajo avtomatično izmenjavo podatkov na enak način, kot je določeno v poglavju II te direktive, (ali v prehodnem obdobju, ki ga določa člen 10, uporabljajo davčni odtegljaj pod enakimi pogoji, kot jih vsebuje člena 11 in 12)".

(ii) all agreements or other arrangements are in place, which provide that all the relevant dependent or associated territories apply from that same date automatic exchange of information in the same manner as is provided for in Chapter II of this Directive, (or, during the transitional period defined in Article 10, apply a withholding tax on the same terms as are contained in Articles 11 and 12)".

2. Odnose med Guernseyjem in EU ureja Protokol št. 3 Pogodbe o pristopu Združenega kraljestva k Evropski skupnosti. Skladno s Protokolom Guernsey ni del davčnega območja EU.

2. The relationship of Guernsey with the EU is determined by Protocol 3 of the Treaty of Accession of the United Kingdom to the European Community. Under the terms of the Protocol Guernsey is not within the EU fiscal territory.

3. Guernsey ugotavlja, da je sicer končni cilj držav članic EU omogočiti učinkovito obdavčevanje plačil obresti v državi članici, katere rezident je upravičeni lastnik za davčne namene, z izmenjavo podatkov o plačilih obresti med državami članicami, da pa trem državam članicam, in sicer Avstriji, Belgiji in Luksemburgu, v prehodnem obdobju ni treba uporabljati avtomatične izmenjave podatkov, temveč morajo uvesti davčni odtegljaj za dohodek od prihrankov, zajet v Direktivi.

3. Guernsey notes that, while it is the ultimate aim of the EU Member States to bring about effective taxation of interest payments in the beneficial owner's Member State of residence for tax purposes through the exchange of information concerning interest payments between themselves, three Member States, namely Austria, Belgium and Luxembourg, during a transitional period, shall not be required to exchange information but shall apply a withholding tax to the savings income covered by the Directive.

4. "Davčni odtegljaj" iz Direktive bo v domači zakonodaji Guernseyja označen kot "retencijski davek". Za namene tega sporazuma se zato oba termina pišeta skupaj kot "davčni odtegljaj/retencijski davek" in imata enak pomen.

4. The "withholding tax" referred to in the Directive will be referred to as the "retention tax" in Guernsey's domestic legislation. For the purposes of this Agreement the two terms therefore are to be read coterminously as "withholding/retention tax" and shall have the same meaning.

5. Guernsey je privolil v uporabo retencijskega davka z učinkom od 1. januarja 2005, pod pogojem, da države članice sprejmejo zakone in druge predpise, potrebne za uskladitev z Direktivo, in pod pogojem, da so na splošno izpolnjene zahteve člena 17 Direktive in člena 17(2) tega sporazuma.

5. Guernsey has agreed to apply a retention tax with effect from 1 January 2005 provided the Member States have adopted the laws, regulations, and administrative provisions necessary to comply with the Directive, and the requirements of Article 17 of the Directive and Article 17(2) of this Agreement have generally been met.

6. Guernsey je privolil v uporabo avtomatične izmenjave podatkov na enak način, kot je predviden v poglavju II Direktive, od konca prehodnega obdobja, določenega v členu 10(2) Direktive.

6. Guernsey has agreed to apply automatic exchange of information in the same manner as is provided for in Chapter II of the Directive from the end of the transitional period as defined in Article 10(2) of the Directive.

7. Guernsey razpolaga z zakonodajo o kolektivnih naložbenih podjetjih, za katero se šteje, da ima enak učinek kakor zakonodaja ES iz členov 2 in 6 Direktive.

7. Guernsey has legislation relating to undertakings for collective investment that is deemed to be equivalent in its effect to the EC legislation referred to in Articles 2 and 6 of the Directive.

Guernsey in Republika Slovenija, v nadaljevanju "pogodbena" ali "pogodbenci", razen če sobesedilo ne zahteva drugače,

Guernsey and the Republic of Slovenia hereinafter referred to as a "contracting party" or the "contracting parties" unless the context otherwise requires,

sta se dogovorili o sklenitvi naslednjega sporazuma, ki vsebuje obveznosti samo za pogodbenici in predvideva:

Have agreed to conclude the following agreement which contains obligations on the part of the contracting parties only and provides for:

a) avtomatično izmenjavo podatkov pristojnega organa Republike Slovenije pristojnemu organu Guernseyja na enak način kot pristojnemu organu države članice;

(a) the automatic exchange of information by the competent authority of the Republic of Slovenia to the competent authority of Guernsey in the same manner as to the competent authority of a Member State;

b) uporabo retencijskega davka s strani Guernseyja v prehodnem obdobju, določenem v členu 10 Direktive, od enakega datuma in pod enakimi pogoji, kot so določeni v členih 11 in 12 te Direktive;

c) avtomatično izmenjavo podatkov pristojnega organa Guernseyja pristojnemu organu Republike Slovenije v skladu s členom 13 Direktive;

d) prenos 75 % prihodka od retencijskega davka s strani pristojnega organa Guernseyja pristojnemu organu Republike Slovenije;

v zvezi s plačili obresti, ki jih opravi plačilni zastopnik, ustanovljen v državi pogodbenici fizični osebi, rezidentu druge države pogodbenice.

Za namene tega sporazuma pomeni izraz 'pristojni organ', kadar se uporablja za pogodbenici, Ministrstvo za finance Republike Slovenije ali pooblaščenega zastopnika ministrstva, ko gre za Republiko Slovenijo, in "The Administrator of Income Tax", ko gre za Guernsey.

Člen 1 Zadržanje davka s strani plačilnih zastopnikov

Za plačila obresti v smislu člena 8 tega sporazuma, ki jih opravijo plačilni zastopniki, ustanovljeni na Guernseyju upravičenim lastnikom v smislu člena 5 tega sporazuma, ki so rezidenti Republike Slovenije, se po členu 3 tega sporazuma v prehodnem obdobju iz člena 14 tega sporazuma od datuma, predvidenega v členu 15 tega sporazuma, uporablja retencijski davek. Stopnja retencijskega davka v prvih treh letih prehodnega obdobja znaša 15 %, v naslednjih treh letih 20 % in nato 35 %.

Člen 2 Podatki, ki jih poročajo plačilni zastopniki

(1) Kadar plačila obresti, kot jih opredeljuje člen 8 tega sporazuma, plačilni zastopnik, ustanovljen v Republici Sloveniji plača upravičenim lastnikom, kot jih opredeljuje člen 5 tega sporazuma, ki so rezidenti Guernseyja, ali če se uporabljajo določbe člena 3(1)(a) tega sporazuma, plačilni zastopnik pristojnemu organu poroča:

- a) identiteto in rezidentstvo upravičenega lastnika, ugotovljeno v skladu s členom 6 tega sporazuma;
- b) naziv in naslov plačilnega zastopnika;
- c) številko računa upravičenega lastnika ali, če nima računa, podatke o dolžniški terjatvi, iz katere izhajajo obresti;
- d) podatke o plačilu obresti v skladu s členom 4(1) tega sporazuma. Vsaka pogodbenica pa lahko omeji minimalne podatke o plačilu obresti, ki jih mora poročati plačilni zastopnik, na skupni znesek obresti ali dohodka in na skupni znesek prihodka od prodaje, odkupa ali povračila,

Republika Slovenija pa bo ravnala v skladu z odstavkom 2 tega člena.

(2) V šestih mesecih po koncu njihovega davčnega leta pristojni organ Republike Slovenije avtomatično sporoči podatke iz odstavka (1)(a)–(d) tega člena pristojnemu organu Guernseyja za vsa plačila obresti v tem letu.

Člen 3 Izjeme pri postopku retencije davka

(1) Guernsey, ki pobira retencijski davek v skladu s členom 1 tega sporazuma, predpiše enega ali oba izmed naslednjih postopkov, po katerih lahko upravičeni lastnik zahteva, da se davek ne odtegne:

a) postopek, ki omogoča, da se upravičeni lastnik, kot ga opredeljuje člen 5 tega sporazuma, izogne retencijskemu davku v skladu s členom 1 tega sporazuma z izrecnim pooblastilom plačilnega zastopnika za poročanje podatkov pristojnemu organu pogodbenice, v kateri je plačilni zastopnik ustanovljen. Tako pooblastilo zajema vsa plačila obresti, ki jih upravičenemu lastniku plača ta plačilni zastopnik;

(b) the application by Guernsey, during the transitional period defined in Article 10 of the Directive, of a retention tax from the same date and on the same terms as are contained in Articles 11 and 12 of that Directive;

(c) the automatic exchange of information by the competent authority of Guernsey to the competent authority of the Republic of Slovenia in accordance with Article 13 of the Directive;

(d) the transfer by the competent authority of Guernsey to the competent authority of the Republic of Slovenia of 75% of the revenue of the retention tax;

in respect of interest payments made by a paying agent established in a contracting party to an individual resident in the other contracting party.

For the purposes of this Agreement the term 'competent authority' when applied to the contracting parties means "the Ministry of Finance of the Republic of Slovenia or its authorised representative" in respect of the Republic of Slovenia and "the Administrator of Income Tax" in respect of Guernsey.

Article 1 Retention of Tax by Paying Agents

Interest payments as defined in Article 8 of this Agreement which are made by a paying agent established in Guernsey to beneficial owners within the meaning of Article 5 of this Agreement who are residents of the Republic of Slovenia shall, subject to Article 3 of this Agreement, be subject to a retention from the amount of interest payment during the transitional period referred to in Article 14 of this Agreement starting at the date referred to in Article 15 of this Agreement. The rate of retention tax shall be 15% during the first three years of the transitional period, 20% for the subsequent three years and 35% thereafter.

Article 2 Reporting of Information by Paying Agents

(1) Where interest payments, as defined in Article 8 of this Agreement, are made by a paying agent established in the Republic of Slovenia to beneficial owners, as defined in Article 5 of this Agreement, who are residents of Guernsey, or where the provisions of Article 3(1)(a) of this Agreement apply, the paying agent shall report to its competent authority:

- (a) the identity and residence of the beneficial owner established in accordance with Article 6 of this Agreement;
- (b) the name and address of the paying agent;
- (c) the account number of the beneficial owner or, where there is none, identification of the debt claim giving rise to the interest;
- (d) information concerning the interest payment specified in Article 4(1) of this Agreement. However, each contracting party may restrict the minimum amount of information concerning interest payment to be reported by the paying agent to the total amount of interest or income and to the total amount of the proceeds from sale, redemption or refund;

and the Republic of Slovenia will comply with paragraph (2) of this Article.

(2) Within six months following the end of the tax year, the competent authority of the Republic of Slovenia shall communicate to the competent authority of Guernsey, automatically, the information referred to in paragraph (1) (a)–(d) of this Article, for all interest payments made during that year.

Article 3 Exceptions to the Retention Tax Procedure

(1) Guernsey when levying a retention tax in accordance with Article 1 of this Agreement shall provide for one or both of the following procedures in order to ensure that the beneficial owners may request that no tax be retained:

(a) a procedure which allows the beneficial owner as defined in Article 5 of this Agreement to avoid the retention tax specified in Article 1 of this Agreement by expressly authorising his paying agent to report the interest payments to the competent authority of the contracting party in which the paying agent is established. Such authorisation shall cover all interest payments made to the beneficial owner by that paying agent;

b) postopek, ki zagotavlja, da se retencijski davek ne odtegne, če upravičeni lastnik plačilnemu zastopniku predloži potrdilo, ki se glasi na njegovo ime in ga je izdal pristojni organ pogodbenice, katere rezident je upravičeni lastnik za davčne namene, v skladu z odstavkom 2 tega člena.

(2) Na zahtevo upravičenega lastnika pristojni organ pogodbenice, katere rezident je za davčne namene, izda potrdilo, ki vsebuje:

- i) ime, naslov in davčno ali drugo identifikacijsko številko ali, če takšna številka ne obstaja, datum in kraj rojstva upravičenega lastnika;
- ii) naziv in naslov plačilnega zastopnika;
- iii) številko računa upravičenega lastnika ali, če račun ne obstaja, podatke o vrednostnem papirju.

Takšno potrdilo velja v obdobju, ki ni daljše od treh let. Potrdilo se izda vsakemu upravičenemu lastniku, ki ga zahteva, v dveh mesecih od vložitve take zahteve.

(3) Če se uporablja odstavek (1) (a) tega člena, pristojni organ Guernseyja, kjer je plačilni zastopnik ustanovljen, sporoči podatke iz člena 2(1) tega sporazuma pristojnemu organu Republike Slovenije, katere rezident je upravičeni lastnik. Takšno sporočanje podatkov je avtomatično in se opravi vsaj enkrat letno v šestih mesecih po koncu davčnega leta, določenega z zakoni pogodbenice, za vsa plačila obresti v tem letu.

Člen 4 Osnova za odmero retencijskega davka

(1) Plačilni zastopnik, ustanovljen na Guernseyju pobira davek v skladu s členom 1 tega sporazuma na naslednji način:

a) v primeru plačila obresti v smislu člena 8(1)(a) tega sporazuma: od bruto zneska plačanih ali pripisanih obresti;

b) v primeru plačila obresti v smislu člena 8(1)(a) ali (d) tega sporazuma: od zneska obresti ali dohodka iz točke (b) ali (d) tega pododstavka ali z enakovredno dajatvijo na skupni znesek prihodkov od prodaje, odkupa ali povračila, ki bremeni prejemnika;

c) v primeru plačila obresti v smislu člena 8(1)(c) tega sporazuma: od zneska obresti iz navedenega pododstavka;

d) v primeru plačila obresti v smislu člena 8(4) tega sporazuma: od zneska obresti, pripisanih vsakemu članu subjekta iz člena 7(2) tega sporazuma, ki izpolnjujejo pogoje iz členov 5(1) tega sporazuma;

e) če Guernsey izkoristi možnost iz člena 8(5) tega sporazuma: od zneska letno obračunanih obresti.

(2) Za namene točke (a) in (b) odstavka (1) tega člena se retencijski davek pobira sorazmerno dolžini obdobja, v katerem je upravičeni lastnik imel dolžniško terjatev. Kadar plačilni zastopnik na podlagi podatkov, ki jih ima na voljo, ne more ugotoviti dolžine obdobja, v katerem je upravičeni lastnik imel terjatev, šteje, da je upravičeni lastnik imel terjatev ves čas njegove obstoja, razen če upravičeni lastnik ne predloži dokazila o datumu pridobitve terjatve.

(3) Obdavčenje z retencijskim davkom na Guernseyju drugi pogodbenici, katere rezident je upravičeni lastnik za davčne namene, ne preprečuje obdavčevanja dohodka v skladu z njeno nacionalno zakonodajo.

(4) V prehodnem obdobju lahko Guernsey določi, da se nosilec gospodarske dejavnosti, ki plača obresti ali zagotovi obresti za subjekt iz člena 7(2) tega sporazuma v drugi pogodbenici, šteje za plačilnega zastopnika namesto subjekta in pobira retencijski davek od teh obresti, razen če se subjekt ni uradno strinjal, da se podatki o njegovem nazivu, naslovu in skupnem znesku plačanih ali zagotovljenih obresti sporočijo v skladu z zadnjim odstavkom člena 7(2) tega sporazuma.

(b) a procedure which ensures that retention tax shall not be levied where the beneficial owner presents to his paying agent a certificate drawn up in his name by the competent authority of the contracting party of residence for tax purposes in accordance with paragraph (2) of this Article.

(2) At the request of the beneficial owner, the competent authority of the contracting party of the country of residence for tax purposes shall issue a certificate indicating:

- (i) the name, address and tax or other identification number or, failing such, the date and place of birth of the beneficial owner;
- (ii) the name and address of the paying agent;
- (iii) the account number of the beneficial owner or, where there is none, the identification of the security.

Such certificate shall be valid for a period not exceeding three years. It shall be issued to any beneficial owner who requests it, within two months following such request.

(3) Where paragraph (1)(a) of this Article applies, the competent authority of Guernsey in which the paying agent is established shall communicate the information referred to in Article 2(1) of this Agreement to the competent authority of the Republic of Slovenia as the country of residence of the beneficial owner. Such communications shall be automatic and shall take place at least once a year, within six months following the end of the tax year established by the laws of a contracting party, for all interest payments made during that year.

Article 4 Basis of assessment for retention tax

(1) A paying agent established in Guernsey shall levy retention tax in accordance with Article 1 of this Agreement as follows:

(a) in the case of an interest payment within the meaning of Article 8(1)(a) of this Agreement: on the gross amount of interest paid or credited;

(b) in the case of an interest payment within the meaning of Article 8(1)(b) or (d) of this Agreement: on the amount of interest or income referred to in (b) or (d) of that paragraph or by a levy of equivalent effect to be borne by the recipient on the full amount of the proceeds of the sale, redemption or refund;

(c) in the case of an interest payment within the meaning of Article 8(1)(c) of this Agreement: on the amount of interest referred to in that sub-paragraph;

(d) in the case of an interest payment within the meaning of Article 8(4) of this Agreement: on the amount of interest attributable to each of the members of the entity referred to in Article 7(2) of this Agreement who meet the conditions of Article 5(1) of this Agreement;

(e) where Guernsey exercises the option under Article 8(5) of this Agreement: on the amount of annualised interest.

(2) For the purposes of sub-paragraphs (a) and (b) of paragraph (1) of this Article, the retention tax shall be deducted on a pro rata basis to the period during which the beneficial owner held the debt-claim. If the paying agent is unable to determine the period of holding on the basis of the information made available to him, the paying agent shall treat the beneficial owner as having been in possession of the debt-claim for the entire period of its existence, unless the latter provides evidence of the date of the acquisition.

(3) The imposition of retention tax by Guernsey shall not preclude the other contracting party of residence for tax purposes of the beneficial owner from taxing income in accordance with its national law.

(4) During the transitional period, Guernsey may provide that an economic operator paying interest to, or securing interest for, an entity referred to in Article 7(2) of this Agreement in the other contracting party shall be considered the paying agent in place of the entity and shall levy the retention tax on that interest, unless the entity has formally agreed to its name, address and the total amount of the interest paid to it or secured for it being communicated in accordance with the last paragraph of Article 7(2) of this Agreement.

Člen 5 Opredelitev upravičenega lastnika

(1) V tem sporazumu "upravičeni lastnik" pomeni vsakega posameznika, ki prejme plačilo obresti ali posameznika, za katerega se zagotovi plačilo obresti, razen če predloži dokazilo, da obresti ni prejel v lastno korist ali da niso bile zagotovljene v njegovo korist. Posameznik se ne šteje za upravičenega lastnika, če:

a) deluje kot plačilni zastopnik v smislu člena 7(1) tega sporazuma;

b) deluje v imenu pravne osebe, subjekta, katerega dobiček se obdavčuje po splošni ureditvi za podjetniško obdavčitev, KNPVP, priznan v skladu z Direktivo 85/611/EGS, ali enakovrednega kolektivnega naložbenega podjetja ustanovljenega na Guernseyju, ali v imenu subjekta iz člena 7(2) tega sporazuma, pri čemer v zadnjem primeru naziv in naslov subjekta razkrije nosilcu gospodarske dejavnosti, ki izvrši plačilo obresti, ta pa te podatke sporoči pristojnemu organu države članice, v kateri je ustanovljen;

c) deluje v imenu drugega posameznika, ki je upravičeni lastnik, in identiteto upravičenega lastnika razkrije plačilnemu zastopniku.

(2) Kadar ima plačilni zastopnik podatke, ki kažejo na to, da posameznik, ki prejme plačilo obresti ali za katerega se zagotovi plačilo obresti, ni nujno tudi upravičeni lastnik, in kadar se za navedenega posameznika ne uporablja nobeden od odstavkov (1)(a) in (1)(b) tega člena, izvede vse razumne ukrepe za ugotovitev identitete upravičenega lastnika. Če plačilni zastopnik ne more ugotoviti identitete upravičenega lastnika, zadevnega posameznika obravnava kot upravičenega lastnika.

Člen 6 Identiteta in rezidentstvo upravičenih lastnikov

(1) Vsaka pogodbenica na svojem ozemlju sprejme in zagotovi uporabo potrebnih postopkov, ki plačilnemu zastopniku omogočajo identificirati upravičene lastnike in njihovo rezidentstvo za namene tega sporazuma. Takšni postopki so v skladu z minimalnimi standardi, določenimi v odstavkih (2) in (3).

(2) Plačilni zastopnik ugotavlja identiteto upravičenega lastnika na podlagi minimalnih standardov, ki se razlikujejo glede na to, kdaj se vzpostavi razmerje med plačilnim zastopnikom in prejemnikom obresti, na naslednji način:

a) pri pogodbenih razmerjih, ki so bila sklenjena pred 1. januarjem 2004, plačilni zastopnik ugotavlja identiteto upravičenega lastnika, ki jo sestavljata njegovo ime in naslov, iz podatkov, ki jih ima na voljo, zlasti v skladu z veljavnimi predpisi države, v kateri je ustanovljen ter v skladu z Direktivo Sveta 91/308/EGS z dne 10. junija 1991 v primeru Republike Slovenije ali z enakovredno zakonodajo o preprečevanju uporabe finančnega sistema za pranje denarja v primeru Guernseyja;

b) pri pogodbenih razmerjih, ki so bila sklenjena, ali pri transakcijah, ki so bile opravljene brez pogodbenega razmerja na dan 1. januarja 2004 ali po njem, plačilni zastopnik k ugotavlja identiteto upravičenega lastnika, ki jo sestavljajo njegovo ime, naslov in morebitna davčna identifikacijska številka, ki mu jo je dodelila država članica, katere rezident je za davčne namene. Ti podatki se ugotavljajo na podlagi potnega lista ali uradne osebne izkaznice, ki jo predloži upravičeni lastnik. Če v potnem listu ali na uradni osebni izkaznici ni naslova, se ta ugotavlja na podlagi katerega koli drugega dokazila o identiteti, ki ga predloži upravičeni lastnik. Če na potnem listu, na uradni osebni izkaznici ali na katerem koli drugem dokazilu o identiteti, po možnosti vključno s potrdilom o rezidentstvu za davčne namene, ki ga predloži upravičeni lastnik, davčna identifikacijska številka ni navedena, se identiteta dopolni z datumom in krajem rojstva upravičenega lastnika, ki se ugotovi iz potnega lista ali uradne osebne izkaznice.

Article 5 Definition of beneficial owner

(1) For the purposes of this Agreement, "beneficial owner" shall mean any individual who receives an interest payment or any individual for whom an interest payment is secured, unless such individual can provide evidence that the interest payment was not received or secured for his own benefit. An individual is not deemed to be the beneficial owner when he:

(a) acts as a paying agent within the meaning of Article 7(1) of this Agreement;

(b) acts on behalf of a legal person, an entity which is taxed on its profits under the general arrangements for business taxation, an UCITS authorised in accordance with Directive 85/611/EEC or an equivalent undertaking for collective investment established in Guernsey, or an entity referred to in Article 7(2) of this Agreement and, in the last mentioned case, discloses the name and address of that entity to the economic operator making the interest payment and the latter communicates such information to the competent authority of its contracting party of establishment;

(c) acts on behalf of another individual who is the beneficial owner and discloses to the paying agent the identity of that beneficial owner.

(2) Where a paying agent has information suggesting that the individual who receives an interest payment or for whom an interest payment is secured may not be the beneficial owner, and where neither paragraph (1)(a) nor (1)(b) of this Article applies, it shall take reasonable steps to establish the identity of the beneficial owner. If the paying agent is unable to identify the beneficial owner, it shall treat the individual in question as the beneficial owner.

Article 6 Identity and residence of beneficial owners

(1) Each Party shall, within its territory, adopt and ensure the application of the procedures necessary to allow the paying agent to identify the beneficial owners and their residence for the purposes of this Agreement. Such procedures shall comply with the minimum standards established in paragraphs (2) and (3).

(2) The paying agent shall establish the identity of the beneficial owner on the basis of minimum standards which vary according to when relations between the paying agent and the recipient of the interest are entered into, as follows:

(a) for contractual relations entered into before 1 January 2004, the paying agent shall establish the identity of the beneficial owner, consisting of his name and address, by using the information at its disposal, in particular pursuant to the regulations in force in its country of establishment and to Council Directive 91/308/EEC of the 10th June, 1991 in the case of the Republic of Slovenia or equivalent legislation in the case of Guernsey on prevention of the use of the financial system for the purpose of money laundering;

(b) for contractual relations entered into, or transactions carried out in the absence of contractual relations, on or after 1 January, 2004 the paying agent shall establish the identity of the beneficial owner, consisting of the name, address and, if there is one, the tax identification number allocated by the Member State of residence for tax purposes. These details should be established on the basis of the passport or of the official identity card presented by the beneficial owner. If it does not appear on that passport or official identity card, the address shall be established on the basis of any other documentary proof of identity presented by the beneficial owner. If the tax identification number is not mentioned on the passport, on the official identity card or any other documentary proof of identity, including, possibly the certificate of residence for tax purposes, presented by the beneficial owner, the identity shall be supplemented by a reference to the latter's date and place of birth established on the basis of his passport or official identification card.

(3) Plačilni zastopnik ugotavlja rezidentstvo upravičenega lastnika na podlagi minimalnih standardov, ki se razlikujejo glede na to, kdaj se vzpostavi razmerje med plačilnim zastopnikom in prejemnikom obresti. Ob upoštevanju spodaj navedenih pogojev se šteje, da je rezidentstvo v državi, v kateri ima upravičeni lastnik stalni naslov:

a) pri pogodbenih razmerjih, ki so bila sklenjena pred 1. januarjem 2004, plačilni zastopnik ugotavlja rezidentstvo upravičenega lastnika iz podatkov, ki jih ima na voljo, zlasti v skladu z veljavnimi predpisi države, v kateri je ustanovljen, in z Direktivo 91/308/EGS v primeru Republike Slovenije ali enakovredno zakonodajo v primeru Guernseyja;

b) pri pogodbenih razmerjih, ki so bila sklenjena, ali pri transakcijah, ki so bile opravljene brez pogodbenega razmerja, na dan 1. januarja 2004 ali po njem, plačilni zastopnik ugotavlja rezidentstvo upravičenega lastnika na podlagi naslova, navedenega v potnem listu, na uradni osebni izkaznici ali, po potrebi, na podlagi drugega dokumentarnega dokazila o identiteti, ki ga predloži upravičeni lastnik, in skladno z naslednjim postopkom: pri posameznikih, ki predložijo potni list ali uradno osebno izkaznico, ki jo je izdala država članica, in ki izjavijo, da so rezidenti tretje države, se rezidentstvo ugotavlja na podlagi potrdila o davčnem rezidentstvu, ki ga izda pristojni organ tretje države, za katero posameznik trdi, da je njen rezident. Če posameznik takšnega potrdila ne predloži, se za državo rezidentstva šteje država članica, ki je izdala potni list ali drug uradni osebni dokument.

Člen 7 Opredelitev plačilnega zastopnika

(1) V tem sporazumu "plačilni zastopnik" pomeni vsakega nosilca gospodarske dejavnosti, ki plača ali zagotovi plačilo obresti v neposredno korist upravičenega lastnika, bodisi da je nosilec dolžnik terjatve, za katero se plačajo obresti, ali nosilec, ki po nalogu dolžnika ali upravičenega lastnika plača ali zagotovi plačilo obresti.

(2) Vsak subjekt, ki je ustanovljen v pogodbenici, kateremu se plačajo obresti ali zagotovi plačilo obresti v korist upravičenega lastnika, se ob takem plačilu ali ob zagotovitvi takega plačila šteje za plačilnega zastopnika. Ta določba se ne uporablja, če nosilec dejavnosti na podlagi uradnih dokazil, ki jih ta subjekt predloži, utemeljeno domneva, da:

- a) je subjekt pravna oseba, z izjemo pravnih oseb iz odstavka (5) tega člena; ali
- b) so dobički subjekta obdavčeni po splošni ureditvi za podjetniško obdavčitev; ali
- c) je subjekt KNPVP, priznan v skladu z Direktivo 85/611/EGS Sveta ali enakovreden kolektivni naložbeni podjem, ustanovljen na Guernseyju.

Nosilec gospodarske dejavnosti, ki plača ali zagotovi plačilo obresti takšnemu subjektu, ki je ustanovljen v drugi pogodbenici, ki se po tem odstavku šteje za plačilnega zastopnika, sporoči naziv in naslov subjekta ter skupni znesek subjektu plačanih ali zagotovljenih obresti pristojnemu organu pogodbenice, v kateri je ustanovljen, ta pa te podatke pošlje pristojnemu organu pogodbenice, v kateri je subjekt ustanovljen.

(3) Vendar ima subjekt iz odstavka (2) tega člena možnost, da se ga za namene tega sporazuma obravnava kot KNPVP ali enakovreden podjem iz odstavka (2)(c). To možnost lahko subjekt izkoristi tako, da nosilcu gospodarske dejavnosti predloži potrdilo, ki ga izda pogodbenica, v kateri je subjekt ustanovljen. Pogodbenica določi podrobna pravila glede možnosti za subjekte, ki so ustanovljeni na njenem ozemlju.

(3) The paying agent shall establish the residence of the beneficial owner on the basis of minimum standards which vary according to when relations between the paying agent and the recipient of the interest are entered into. Subject to the conditions set out below, residence shall be considered to be situated in the country where the beneficial owner has his permanent address:

(a) for contractual relations entered into before 1 January, 2004 the paying agent shall establish the residence of the beneficial owner by using the information at its disposal, in particular pursuant to the regulations in force in its country of establishment and to Directive 91/308/EEC in the case of the Republic of Slovenia or equivalent legislation in the case of Guernsey;

(b) for contractual relations entered into, or transactions carried out in the absence of contractual relations, on or after 1 January, 2004, the paying agents shall establish the residence of the beneficial owner on the basis of the address mentioned on the passport, on the official identity card or, if necessary, on the basis of any documentary proof of identity presented by the beneficial owner and according to the following procedure: for individuals presenting a passport or official identity card issued by a Member State who declare themselves to be resident in a third country, residence shall be established by means of a tax residence certificate issued by the competent authority of the third country in which the individual claims to be resident. Failing the presentation of such a certificate, the Member State which issued the passport or other official identity document shall be considered to be the country of residence.

Article 7 Definition of paying agent

(1) For the purposes of this Agreement, 'paying agent' means any economic operator who pays interest to or secures the payment of interest for the immediate benefit of the beneficial owner, whether the operator is the debtor of the debt claim which produces the interest or the operator charged by the debtor or the beneficial owner with paying interest or securing the payment of interest.

(2) Any entity established in a contracting party to which interest is paid or for which interest is secured for the benefit of the beneficial owner shall also be considered a paying agent upon such payment or securing of such payment. This provision shall not apply if the economic operator has reason to believe, on the basis of official evidence produced by that entity that:

- (a) it is a legal person with the exception of those legal persons referred to in paragraph (5) of this Article; or
- (b) its profits are taxed under the general arrangements for business taxation; or
- (c) it is an UCITS recognised in accordance with Directive 85/611/EEC of the Council or an equivalent undertaking for collective investment established in Guernsey.

An economic operator paying interest to, or securing interest for, such an entity established in the other contracting party which is considered a paying agent under this paragraph shall communicate the name and address of the entity and the total amount of interest paid to, or secured for, the entity to the competent authority of its contracting party of establishment, which shall pass this information on to the competent authority of the contracting party where the entity is established.

(3) The entity referred to in paragraph (2) of this Article shall, however, have the option of being treated for the purposes of this Agreement as an UCITS or equivalent undertaking as referred to in sub-paragraph (c) of paragraph (2) of this article. The exercise of this option shall require a certificate to be issued by the contracting party in which the entity is established and presented to the economic operator by that entity. A contracting party shall lay down the detailed rules for this option for entities established in its territory.

(4) Kadar sta nosilec gospodarske dejavnosti in subjekt iz odstavka (2) tega člena ustanovljena v isti pogodbenici, ta pogodbenica sprejme potrebne ukrepe, s katerimi zagotovi, da subjekt izpolnjuje vsa določila tega sporazuma, kadar deluje kot plačilni zastopnik.

(5) Pravne osebe, izvzete iz odstavka (2)(a) tega člena so:

- a) na Finskem: avoin yhtiö (Ay) in kommandiittiyhtiö (Ky)/öppet bolag in kommanditbolag;
- b) na Švedskem: handelsbolag (HB) in kommanditbolag (KB).

Člen 8 Opredelitev plačila obresti

(1) Za namene tega sporazuma "plačilo obresti" pomeni:

a) obresti, ki se plačajo ali pripišejo na račun in se nanašajo na dolžniške terjatve vseh vrst ne glede na to, ali so zavarovane s hipoteko, in ne glede na to, ali imajo pravico do udeležbe v dolžnikovem dobičku, in še posebej dohodek od državnih vrednostnih papirjev ter dohodek iz obveznic ali zadolžnic, vključno s premijami in nagradami od takih vrednostnih papirjev, obveznic ali zadolžnic; kazni zaradi zamude pri plačilu se ne štejejo za plačilo obresti;

b) obračunane ali h glavnici pripisane obresti pri prodaji, povračilu ali odkupu dolžniških terjatev iz točke (a);

c) dohodek, ki bodisi neposredno ali posredno preko subjekta iz člena 7(2) tega sporazuma izvira iz plačila obresti in ki ga razdelijo:

- i) KNPVP, priznani v skladu z ES Direktivo 85/611/EGS Sveta;
- ii) enakovreden kolektivni naložbeni podjem, ustanovljen na Guernseyju;
- iii) subjekti, ki izpolnjujejo pogoje za možnost iz člena 7(3) tega sporazuma;
- iv) kolektivni naložbeni podjem, ustanovljen zunaj ozemlja, na katerega se nanaša Pogodba o ustanovitvi Evropske skupnosti na podlagi člena 229 te pogodbe in zunaj Guernseyja.

d) dohodek, dosežen s prodajo, povračilom ali odkupom delnic ali enot v naslednjih podjetjih in subjektih, če ti neposredno ali posredno prek drugih kolektivnih naložbenih podjetij ali subjektov, ki so navedeni spodaj, naložijo več kot 40 % svojih sredstev v dolžniške terjatve iz točke (a):

- i) KNPVP, priznani v skladu z Direktivo 85/611/EGS;
- ii) enakovreden kolektivni naložbeni podjem, ustanovljen na Guernseyju;
- iii) subjekti, ki izpolnjujejo pogoje za možnost iz člena 7(3) tega sporazuma;
- iv) kolektivni naložbeni podjetji, ustanovljeni zunaj ozemlja, za katerega velja Pogodba o ustanovitvi Evropske skupnosti na podlagi njenega člena 299 in zunaj Guernseyja.

Pogodbenici pa imata možnost, da v opredelitev obresti vključita dohodek iz odstavka (1)(d) tega člena samo v višini dobičkov, ki neposredno ali posredno izvirajo iz plačil obresti v smislu odstavkov (1)(a) in (b) tega člena.

(2) Glede odstavkov (1)(c) in (d) tega člena, kadar plačilni zastopnik nima podatkov o deležu dohodka, ki izvira iz plačil obresti, se celoten znesek dohodka šteje za plačilo obresti.

(3) Glede odstavka (1)(d) tega člena, kadar plačilni zastopnik nima podatkov o odstotku sredstev, ki so bila naložena v dolžniške terjatve ali v delnice ali enote, kot določa navedeni odstavek, se šteje, da ta odstotek presega 40 %. Kadar plačilni zastopnik ne more določiti zneska dohodka upravičenega lastnika, se šteje, da je dohodek enak prihodku od prodaje, povračila ali odkupa delnic ali enot.

(4) Where the economic operator and the entity referred to in paragraph (2) of this Article are established in the same contracting party, that contracting party shall take the necessary measures to ensure that the entity complies with the provisions of this Agreement when it acts as a paying agent.

(5) The legal persons exempted from sub-paragraph (a) of paragraph (2) of this Article are

- (a) in Finland: avoin yhtiö (Ay) and kommandiittiyhtiö (Ky)/öppet bolag and kommanditbolag;
- (b) in Sweden: handelsbolag (HB) and kommanditbolag (KB).

Article 8 Definition of interest payment

(1) For the purposes of this Agreement "interest payment" shall mean:

(a) interest paid, or credited to an account, relating to debt claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and, in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures; penalty charges for late payment shall not be regarded as interest payment;

(b) interest accrued or capitalised at the sale, refund or redemption of the debt claims referred to in (a);

(c) income deriving from interest payments either directly or through an entity referred to in Article 7(2) of this Agreement, distributed by:

- (i) an UCITS authorised in accordance with EC Directive 85/611/EEC of the Council;
- (ii) an equivalent undertaking for collective investment established in Guernsey;
- (iii) entities which qualify for the option under Article 7(3) of this Agreement;
- (iv) undertakings for collective investment established outside the territory to which the Treaty establishing the European Community applies by virtue of Article 299 thereof and outside Guernsey.

(d) income realised upon the sale, refund or redemption of shares or units in the following undertakings and entities, if they invest directly or indirectly, via other undertakings for collective investment or entities referred to below, more than 40% of their assets in debt claims as referred to in (a):

- (i) an UCITS authorised in accordance with Directive 85/611/EEC;
- (ii) an equivalent undertaking for collective investment established in Guernsey.
- (iii) entities which qualify for the option under Article 7(3) of this Agreement;
- (iv) undertakings for collective investment established outside the territory to which the Treaty establishing the European Community applies by virtue of Article 299 thereof and outside Guernsey.

However, the contracting parties shall have the option of including income mentioned under paragraph (1)(d) of this Article in the definition of interest only to the extent that such income corresponds to gains directly or indirectly deriving from interest payments within the meaning of paragraphs (1)(a) and (b) of this Article.

(2) As regards paragraphs (1)(c) and (d) of this Article, when a paying agent has no information concerning the proportion of the income which derives from interest payments, the total amount of the income shall be considered an interest payment.

(3) As regards paragraph (1)(d) of this Article, when a paying agent has no information concerning the percentage of the assets invested in debt claims or in shares or units as defined in that paragraph, that percentage shall be considered to be above 40%. Where he cannot determine the amount of income realised by the beneficial owner, the income shall be deemed to correspond to the proceeds of the sale, refund or redemption of the shares or units.

(4) Kadar se obresti, kot jih opredeljuje odstavek (1) tega člena, plačajo ali pripisejo na račun subjekta iz člena 7(2) tega sporazuma, pri čemer ta subjekt ne izpolnjuje pogojev za možnost po členu 7(3) tega sporazuma, se to šteje za plačilo obresti takega subjekta.

(5) Glede odstavkov (1)(b) in (d) tega člena ima pogodbenica možnost, da od plačilnih zastopnikov na svojem ozemlju zahteva obračun obresti v obdobju, ki ne sme presežati eno leto, ter da tako obračunane obresti obravnavajo kot plačilo obresti, četudi v tem obdobju ne pride do prodaje, odkupa ali povračila.

(6) Z odstopanjem od odstavkov (1)(c) in (d) tega člena ima pogodbenica možnost, da iz opredelitve plačil obresti izključijo dohodek iz navedenih določb od podjetij ali subjektov, ki so ustanovljeni na njenem ozemlju, če naložbe v dolžniške terjatve iz odstavka (1)(a) tega člena takšnih subjektov ne presegajo 15% njihovih sredstev. Prav tako ima pogodbenica možnost, da z odstopanjem od odstavka (4) tega člena iz opredelitve plačil obresti iz odstavka (1) tega člena izključi obresti, ki se plačajo ali pripisejo na račun subjekta iz člena 7(2) tega sporazuma, ki ne izpolnjuje pogojev za možnost iz člena 7(3) tega sporazuma in je ustanovljen na njenem ozemlju, če naložbe takega subjekta v dolžniške terjatve iz odstavka (1)(a) tega člena ne presegajo 15% njegovih sredstev.

Če pogodbenica uporabi takšno možnost, je to zavezujoče za drugo pogodbenico.

(7) Od 1. januarja 2011 bo odstotek iz odstavka (1)(d) tega člena in odstavka (3) tega člena znašal 25%.

(8) Odstotki iz odstavka (1)(d) tega člena in odstavka (6) tega člena se določajo glede na naložbeno politiko kot jo določajo pravila sklada ali ustanovna listina zadevnih podjetij ali subjektov, ali, če te ni, glede na dejansko sestavo sredstev zadevnih podjetij ali subjektov.

Člen 9 Delitev prihodkov iz retencijskega davka

(1) Guernsey zadrži 25% retencijskega davka, odbitega po določitih tega sporazuma, preostalih 75% pa prenese na drugo pogodbenico.

(2) Guernsey, ki pobira retencijski davek v skladu s členom 4(4) tega sporazuma, zadrži 25% prihodkov in prenese 75% na Republiko Slovenijo, sorazmerno s prenosi, izvedenimi v skladu z odstavkom (1) tega člena.

(3) Taki prenosi se izvršijo za vsako leto v enem obroku, najkasneje v obdobju šestih mesecev po zaključku davčnega leta, določenega z zakoni Guernseyja.

(4) Guernsey pri pobiranju retencijskega davka sprejme potrebne ukrepe, s katerimi zagotovi pravilno delovanje sistema delitve prihodka.

Člen 10 Odprava dvojnega obdavčevanja

(1) Pogodbenica, katere rezident je upravičeni lastnik za davčne namene, zagotovi odpravo vsakršnega dvojnega obdavčevanja, ki bi lahko bilo posledica uvedbe retencijskega davka iz tega sporazuma s strani Guernseyja, v skladu z naslednjimi določbami:

i) če je bil od obresti, ki jih je prejel upravičeni lastnik, odtegnjen retencijski davek na Guernseyju, mu druga pogodbenica v skladu s svojo nacionalno zakonodajo prizna davčni odbitek v znesku, enakem višini odtegnjenega davka. Kadar ta znesek presega znesek davčne obveznosti v skladu z njeno nacionalno zakonodajo, druga pogodbenica upravičenemu lastniku povrne presežni znesek odtegnjenega davka;

(4) When interest, as defined in paragraph (1) of this Article, is paid to or credited to an account held by an entity referred to in Article 7(2) of this Agreement, such entity not having qualified for the option under Article 7(3) of this Agreement, such interest shall be considered an interest payment by such entity.

(5) As regards paragraphs (1)(b) and (d) of this Article, a contracting party shall have the option of requiring paying agents in its territory to annualise the interest over a period of time which may not exceed one year, and treating such annualised interest as an interest payment even if no sale, redemption or refund occurs during that period.

(6) By way of derogation from paragraphs (1)(c) and (d) of this Article, a contracting party shall have the option of excluding from the definition of interest payment any income referred to in those provisions from undertakings or entities established within its territory where the investment in debt claims referred to in paragraph (1)(a) of this Article of such entities has not exceeded 15% of their assets. Likewise, by way of derogation from paragraph (4) of this Article, a contracting party shall have the option of excluding from the definition of interest payment in paragraph (1) of this Article interest paid or credited to an account of an entity referred to in Article 7(2) of this Agreement which has not qualified for the option under Article 7(3) of this Agreement and is established within its territory, where the investment of such an entity in debt claims referred to in paragraph (1)(a) of this Article has not exceeded 15% of its assets.

The exercise of such option by one contracting party shall be binding on the other contracting party.

(7) The percentage referred to in paragraph (1)(d) of this Article and paragraph (3) of this Article shall from 1 January, 2011 be 25%.

(8) The percentages referred to in paragraph (1)(d) of this Article and in paragraph (6) of this Article shall be determined by reference to the investment policy as laid down in the fund rules or instruments of incorporation of the undertakings or entities concerned or, failing which, by reference to the actual composition of the assets of the undertakings or entities concerned.

Article 9 Retention Tax Revenue sharing

(1) Guernsey shall retain 25% of the retention tax deducted under this Agreement and transfer the remaining 75% of the revenue to the other contracting party.

(2) Guernsey levying retention tax in accordance with Article 4(4) of this Agreement shall retain 25% of the revenue and transfer 75% to the Republic of Slovenia proportionate to the transfers carried out pursuant to paragraph (1) of this Article.

(3) Such transfers shall take place for each year in one instalment at the latest within a period of six months following the end of the tax year established by the laws of Guernsey.

(4) Guernsey levying retention tax shall take the necessary measures to ensure the proper functioning of the revenue sharing system.

Article 10 Elimination of double taxation

(1) A contracting party in which the beneficial owner is resident for tax purposes shall ensure the elimination of any double taxation which might result from the imposition by Guernsey of the retention tax to which this Agreement refers in accordance with the following provisions:

(i) if interest received by a beneficial owner has been subject to retention tax in Guernsey, the other contracting party shall grant a tax credit equal to the amount of the tax retained in accordance with its national law. Where this amount exceeds the amount of tax due in accordance with its national law, the other contracting party shall repay the excess amount of tax retained to the beneficial owner;

ii) če je bil od obresti, ki jih je prejel upravičeni lastnik, poleg retencijskega davka iz člena 4 tega sporazuma, odtegnjen kakršen koli drug davčni odtegljaj/retencijski davek, in pogodbenica, v kateri je upravičeni lastnik rezident za davčne namene, v skladu s svojo nacionalno zakonodajo ali konvencijami o dvojnem obdavčevanju zagotavlja davčni odbitek za takšen davčni odtegljaj/retencijski davek, se takšen davčni odtegljaj/retencijski davek odbije pred uporabo postopka iz pododstavka (i) tega člena.

(2) Pogodbenica, katere rezident je upravičeni lastnik za davčne namene, lahko mehanizem davčnega odbitka iz odstavka (1) tega člena nadomesti z vračilom retencijskega davka iz člena 1 tega sporazuma.

Člen 11 Prehodne določbe o prenosljivih dolžniških vrednostnih papirjih

(1) V prehodnem obdobju iz člena 14 tega sporazuma, vendar najpozneje do 31. decembra 2010, se domače in mednarodne obveznice in drugi prenosljivi dolžniški vrednostni papirji, ki so bili prvič izdani pred 1. marcem 2001 ali za katere so pristojni organi v smislu Direktive Sveta 80/390/EGS ali odgovorni organi v tretjih državah odobrili prvotne prospekte za izdajo pred tem datumom, ne štejejo za dolžniške terjatve v smislu člena 8(1)(a) tega sporazuma, pod pogojem, da od vključno 1. marca 2002 naprej ni bila izdana nadaljna izdaja takšnih prenosljivih dolžniških vrednostnih papirjev. Če pa bi se prehodno obdobje nadaljevalo tudi po 31. decembru 2010, se določbe tega člena še naprej uporabljajo samo za takšne prenosljive dolžniške vrednostne papirje:

- ki vsebujejo klavzuli o obratovanju in predčasem odkupu ter
- kadar je plačilni zastopnik, ustanovljen v pogodbenici, ki uporablja retencijski davek in ta plačilni zastopnik plača ali zagotovi plačilo obresti v neposredno korist upravičenega lastnika, ki je rezident druge pogodbenice.

Če država ali z njo povezan subjekt, ki deluje kot organ oblasti ali katerega vloga je priznana z mednarodno pogodbo, kot je opredeljena v prilogi k temu sporazumu, na dan 1. marca 2002 ali po njem izda dodatno izdajo prej omenjenega prenosljivega dolžniškega vrednostnega papirja, se celotna izdaja takšnega vrednostnega papirja, ki je sestavljena iz prvotne izdaje in vseh naslednjih izdaj, šteje za dolžniško terjatev v smislu člena 8(1)(a) tega sporazuma.

Če kateri koli drug izdajatelj, ki ni zajet v drugem pododstavku, na dan 1. marca 2002 ali po njem izda dodatno izdajo prej omenjenega prenosljivega dolžniškega vrednostnega papirja, se takšna dodatna izdaja šteje za dolžniško terjatev v smislu člena 8(1)(a) tega sporazuma.

(2) Nobena določba tega člena pogodbenicam ne preprečuje obdavčevanja dohodka od prenosljivih dolžniških vrednostnih papirjev iz odstavka (1) v skladu s svojo nacionalno zakonodajo.

Člen 12 Postopek medsebojnega dogovora

Kadar se med pogodbenicami pojavijo težave ali nejasnosti glede izvajanja ali tolmačenja tega sporazuma, si pogodbenice po svojih najboljših močeh prizadevajo rešiti zadevo z medsebojnim dogovorom.

Člen 13 Zaupnost

(1) Vse informacije, ki jih pristojni organi pogodbenice posredujejo in prejmejo, se obravnavajo kot zaupne.

(2) Informacije, ki jih prejmejo pristojni organi pogodbenice, se brez predhodnega pisnega soglasja druge pogodbenice ne smejo uporabiti za noben drug namen razen neposrednega obdavčevanja.

(3) Prejete informacije se lahko razkrijejo le osebam ali organom oblasti, ki se ukvarjajo z neposrednim obdavčevanjem; te osebe ali organi oblasti jih lahko uporabijo le v ta namen ali v namen pregleda nad delovanjem, vključno z reševanjem pritožb. V te namene se informacije lahko razkrijejo v upravnih ali sodnih postopkih.

(ii) if, in addition to the retention tax referred to in Article 4 of this Agreement, interest received by a beneficial owner has been subject to any other type of withholding/retention tax and the contracting party of residence for tax purposes grants a tax credit for such withholding/retention tax in accordance with its national law or double taxation conventions, such other withholding/retention tax shall be credited before the procedure in sub-paragraph (i) of this Article is applied.

(2) The contracting party which is the country of residence for tax purposes of the beneficial owner may replace the tax credit mechanism referred to in paragraph (1) of this Article by a refund of the retention tax referred to in Article 1 of this Agreement.

Article 11 Transitional provisions for negotiable debt securities

(1) During the transitional period referred to in Article 14 of this Agreement, but until 31 December 2010 at the latest, domestic and international bonds and other negotiable debt securities which have been first issued before 1 March 2001 or for which the original issuing prospectuses have been approved before that date by the competent authorities within the meaning of Council Directive 80/390/EEC or by the responsible authorities in third countries shall not be considered as debt claims within the meaning of Article 8(1)(a) of this Agreement, provided that no further issues of such negotiable debt securities are made on or after 1 March 2002. However, should the transitional period continue beyond 31 December 2010, the provisions of this Article shall only continue to apply in respect of such negotiable debt securities:

- which contain gross up and early redemption clauses; and,
- where the paying agent is established in a contracting party applying retention tax and that paying agent pays interest to, or secures the payment of interest for the immediate benefit of a beneficial owner resident in the other contracting party.

If a further issue is made on or after 1 March 2002 of an aforementioned negotiable debt security issued by a Government or a related entity acting as a public authority or whose role is recognised by an international treaty, as defined in the Annex to this Agreement, the entire issue of such security, consisting of the original issue and any further issue, shall be considered a debt claim within the meaning of Article 8(1)(a) of this Agreement.

If a further issue is made on or after 1 March 2002 of an aforementioned negotiable debt security issued by any other issuer not covered by the second sub-paragraph, such further issue shall be considered a debt claim within the meaning of Article 8(1)(a) of this Agreement.

(2) Nothing in this Article shall prevent the contracting parties from taxing the income from the negotiable debt securities referred to in paragraph (1) in accordance with their national laws.

Article 12 Mutual agreement procedure

Where difficulties or doubts arise between the parties regarding the implementation or interpretation of this Agreement, the contracting parties shall use their best endeavours to resolve the matter by mutual agreement.

Article 13 Confidentiality

(1) All information provided and received by the competent authority of a contracting party shall be kept confidential.

(2) Information provided to the competent authority of a contracting party may not be used for any purpose other than for the purposes of direct taxation without the prior written consent of the other contracting party.

(3) Information provided shall be disclosed only to persons or authorities concerned with the purposes of direct taxation, and used by such persons or authorities only for such purposes or for oversight purposes, including the determination of any appeal. For these purposes, information may be disclosed in public court proceedings or in judicial proceedings.

(4) Kadar pristojni organ pogodbenice meni, da so informacije, ki jih je prejel od pristojnega organa druge pogodbenice, uporabne za pristojni organ druge države članice, jih temu pristojnemu organu lahko posreduje ob dogovoru s pristojnim organom, ki je informacije priskrbel.

Člen 14 Prehodno obdobje

Ob koncu prehodnega obdobja iz člena 10(2) direktive bo Guernsey prenehal uporabljati retencijski davek in delitev prihodkov, kot določa ta sporazum, in začel za drugo pogodbenico uporabljati določbe o avtomatični izmenjavi podatkov na enak način, kot je določeno v poglavju II Direktive. Če se v prehodnem obdobju Guernsey odloči, da bo začel uporabljati določbe o avtomatični izmenjavi podatkov na enak način, kot je določeno v poglavju II Direktive, bo prenehal uporabljati davčni odtegljaj/retencijski davek in delitev prihodkov iz člena 9 tega sporazuma.

Člen 15 Začetek veljavnosti

Ob upoštevanju določb člena 17 tega sporazuma, ta sporazum začne veljati 1. januarja 2005.

Člen 16 Prenehanje veljavnosti

(1) Ta sporazum velja, dokler ga ne odpove ena od pogodbenic.

(2) Vsaka pogodbenica lahko odpove ta sporazum tako, da s pisnim obvestilom o odpovedi uradno obvesti drugo pogodbenico, takšno pisno obvestilo naj opredeljuje okoliščine, ki so pripeljale do odpovedi. V takem primeru ta sporazum preneha veljati 12 mesecev po predložitvi uradnega obvestila.

Člen 17 Uporaba in ustaveitev uporabe

(1) Ta sporazum se lahko uporablja pod pogojem, da vse države članice Evropske unije, Združene države Amerike, Švica, Andora, Lihtenštajn, Monako in San Marino in vsa odvisna in pridružena ozemlja držav članic Evropske skupnosti sprejmejo in izvajajo ukrepe, ki so skladni ali enaki ukrepom v Direktivi ali v tem sporazumu in predvidevajo enake datume začetka izvajanja.

(2) Pogodbenici vsaj šest mesecev pred datumom iz člena 15 tega sporazuma v medsebojnem soglasju odločita, ali bodo izpolnjeni pogoji iz odstavka (1), pri čemer upoštevata datume začetka veljavnosti ustreznih ukrepov v zadevnih državah članicah, imenovanih tretjih državah in odvisnih ali pridruženih ozemljih.

(3) V primeru, da se direktiva začasno ali stalno ne more več uporabljati v skladu s pravom Evropske skupnosti ali v primeru, da država članica ustavi uporabo svojih izvedbenih predpisov, lahko katera koli pogodbenica, ob upoštevanju postopka medsebojnega dogovora iz člena 12 tega sporazuma, z uradnim obvestilom s takojšnjim učinkom drugi pogodbenici ustavi uporabo tega sporazuma ali delov tega sporazuma in v takem uradnem obvestilu opredeli okoliščine, ki so pripeljale do ustavitve njegove uporabe.

(4) V primeru, da ena od tretjih držav ali ozemelj iz poglavja (1) preneha uporabljati ukrepe iz omenjenega odstavka, lahko katera koli pogodbenica, ob upoštevanju postopka medsebojnega dogovora iz člena 12 tega sporazuma, z uradnim obvestilom drugi pogodbenici odloži uporabo tega sporazuma ali delov tega sporazuma in v takem uradnem obvestilu opredeli okoliščine, ki so pripeljale do takega obvestila. Odložitev uporabe se ne začne izvajati pred potekom dveh mesecev od takega uradnega obvestila. Uporaba sporazuma se nadaljuje takoj, ko zadevna tretja država ali ozemlje obnovi uporabo ukrepov.

Sestavljeno v slovenskem in angleškem jeziku, pri čemer sta obe besedili enako verodostojni.

(4) Where a competent authority of a contracting party considers that information which it has received from the competent authority of the other contracting party is likely to be useful to the competent authority of another Member State, it may transmit it to the latter competent authority with the agreement of the competent authority which supplied the information.

Article 14 Transitional Period

At the end of the transitional period as defined in Article 10(2) of the Directive, Guernsey shall cease to apply the retention tax and revenue sharing provided for in this Agreement and shall apply in respect of the other contracting party the automatic exchange of information provisions in the same manner as is provided for in Chapter II of the Directive. If during the transitional period Guernsey elects to apply the automatic exchange of information provisions in the same manner as is provided for in Chapter II of the Directive, it shall no longer apply the withholding/retention tax and the revenue sharing provided for in Article 9 of this Agreement.

Article 15 Entry into force

Subject to the provisions of Article 17 of this Agreement, this Agreement shall come into force on 1 January 2005.

Article 16 Termination

(1) This Agreement shall remain in force until terminated by either contracting party.

(2) Either contracting party may terminate this Agreement by giving notice of termination in writing to the other contracting party, such notice to specify the circumstances leading to the giving of such notice. In such a case, this Agreement shall cease to have effect 12 months after the serving of notice.

Article 17 Application and suspension of application

(1) The application of this Agreement shall be conditional on the adoption and implementation by all the Member States of the European Union, by the United States of America, Switzerland, Andorra, Liechtenstein, Monaco and San Marino, and by all the relevant dependent and associated territories of the Member States of the European Community, respectively, of measures which conform with or are equivalent to those contained in the Directive or in this Agreement, and providing for the same dates of implementation.

(2) The contracting parties shall decide, by common accord, at least six months before the date referred to in Article 15 of this Agreement, whether the condition set out in paragraph (1) will be met having regard to the dates of entry into force of the relevant measures in the Member States, the named third countries and the dependent or associated territories concerned.

(3) Subject to the mutual agreement procedure provided for in Article 12 of this Agreement, the application of this Agreement or parts thereof may be suspended by either contracting party with immediate effect through notification to the other specifying the circumstances leading to such notification should the Directive cease to be applicable either temporarily or permanently in accordance with European Community law or in the event that a Member State should suspend the application of its implementing legislation. Application of the Agreement shall resume as soon as the circumstances leading to the suspension no longer apply.

(4) Subject to the mutual agreement procedure provided for in Article 12 of this Agreement, either contracting party may suspend the application of this Agreement through notification to the other specifying the circumstances leading to such notification in the event that one of the third countries or territories referred to in paragraph (1) should subsequently cease to apply the measures referred to in that paragraph. Suspension of application shall take place no earlier than two months after notification. Application of the Agreement shall resume as soon as the measures are reinstated by the third country or territory in question.

Done in the Slovenian and English languages, all texts being equally authentic.

PRILOGA

ANNEX

Seznam povezanih subjektov iz člena 11

List of related entities referred to in Article 11

Za namene člena 11 tega sporazuma se za "povezane subjekte, ki delujejo kot državni organi ali katerih vloga je priznana z mednarodno pogodbo," štejejo naslednji subjekti:

For the purposes of Article 11 of this Agreement, the following entities will be considered to be a "related entity acting as a public authority or whose role is recognised by an international treaty":

SUBJEKTI V EVROPSKI UNIJI:**ENTITIES WITHIN THE EUROPEAN UNION:****Belgija**

Vlaams Gewest (Flamska regija)
Région wallonne (Valonska regija)
Région bruxelloise/Brussels Gewest (Regija glavnega mesta Bruslja)
Communauté française (Francoska skupnost)
Vlaamse Gemeenschap (Flamska skupnost)
Deutschsprachige Gemeinschaft (Nemško govoreča skupnost)

Belgium

Vlaams Gewest (Flemish Region)
Région wallonne (Walloon Region)
Région bruxelloise/Brussels Gewest (Brussels Region)

Communauté française (French Community)
Vlaamse Gemeenschap (Flemish Community)
Deutschsprachige Gemeinschaft (German-speaking Community)

Španija

Xunta de Galicia (Regionalni zakonodajni svet Galicije)
Junta de Andalucía (Regionalni zakonodajni svet Andaluzije)
Junta de Extremadura (Regionalni zakonodajni svet Extremadure)
Junta de Castilla-La Mancha (Regionalni zakonodajni svet Kastilje-La Manche)
Junta de Castilla-León (Regionalni zakonodajni svet Kastilje-León)
Gobierno Foral de Navarra (Regionalna vlada Navarre)

Govern de les Illes Balears (Vlada Balearskih otokov)
Generalitat de Catalunya (Avtonomna vlada Katalonije)
Generalitat de Valencia (Avtonomna vlada Valencije)
Diputación General de Aragón (Regionalni svet Aragona)
Gobierno de las Islas Canarias (Vlada Kanarskih otokov)

Gobierno de Murcia (Vlada Murcie)
Gobierno de Madrid (Vlada Madrida)
Gobierno de la Comunidad Autónoma del País Vasco/Euzkadi (Vlada avtonomne skupnosti Baskije)

Spain

Xunta de Galicia (Regional Executive of Galicia)
Junta de Andalucía (Regional Executive of Andalusia)

Junta de Extremadura (Regional Executive of Extremadura)
Junta de Castilla-La Mancha (Regional Executive of Castilla-La Mancha)
Junta de Castilla-León (Regional Executive of Castilla-León)
Gobierno Foral de Navarra (Regional Government of Navarre)
Govern de les Illes Balears (Government of the Balearic Islands)
Generalitat de Catalunya (Autonomous Government of Catalonia)
Generalitat de Valencia (Autonomous Government of Valencia)
Diputación General de Aragón (Regional Council of Aragon)
Gobierno de las Islas Canarias (Government of the Canary Islands)
Gobierno de Murcia (Government of Murcia)
Gobierno de Madrid (Government of Madrid)
Gobierno de la Comunidad Autónoma del País Vasco/Euzkadi (Government of the Autonomous Community of the Basque Country)
Diputación Foral de Guipúzcoa (Regional Council of Guipúzcoa)
Diputación Foral de Vizcaya/Bizkaia (Regional Council of Vizcaya)
Diputación Foral de Alava (Regional Council of Alava)
Ayuntamiento de Madrid (City Council of Madrid)
Ayuntamiento de Barcelona (City Council of Barcelona)
Cabildo Insular de Gran Canaria (Island Council of Gran Canaria)
Cabildo Insular de Tenerife (Island Council of Tenerife)
Instituto de Crédito Oficial (Public Credit Institution)
Instituto Catalán de Finanzas (Finance Institution of Catalonia)
Instituto Valenciano de Finanzas (Finance Institution of Valencia)

Diputación Foral de Guipúzcoa (Regionalni svet Guipúzcoe)
Diputación Foral de Vizcaya/Bizkaia (Regionalni svet Biskaje)
Diputación Foral de Alava (Regionalni svet Alave)
Ayuntamiento de Madrid (Svet mesta Madrida)
Ayuntamiento de Barcelona (Svet mesta Barcelone)
Cabildo Insular de Gran Canaria (Otoški svet Gran Canarie)
Cabildo Insular de Tenerife (Otoški svet Tenerifeja)
Instituto de Crédito Oficial (Javna kreditna institucija)
Instituto Catalán de Finanzas (Finančna institucija Katalonije)
Instituto Valenciano de Finanzas (Finančna institucija Valencije)

Grčija

Οργανισμός Τηλεπικοινωνιών Ελλάδος (Državna telekomunikacijska organizacija)
Οργανισμός Σιδηροδρόμων Ελλάδος (Državne železnice)
Δημόσια Επιχείρηση Ηλεκτρισμού (Javno elektrogospodarstvo)

Greece

Οργανισμός Τηλεπικοινωνιών Ελλάδος (National Telecommunications Organisation)
Οργανισμός Σιδηροδρόμων Ελλάδος (National Railways Organisation)
Δημόσια Επιχείρηση Ηλεκτρισμού (Public Electricity Company)

Francija

La Caisse d'amortissement de la dette sociale (CADES) (Sklad za odkup socialnega dolga) L'Agence française de développement (AFD) (Francoska razvojna agencija) Réseau Ferré de France (RFF) (Francoske železnice) Caisse Nationale des Autoroutes (CNA) (Državni sklad za avtoceste) Assistance publique Hôpitaux de Paris (APHP) (Državna pomoč pariškim bolnišnicam) Charbonnages de France (CDF) (Francoska uprava za premog) Entreprise minière et chimique (EMC) (Podjetje za rudarstvo in kemikalije)

Italija

Regije
Province
Občine
Cassa Depositi e Prestiti (Sklad za depozite in posojila)

Latvija

Pašvaldības (lokalne vlade)

Poljska

gminy (občine)
powiaty (okrajji)
województwa (vojvodstva)
związki gmin (skupnosti občin)
powiatów (skupnosti okrajjev)
województw (skupnosti vojvodstev)
miasto stołeczne Warszawa (glavno mesto Varšava)
Agencja Restrukturyzacji i Modernizacji Rolnictwa (Agencija za prestrukturiranje in modernizacijo kmetijstva)
Agencja Nieruchomości Rolnych (Agencija za kmetijsko premoženje)

Portugalska

Região Autónoma da Madeira (Avtonomna regija Madeira)
Região Autónoma dos Açores (Avtonomna regija Azorskih otokov)
Občine

Slovaška

mestá a obce (občine)
Železnice Slovenskej republiky (Slovaške železnice)
Štátny fond cestného hospodárstva (Državni sklad cestnega gospodarstva)
Slovenské elektrárne (Slovaške elektrarne)
Vodohospodárska výstavba (Družba za vodnogospodarske gradnje)

MEDNARODNI SUBJEKTI:

Evropska banka za obnovo in razvoj
Evropska investicijska banka
Azijska razvojna banka
Afriška razvojna banka
Svetovna banka / Mednarodna banka za obnovo in razvoj / Mednarodni denarni sklad Mednarodna finančna korporacija
Medameriška razvojna banka
Sklad Sveta Evrope za socialni razvoj
EURATOM
Evropska skupnost
Corporación Andina de Fomento (CAF) (Andska razvojna korporacija)
Eurofima
Evropska skupnost za premog in jeklo
Nordijska investicijska banka
Karibska razvojna banka

France

La Caisse d'amortissement de la dette sociale (CADES) (Social Debt Redemption Fund) L'Agence française de développement (AFD) (French Development Agency) Réseau Ferré de France (RFF) (French Rail Network) Caisse Nationale des Autoroutes (CNA) (National Motorways Fund) Assistance publique Hôpitaux de Paris (APHP) (Paris Hospitals Public Assistance) Charbonnages de France (CDF) (French Coal Board) Entreprise minière et chimique (EMC) (Mining and Chemicals Company)

Italy

Regions
Provinces
Municipalities
Cassa Depositi e Prestiti (Deposits and Loans Fund)

Latvia

Pašvaldības (Local governments)

Poland

gminy (communes)
powiaty (districts)
województwa (provinces)
związki gmin (associations of communes)
związki powiatów (association of districts)
związki województw (association of provinces)
miasto stołeczne Warszawa (capital city of Warsaw)
Agencja Restrukturyzacji i Modernizacji Rolnictwa (Agency for Restructuring and Modernisation of Agriculture)
Agencja Nieruchomości Rolnych (Agricultural Property Agency)

Portugal

Região Autónoma da Madeira (Autonomous Region of Madeira)
Região Autónoma dos Açores (Autonomous Region of Azores)
Municipalities

Slovakia

mestá a obce (municipalities)
Železnice Slovenskej republiky (Slovak Railway Company)
Štátny fond cestného hospodárstva (State Road Management Fund)
Slovenské elektrárne (Slovak Power Plants)
Vodohospodárska výstavba (Water Economy Building Company)

INTERNATIONAL ENTITIES:

European Bank for Reconstruction and Development
European Investment Bank
Asian Development Bank
African Development Bank
World Bank / IBRD / IMF
International Finance Corporation
Inter-American Development Bank
Council of Europe Social Development Fund
EURATOM
European Community
Corporación Andina de Fomento (CAF) (Andean Development Corporation)
Eurofima
European Coal & Steel Community
Nordic Investment Bank
Caribbean Development Bank

Določbe člena 11 ne vplivajo na morebitne mednarodne obveznosti, ki jih imajo pogodbenice do zgoraj navedenih mednarodnih subjektov.

SUBJEKTI V TRETJIH DRŽAVAH:

Subjekti, ki izpolnjujejo naslednje pogoje:

1) Subjekt se po nacionalnih merilih jasno šteje za osebo javnega prava.

2) Takšna oseba javnega prava je netržni proizvajalec, ki upravlja in financira skupino dejavnosti, predvsem dobavo netržnega blaga in storitev, ki so namenjene v korist skupnosti in ki jih država dejansko nadzira.

3) Takšna oseba javnega prava se v velikem obsegu in redno zadolžuje.

4) Zadevna država lahko jamči, da takšna oseba javnega prava v primeru klavzul o obrutenju ne bo izvedla predčasnega odkupa.

POGOJI ZA SPREMEMBO TE PRILOGE:

Seznam povezanih subjektov iz te priloge se lahko spremeni z medsebojnim dogovorom.

The provisions of Article 11 are without prejudice to any international obligations that the Contracting Parties may have entered into with respect to the above mentioned international entities.

ENTITIES IN THIRD COUNTRIES:

The entities that meet the following criteria:

1) The entity is clearly considered to be a public entity according to the national criteria.

2) Such public entity is a non-market producer which administers and finances a group of activities, principally providing non-market goods and services, intended for the benefit of the community and which are effectively controlled by general government.

3) Such public entity is a large and regular issuer of debt.

4) The State concerned is able to guarantee that such public entity will not exercise early redemption in the event of gross-up clauses.

CONDITIONS FOR AMENDING THE PRESENT ANNEX:

The list of related entities in this Annex may be amended by mutual agreement.

3. člen

Za izvajanje sporazuma skrbi ministrstvo, pristojno za finance.

4. člen

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

Št. 00724-59/2012

Ljubljana, dne 6. decembra 2012

EVA 2012-1811-0092

Vlada Republike Slovenije

Janez Janša l.r.
Predsednik

95. Uredba o ratifikaciji Sporazuma v obliki izmenjave pisem o obdavčevanju dohodka od prihrankov in začasni uporabi tega sporazuma, sklenjenega med Republiko Slovenijo in Jerseyjem

Na podlagi petega odstavka 75. 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) izdaja Vlada Republike Slovenije

U R E D B O**o ratifikaciji Sporazuma v obliki izmenjave pisem o obdavčevanju dohodka od prihrankov in začasni uporabi tega sporazuma, sklenjenega med Republiko Slovenijo in Jerseyjem**

1. člen

Ratificira se Sporazum v obliki izmenjave pisem o obdavčevanju dohodka od prihrankov in začasni uporabi tega sporazuma, sklenjen z izmenjavo pisem 19. novembra 2004 med Republiko Slovenijo in Jerseyjem.

2. člen

Besedilo sporazuma se v izvorniku v slovenskem in angleškem jeziku glasi:

S P O R A Z U M**V OBLIKI IZMENJAVE PISEM
O OBDAVČEVANJU DOHODKA
OD PRIHRANKOV IN ZAČASNI UPORABI
TEGA SPORAZUMA**

A. Pismo Republike Slovenije

Spoštovani!

V čast mi je, da se sklicujem na besedili "Predlaganega vzorčnega sporazuma med vsakim od otokov Guernsey, Otok Man in Jersey in vsako posamezno državo članico EU, ki bo uporabljala avtomatično izmenjavo podatkov", in "Predlaganega vzorčnega sporazuma med vsakim od otokov Guernsey, Otok Man in Jersey in vsako posamezno državo članico EU, ki bo v prehodnem obdobju uporabljala davčni odtegljaj", ki sta rezultat pogajanj z otoškimi organi o Sporazumu o obdavčevanju prihrankov in sta bila kot Priloga I oziroma Priloga II priložena izidom posvetovanja Skupine na visoki ravni Sveta ministrov Evropske unije 12. marca (Dok. 7408/04 FISC 58).

V čast mi je, da vam v zvezi z zgoraj omenjenima besediloma lahko predložim "Sporazum o obdavčevanju dohodka od prihrankov", kot je naveden v Dodatku 1 tega pisma, in predlagam, da se obe strani zavežeta čimprej opraviti formalnosti, predvidene v njihovih ustavah, za začetek veljavnosti tega sporazuma ter o zaključku teh formalnosti druga drugo nemudoma obvestita.

V pričakovanju zaključka teh notranjih postopkov in začetka veljavnosti "Sporazuma o obdavčevanju dohodka od prihrankov" predlagam, da Republika Slovenija in Jersey ta sporazum začasno uporabljata v okviru naših notranjih ustavnih zahtev od 1. januarja 2005 ali datuma začetka uporabe Direktive Sveta 2003/48/ES z dne 3. junija 2003 o obdavčevanju dohodka od prihrankov v obliki plačil obresti, katerikoli je kasnejši.

Če se vaša vlada z navedenim strinja, predlagam, da to pismo in vaš odgovor nanj skupaj tvorita sporazum med Republiko Slovenijo in Jerseyjem.

Prosim, sprejmite izraze našega najglobljega spoštovanja.

Za Republiko Slovenijo
Dušan Mramor l.r.
Minister za finance

V Ljubljani, dne 7. maja 2004 v slovenskem in angleškem jeziku v treh izvodih.

A G R E E M E N T**IN THE FORM OF AN EXCHANGE OF LETTERS
ON THE TAXATION OF SAVINGS INCOME
AND THE PROVISIONAL APPLICATION
THEREOF**

A. Letter from the Republic of Slovenia

Sir,

I have the honour to refer to the texts of respectively the "Proposed Model Agreement between each of Guernsey, Isle of Man, and Jersey and each individual EU Member State that is to apply automatic exchange of information" and the "Proposed Model Agreement between each of Guernsey, Isle of Man, and Jersey and each individual EU Member State that is to apply the withholding tax in the transitional period", that resulted from the negotiations with the Island Authorities on a Savings Tax Agreement, and that were annexed, respectively as Annex I and Annex II, to the Outcome of Proceedings of the High Level Working Party of the Council of Ministers of the European Union of 12 March (Doc. 7408/04 FISC 58).

In view of the above mentioned texts I have the honour to propose to you the "Agreement on the taxation of savings income" as contained in Appendix 1 to this letter, and our mutual undertaking to comply at the earliest possible date with our internal constitutional formalities for the entry into force of this Agreement and to notify each other without delay when such formalities are completed.

Pending the completion of these internal procedures and the entry into force of this "Agreement on the taxation of savings income", I have the honour to propose to you that the Republic of Slovenia and Jersey apply this Agreement provisionally, within the framework of our respective domestic constitutional requirements, as from 1 January 2005, or the date of application of Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments, whichever is later.

I have the honour to propose that, if the above is acceptable to your Government, this letter and your confirmation shall together constitute an Agreement between the Republic of Slovenia and Jersey.

Please accept, Sir, the assurance of our highest consideration,

For the Republic of Slovenia
Dušan Mramor (s)
Minister of Finance

Done at Ljubljana, on 7 May, 2004, in the Slovenian and English languages in three copies.

B. Pismo Jerseyja

Spoštovani!

V čast mi je potrditi prejem vašega današnjega pisma, v katerem je zapisano:

"Spoštovani!

V čast mi je, da se sklicujem na besedili "Predlaganega vzorčnega sporazuma med vsakim od otokov Guernsey, Otok Man in Jersey in vsako posamezno državo članico EU, ki bo uporabljala avtomatično izmenjavo podatkov", in "Predlaganega vzorčnega sporazuma med vsakim od otokov Guernsey, Otok Man in Jersey in vsako posamezno državo članico EU, ki bo v prehodnem obdobju uporabljala davčni odtegljaj", ki sta rezultat pogajanj z otoškimi organi o Sporazumu o obdavčevanju prihrankov in sta bila kot Priloga I oziroma Priloga II priložena izidom posvetovanja Skupine na visoki ravni Sveta ministrov Evropske unije 12. marca (Dok. 7408/04 FISC 58).

V čast mi je, da vam v zvezi z zgoraj omenjenima a besediloma lahko predložim "Sporazum o obdavčevanju dohodka od prihrankov", kot je naveden v Dodatku 1 tega pisma, in predlagam, da se obe strani zavežeta čimprej opraviti formalnosti, predvidene v njihovih ustavah, za začetek veljavnosti tega sporazuma ter o zaključku teh formalnosti druga drugo nemudoma obvestita.

V pričakovanju zaključka teh notranjih postopkov in začetka veljavnosti "Sporazuma o obdavčevanju dohodka od prihrankov" predlagam, da Republika Slovenija in Jersey ta sporazum začasno uporabljata v okviru naših notranjih ustavnih zahtev od 1. januarja 2005 ali datuma začetka uporabe Direktive Sveta 2003/48/ES z dne 3. junija 2003 o obdavčevanju dohodka od prihrankov v obliki plačil obresti, katerikoli je kasnejši.

Če se vaša vlada z navedenim strinja, predlagam, da to pismo in vaš odgovor nanj skupaj tvorita sporazum med Republiko Slovenijo in Jerseyjem.

Prosim, sprejmite izraze našega najglobljšega spoštovanja."

Potrdim lahko, da se Jersey strinja z vsebino vašega pisma.

Prosim, sprejmite izraze mojega najglobljšega spoštovanja.

Za Jersey

Frank Walker l.r.

Predsednik Odbora za politiko in finance

V St. Helieru, 19. 11. 2004 v angleškem in slovenskem jeziku v treh izvodih.

B. Letter from Jersey

Sir,

I have the honour to acknowledge receipt of your letter of today's date, which reads as follows:

"Sir,

I have the honour to refer to the texts of respectively the "Proposed Model Agreement between each of Guernsey, Isle of Man, and Jersey and each individual EU member State that is to apply automatic exchange of information" and the "Proposed Model Agreement between each of Guernsey, Isle of Man, and Jersey and each individual EU member State that is to apply the withholding tax in the transitional period", that resulted from the negotiations with the Island Authorities on a Savings Tax Agreement, and that were annexed, respectively as Annex I and Annex II, to the Outcome of Proceedings of the High Level Working Party of the Council of Ministers of the European Union of 12 March (Doc. 7408/04 FISC 58).

In view of the above mentioned texts I have the honour to propose to you the "Agreement on the taxation of savings income" as contained in Appendix 1 to this letter, and our mutual undertaking to comply at the earliest possible date with our internal constitutional formalities for the entry into force of this Agreement and to notify each other without delay when such formalities are completed.

Pending the completion of these internal procedures and the entry into force of this "Agreement on the taxation of savings income", I have the honour to propose to you that the Republic of Slovenia and Jersey apply this Agreement provisionally, within the framework of our respective domestic constitutional requirements, as from 1 January 2005, or the date of application of Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments, whichever is later.

I have the honour to propose that, if the above is acceptable to your Government, this letter and your confirmation shall together constitute an Agreement between the Republic of Slovenia and Jersey.

Please accept, Sir, the assurance of our highest consideration,"

I am able to confirm that Jersey is in agreement with the contents of your letter.

Please accept, Sir, the assurance of my highest consideration,

For Jersey

Frank Walker (s)

President, Policy and Resources Committee

Done at St. Helier, on 19. 11. 2004, in the Slovenian and English languages in three copies.

Dodatek 1

Appendix 1

SPORAZUM O OBDAVČEVANJU DOHODKA
OD PRIHRANKOV MED JERSEYJEM
IN REPUBLIKO SLOVENIJO

AGREEMENT ON THE TAXATION OF SAVINGS INCOME
BETWEEN JERSEY AND THE REPUBLIC
OF SLOVENIA

OB UPOŠTEVANJU NASLEDNJEGA:

1. Člen 17 Direktive 2003/48/EGS ("Direktiva") Sveta Evropske unije ("Svet") o obdavčevanju dohodka od prihrankov predvideva, da države članice do 1. januarja 2004 sprejmejo in objavijo zakone in druge predpise, potrebne za uskladitev s to direktivo, katere določbe se uporabljajo od 1. januarja 2005, pod pogojem, da

"i) Švicarska konfederacija, Kneževina Lihtenštajn, Republika San Marino, Kneževina Monako in Kneževina Andora z istim dnem uporabljajo ukrepe, ki so enakovredni ukrepom iz te direktive, skladno s sporazumi, ki jih te države sklenejo z Evropsko skupnostjo na podlagi soglasne odločitve Sveta;

ii) so v veljavi vsi sporazumi ali drugi dogovori, ki zagotavljajo, da vsa odvisna ali pridružena ozemlja z istim dnem uporabljajo avtomatično izmenjavo podatkov na enak način, kot je določeno v poglavju II te direktive, (ali v prehodnem obdobju, ki ga določa člen 10, uporabljajo davčni odtegljaj pod enakimi pogoji, kot jih vsebujeta člena 11 in 12)".

2. Odnose med Jerseyjem in EU ureja Protokol št. 3 Pogodbe o pristopu Združenega kraljestva k Evropski skupnosti. Skladno s Protokolom Jersey ni del davčnega območja EU.

3. Jersey ugotavlja, da je sicer končni cilj držav članic EU omogočiti učinkovito obdavčevanje plačil obresti v državi članici, katere rezident je upravičeni lastnik za davčne namene, z izmenjavo podatkov o plačilih obresti med državami članicami, da pa trem državam članicam, in sicer Avstriji, Belgiji in Luksemburgu, v prehodnem obdobju ni treba uporabljati avtomatične izmenjave podatkov, temveč morajo uvesti davčni odtegljaj za dohodek od prihrankov, zajet v Direktivi.

4. "Davčni odtegljaj" iz Direktive bo v domači zakonodaji Jerseyja označen kot "retencijski davek". Za namene tega sporazuma se zato oba termina pišeta skupaj kot "davčni odtegljaj /retencijski davek" in imata enak pomen.

5. Jersey je privolil v uporabo retencijskega davka z učinkom od 1. januarja 2005, pod pogojem, da države članice sprejmejo zakone in druge predpise, potrebne za uskladitev z Direktivo, in pod pogojem, da so na splošno izpolnjene zahteve člena 17 Direktive in člena 17(2) tega sporazuma.

6. Jersey je privolil v uporabo avtomatične izmenjave podatkov na enak način, kot je predviden v poglavju II Direktive, od konca prehodnega obdobja, določenega v členu 10(2) Direktive.

7. Jersey razpolaga z zakonodajo o kolektivnih naložbenih podjetjih, za katero se šteje, da ima enak učinek kakor zakonodaja ES iz členov 2 in 6 Direktive.

Jersey in Republika Slovenija, v nadaljevanju "pogodbениca" ali "pogodbениci", razen če sobesedilo ne zahteva drugače,

sta se dogovorili o sklenitvi naslednjega sporazuma, ki vsebuje obveznosti samo za pogodbениci in predvideva:

a) avtomatično izmenjavo podatkov pristojnega organa Republike Slovenije pristojnemu organu Jerseyja na enak način kot pristojnemu organu države članice;

WHEREAS:

1. Article 17 of Directive 2003/48/EEC ("the Directive") of the Council of the European Union ("the Council") on taxation of savings income provides that before 1 January 2004 Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive which provisions shall be applied from 1 January 2005 provided that:

"(i) the Swiss Confederation, the Principality of Liechtenstein, the Republic of San Marino, the Principality of Monaco and the Principality of Andorra apply from that same date measures equivalent to those contained in this Directive, in accordance with agreements entered into by them with the European Community, following unanimous decisions of the Council;

(ii) all agreements or other arrangements are in place, which provide that all the relevant dependent or associated territories apply from that same date automatic exchange of information in the same manner as is provided for in Chapter II of this Directive, (or, during the transitional period defined in Article 10, apply a withholding tax on the same terms as are contained in Articles 11 and 12)".

2. The relationship of Jersey with the EU is determined by Protocol 3 of the Treaty of Accession of the United Kingdom to the European Community. Under the terms of the Protocol Jersey is not within the EU fiscal territory.

3. Jersey notes that, while it is the ultimate aim of the EU Member States to bring about effective taxation of interest payments in the beneficial owner's Member State of residence for tax purposes through the exchange of information concerning interest payments between themselves, three Member States, namely Austria, Belgium and Luxembourg, during a transitional period, shall not be required to exchange information but shall apply a withholding tax to the savings income covered by the Directive.

4. The "withholding tax" referred to in the Directive will be referred to as the "retention tax" in Jersey's domestic legislation. For the purposes of this Agreement the two terms therefore are to be read coterminously as "withholding/retention tax" and shall have the same meaning.

5. Jersey has agreed to apply a retention tax with effect from 1 January 2005 provided the Member States have adopted the laws, regulations, and administrative provisions necessary to comply with the Directive, and the requirements of Article 17 of the Directive and Article 17(2) of this Agreement have generally been met.

6. Jersey has agreed to apply automatic exchange of information in the same manner as is provided for in Chapter II of the Directive from the end of the transitional period as defined in Article 10(2) of the Directive.

7. Jersey has legislation relating to undertakings for collective investment that is deemed to be equivalent in its effect to the EC legislation referred to in Articles 2 and 6 of the Directive.

Jersey and the Republic of Slovenia hereinafter referred to as a "contracting party" or the "contracting parties" unless the context otherwise requires,

Have agreed to conclude the following agreement which contains obligations on the part of the contracting parties only and provides for:

(a) the automatic exchange of information by the competent authority of the Republic of Slovenia to the competent authority of Jersey in the same manner as to the competent authority of a Member State;

b) uporabo retencijskega davka s strani Jerseyja v prehodnem obdobju, določenem v členu 10 Direktive, od enakega datuma in pod enakimi pogoji, kot so določeni v členih 11 in 12 te Direktive;

c) avtomatično izmenjavo podatkov pristojnega organa Jerseyja pristojnemu organu Republike Slovenije v skladu s členom 13 Direktive;

d) prenos 75 % prihodka od retencijskega davka s strani pristojnega organa Jerseyja pristojnemu organu Republike Slovenije;

v zvezi s plačili obresti, ki jih opravi plačilni zastopnik, ustanovljen v državi pogodbenici fizični osebi, rezidentu druge države pogodbenice.

Za namene tega sporazuma pomeni izraz 'pristojni organ', kadar se uporablja za pogodbenici, Ministrstvo za finance Republike Slovenije ali pooblaščenega zastopnika ministrstva, ko gre za Republiko Slovenijo, in The Comptroller of Income Tax, ko gre za Jersey.

Člen 1 Zadržanje davka s strani plačilnih zastopnikov

Za plačila obresti v smislu člena 8 tega sporazuma, ki jih opravijo plačilni zastopniki, ustanovljeni na Jerseyju upravičenim lastnikom v smislu člena 5 tega sporazuma, ki so rezidenti Republike Slovenije, se po členu 3 tega sporazuma v prehodnem obdobju iz člena 14 tega sporazuma od datuma, predvidenega v členu 15 tega sporazuma, uporablja retencijski davek. Stopnja retencijskega davka v prvih treh letih prehodnega obdobja znaša 15 %, v naslednjih treh letih 20 % in nato 35 %.

Člen 2 Podatki, ki jih poročajo plačilni zastopniki

(1) Kadar plačila obresti, kot jih opredeljuje člen 8 tega sporazuma, plačilni zastopnik, ustanovljen v Republici Sloveniji plača upravičenim lastnikom, kot jih opredeljuje člen 5 tega sporazuma, ki so rezidenti Jerseyja, ali če se uporabljajo določbe člena 3(1)(a) tega sporazuma, plačilni zastopnik pristojnemu organu poroča:

- a) identiteto in rezidentstvo upravičenega lastnika, ugotovljeno v skladu s členom 6 tega sporazuma;
- b) naziv in naslov plačilnega zastopnika;
- c) številko računa upravičenega lastnika ali, če nima računa, podatke o dolžniški terjatvi, iz katere izhajajo obresti;

d) podatke o plačilu obresti v skladu s členom 4(1) tega sporazuma. Vsaka pogodbenica pa lahko omeji minimalne podatke o plačilu obresti, ki jih mora poročati plačilni zastopnik, na skupni znesek obresti ali dohodka in na skupni znesek prihodka od prodaje, odkupa ali povračila,

Republika Slovenija pa bo ravnala v skladu z odstavkom 2 tega člena.

(2) V šestih mesecih po koncu njihovega davčnega leta pristojni organ Republike Slovenije avtomatično sporoči podatke iz odstavka (1)(a)–(d) tega člena pristojnemu organu Jerseyja za vsa plačila obresti v tem letu.

Člen 3 Izjeme pri postopku retencije davka

(1) Jersey, ki pobira retencijski davek v skladu s členom 1 tega sporazuma, predpiše enega ali oba izmed naslednjih postopkov, po katerih lahko upravičeni lastnik zahteva, da se davek ne odtegne:

a) postopek, ki omogoča, da se upravičeni lastnik, kot ga opredeljuje člen 5 tega sporazuma, izogne retencijskemu davku v skladu s členom 1 tega sporazuma z izrecnim pooblastilom plačilnega zastopnika za poročanje podatkov pristojnemu organu pogodbenice, v kateri je plačilni zastopnik ustanovljen. Tako pooblastilo zajema vsa plačila obresti, ki jih upravičenemu lastniku plača ta plačilni zastopnik;

(b) the application by Jersey, during the transitional period defined in Article 10 of the Directive, of a retention tax from the same date and on the same terms as are contained in Articles 11 and 12 of that Directive;

(c) the automatic exchange of information by the competent authority of Jersey to the competent authority of the Republic of Slovenia in accordance with Article 13 of the Directive;

(d) the transfer by the competent authority of Jersey to the competent authority of the Republic of Slovenia of 75 % of the revenue of the retention tax;

in respect of interest payments made by a paying agent established in a contracting party to an individual resident in the other contracting party.

For the purposes of this Agreement the term 'competent authority' when applied to the contracting parties means "the Ministry of Finance of the Republic of Slovenia or its authorised representative" in respect of the Republic of Slovenia and "the Comptroller of Income Tax" in respect of Jersey.

Article 1 Retention of Tax by Paying Agents

Interest payments as defined in Article 8 of this Agreement which are made by a paying agent established in Jersey to beneficial owners within the meaning of Article 5 of this Agreement who are residents of the Republic of Slovenia shall, subject to Article 3 of this Agreement, be subject to a retention from the amount of interest payment during the transitional period referred to in Article 14 of this Agreement starting at the date referred to in Article 15 of this Agreement. The rate of retention tax shall be 15 % during the first three years of the transitional period, 20 % for the subsequent three years and 35 % thereafter.

Article 2 Reporting of Information by Paying Agents

(1) Where interest payments, as defined in Article 8 of this Agreement, are made by a paying agent established in the Republic of Slovenia to beneficial owners, as defined in Article 5 of this Agreement, who are residents of Jersey, or where the provisions of Article 3(1)(a) of this Agreement apply, the paying agent shall report to its competent authority:

- (a) the identity and residence of the beneficial owner established in accordance with Article 6 of this Agreement;
- (b) the name and address of the paying agent;
- (c) the account number of the beneficial owner or, where there is none, identification of the debt claim giving rise to the interest;

(d) information concerning the interest payment specified in Article 4(1) of this Agreement. However, each contracting party may restrict the minimum amount of information concerning interest payment to be reported by the paying agent to the total amount of interest or income and to the total amount of the proceeds from sale, redemption or refund;

and the Republic of Slovenia will comply with paragraph (2) of this Article.

(2) Within six months following the end of the tax year, the competent authority of the Republic of Slovenia shall communicate to the competent authority of Jersey, automatically, the information referred to in paragraph (1) (a)–(d) of this Article, for all interest payments made during that year.

Article 3 Exceptions to the Retention Tax Procedure

(1) Jersey when levying a retention tax in accordance with Article 1 of this Agreement shall provide for one or both of the following procedures in order to ensure that the beneficial owners may request that no tax be retained:

(a) a procedure which allows the beneficial owner as defined in Article 5 of this Agreement to avoid the retention tax specified in Article 1 of this Agreement by expressly authorising his paying agent to report the interest payments to the competent authority of the contracting party in which the paying agent is established. Such authorisation shall cover all interest payments made to the beneficial owner by that paying agent;

b) postopek, ki zagotavlja, da se retencijski davek ne odtegne, če upravičeni lastnik plačilnemu zastopniku predloži potrdilo, ki se glasi na njegovo ime in ga je izdal pristojni organ pogodbenice, katere rezident je upravičeni lastnik za davčne namene, v skladu z odstavkom 2 tega člena.

(2) Na zahtevo upravičenega lastnika pristojni organ pogodbenice, katere rezident je za davčne namene, izda potrdilo, ki vsebuje:

i) ime, naslov in davčno ali drugo identifikacijsko številko ali, če takšna številka ne obstaja, datum in kraj rojstva upravičenega lastnika;

ii) naziv in naslov plačilnega zastopnika;

iii) številko računa upravičenega lastnika ali, če račun ne obstaja, podatke o vrednostnem papirju.

Takšno potrdilo velja v obdobju, ki ni daljše od treh let. Potrdilo se izda vsakemu upravičenemu lastniku, ki ga zahteva, v dveh mesecih od vložitve take zahteve.

(3) Če se uporablja odstavek (1)(a) tega člena, pristojni organ Jerseyja, kjer je plačilni zastopnik ustanovljen, sporoči podatke iz člena 2(1) tega sporazuma pristojnemu organu Republike Slovenije, katere rezident je upravičeni lastnik. Takšno sporočanje podatkov je avtomatično in se opravi vsaj enkrat letno v šestih mesecih po koncu davčnega leta, določenega z zakoni pogodbenice, za vsa plačila obresti v tem letu.

Člen 4 Osnova za odmero retencijskega davka

(1) Plačilni zastopnik, ustanovljen na Jerseyju pobira davek v skladu s členom 1 tega sporazuma na naslednji način:

a) v primeru plačila obresti v smislu člena 8(1)(a) tega sporazuma: od bruto zneska plačanih ali pripisanih obresti;

b) v primeru plačila obresti v smislu člena 8(1)(a) ali (d) tega sporazuma: od zneska obresti ali dohodka iz točke (b) ali (d) tega pododstavka ali z enakovredno dajatvijo na skupni znesek prihodkov od prodaje, odkupa ali povračila, ki bremeni prejemnika;

c) v primeru plačila obresti v smislu člena 8(1)(c) tega sporazuma: od zneska obresti iz navedenega pododstavka;

d) v primeru plačila obresti v smislu člena 8(4) tega sporazuma: od zneska obresti, pripisanih vsakemu članu subjekta iz člena 7(2) tega sporazuma, ki izpolnjujejo pogoje iz členov 5(1) tega sporazuma;

e) če Jersey izkoristi možnost iz člena 8(5) tega sporazuma: od zneska letno obračunanih obresti.

(2) Za namene točke (a) in (b) odstavka (1) tega člena se retencijski davek pobira sorazmerno dolžini obdobja, v katerem je upravičeni lastnik imel dolžniško terjatev. Kadar plačilni zastopnik na podlagi podatkov, ki jih ima na voljo, ne more ugotoviti dolžine obdobja, v katerem je upravičeni lastnik imel terjatev, šteje, da je upravičeni lastnik imel terjatev ves čas njegove obstoja, razen če upravičeni lastnik ne predloži dokazila o datumu pridobitve terjatve.

(3) Obdavčenje z retencijskim davkom na Jerseyju drugi pogodbenici, katere rezident je upravičeni lastnik za davčne namene, ne preprečuje obdavčevanja dohodka v skladu z njeno nacionalno zakonodajo.

(4) V prehodnem obdobju lahko Jersey določi, da se nosilec gospodarske dejavnosti, ki plača obresti ali zagotovi obresti za subjekt iz člena 7(2) tega sporazuma v drugi pogodbenici, šteje za plačilnega zastopnika namesto subjekta in pobira retencijski davek od teh obresti, razen če se subjekt ni uradno strinjal, da se podatki o njegovem nazivu, naslovu in skupnem znesku plačanih ali zagotovljenih obresti sporočijo v skladu z zadnjim odstavkom člena 7(2) tega sporazuma.

(b) a procedure which ensures that retention tax shall not be levied where the beneficial owner presents to his paying agent a certificate drawn up in his name by the competent authority of the contracting party of residence for tax purposes in accordance with paragraph (2) of this Article.

(2) At the request of the beneficial owner, the competent authority of the contracting party of the country of residence for tax purposes shall issue a certificate indicating:

(i) the name, address and tax or other identification number or, failing such, the date and place of birth of the beneficial owner;

(ii) the name and address of the paying agent;

(iii) the account number of the beneficial owner or, where there is none, the identification of the security.

Such certificate shall be valid for a period not exceeding three years. It shall be issued to any beneficial owner who requests it, within two months following such request.

(3) Where paragraph (1)(a) of this Article applies, the competent authority of Jersey in which the paying agent is established shall communicate the information referred to in Article 2(1) of this Agreement to the competent authority of the Republic of Slovenia as the country of residence of the beneficial owner. Such communications shall be automatic and shall take place at least once a year, within six months following the end of the tax year established by the laws of a contracting party, for all interest payments made during that year.

Article 4 Basis of assessment for retention tax

(1) A paying agent established in Jersey shall levy retention tax in accordance with Article 1 of this Agreement as follows:

(a) in the case of an interest payment within the meaning of Article 8(1)(a) of this Agreement: on the gross amount of interest paid or credited;

(b) in the case of an interest payment within the meaning of Article 8(1)(b) or (d) of this Agreement: on the amount of interest or income referred to in (b) or (d) of that paragraph or by a levy of equivalent effect to be borne by the recipient on the full amount of the proceeds of the sale, redemption or refund;

(c) in the case of an interest payment within the meaning of Article 8(1)(c) of this Agreement: on the amount of interest referred to in that sub-paragraph;

(d) in the case of an interest payment within the meaning of Article 8(4) of this Agreement: on the amount of interest attributable to each of the members of the entity referred to in Article 7(2) of this Agreement who meet the conditions of Article 5(1) of this Agreement;

(e) where Jersey exercises the option under Article 8(5) of this Agreement: on the amount of annualised interest.

(2) For the purposes of sub-paragraphs (a) and (b) of paragraph (1) of this Article, the retention tax shall be deducted on a pro rata basis to the period during which the beneficial owner held the debt-claim. If the paying agent is unable to determine the period of holding on the basis of the information made available to him, the paying agent shall treat the beneficial owner as having been in possession of the debt-claim for the entire period of its existence, unless the latter provides evidence of the date of the acquisition.

(3) The imposition of retention tax by Jersey shall not preclude the other contracting party of residence for tax purposes of the beneficial owner from taxing income in accordance with its national law.

(4) During the transitional period, Jersey may provide that an economic operator paying interest to, or securing interest for, an entity referred to in Article 7(2) of this Agreement in the other contracting party shall be considered the paying agent in place of the entity and shall levy the retention tax on that interest, unless the entity has formally agreed to its name, address and the total amount of the interest paid to it or secured for it being communicated in accordance with the last paragraph of Article 7(2) of this Agreement.

Člen 5 Opredelitev upravičenega lastnika

(1) V tem sporazumu "upravičeni lastnik" pomeni vsakega posameznika, ki prejme plačilo obresti ali posameznika, za katerega se zagotovi plačilo obresti, razen če predloži dokazilo, da obresti ni prejel v lastno korist ali da niso bile zagotovljene v njegovo korist. Posameznik se ne šteje za upravičenega lastnika, če:

a) deluje kot plačilni zastopnik v smislu člena 7(1) tega sporazuma;

b) deluje v imenu pravne osebe, subjekta, katerega dobiček se obdavčuje po splošni ureditvi za podjetniško obdavčitev, KNPVP, priznan v skladu z Direktivo 85/611/EGS, ali enakovrednega kolektivnega naložbenega podjetja ustanovljenega na Jerseyju, ali v imenu subjekta iz člena 7(2) tega sporazuma, pri čemer v zadnjem primeru naziv in naslov subjekta razkrije nosilcu gospodarske dejavnosti, ki izvrši plačilo obresti, ta pa te podatke sporoči pristojnemu organu države članice, v kateri je ustanovljen;

c) deluje v imenu drugega posameznika, ki je upravičeni lastnik, in identiteto upravičenega lastnika razkrije plačilnemu zastopniku.

(2) Kadar ima plačilni zastopnik podatke, ki kažejo na to, da posameznik, ki prejme plačilo obresti ali za katerega se zagotovi plačilo obresti, ni nujno tudi upravičeni lastnik, in kadar se za navedenega posameznika ne uporablja nobeden od odstavkov (1)(a) in (1)(b) tega člena, izvede vse razumne ukrepe za ugotovitev identitete upravičenega lastnika. Če plačilni zastopnik ne more ugotoviti identitete upravičenega lastnika, zadevnega posameznika obravnava kot upravičenega lastnika.

Člen 6 Identiteta in rezidentstvo upravičenih lastnikov

(1) Vsaka pogodbenica na svojem ozemlju sprejme in zagotovi uporabo potrebnih postopkov, ki plačilnemu zastopniku omogočajo identificirati upravičene lastnike in njihovo rezidentstvo za namene tega sporazuma. Takšni postopki so v skladu z minimalnimi standardi, določenimi v odstavkih (2) in (3).

(2) Plačilni zastopnik ugotavlja identiteto upravičenega lastnika na podlagi minimalnih standardov, ki se razlikujejo glede na to, kdaj se vzpostavi razmerje med plačilnim zastopnikom in prejemnikom obresti, na naslednji način:

a) pri pogodbenih razmerjih, ki so bila sklenjena pred 1. januarjem 2004, plačilni zastopnik ugotavlja identiteto upravičenega lastnika, ki jo sestavljata njegovo ime in naslov, iz podatkov, ki jih ima na voljo, zlasti v skladu z veljavnimi predpisi države, v kateri je ustanovljen ter v skladu z Direktivo Sveta 91/308/EGS z dne 10. junija 1991 v primeru Republike Slovenije ali z enakovredno zakonodajo o preprečevanju uporabe finančnega sistema za pranje denarja v primeru Jerseyja;

b) pri pogodbenih razmerjih, ki so bila sklenjena, ali pri transakcijah, ki so bile opravljene brez pogodbenega razmerja na dan 1. januarja 2004 ali po njem, plačilni zastopnik k ugotavljanju identitete upravičenega lastnika, ki jo sestavljajo njegovo ime, naslov in morebitna davčna identifikacijska številka, ki mu jo je dodelila država članica, katere rezident je za davčne namene. Ti podatki se ugotavljajo na podlagi potnega lista ali uradne osebne izkaznice, ki jo predloži upravičeni lastnik. Če v potnem listu ali na uradni osebni izkaznici ni naslova, se ta ugotavlja na podlagi katerega koli drugega dokazila o identiteti, ki ga predloži upravičeni lastnik. Če na potnem listu, na uradni osebni izkaznici ali na katerem koli drugem dokazilu o identiteti, po možnosti vključno s potrdilom o rezidentstvu za davčne namene, ki ga predloži upravičeni lastnik, davčna identifikacijska številka ni navedena, se identiteta dopolni z datumom in krajem rojstva upravičenega lastnika, ki se ugotovi iz potnega lista ali uradne osebne izkaznice.

Article 5 Definition of beneficial owner

(1) For the purposes of this Agreement, "beneficial owner" shall mean any individual who receives an interest payment or any individual for whom an interest payment is secured, unless such individual can provide evidence that the interest payment was not received or secured for his own benefit. An individual is not deemed to be the beneficial owner when he:

(a) acts as a paying agent within the meaning of Article 7(1) of this Agreement;

(b) acts on behalf of a legal person, an entity which is taxed on its profits under the general arrangements for business taxation, an UCITS authorised in accordance with Directive 85/611/EEC or an equivalent undertaking for collective investment established in Jersey, or an entity referred to in Article 7(2) of this Agreement and, in the last mentioned case, discloses the name and address of that entity to the economic operator making the interest payment and the latter communicates such information to the competent authority of its contracting party of establishment;

(c) acts on behalf of another individual who is the beneficial owner and discloses to the paying agent the identity of that beneficial owner.

(2) Where a paying agent has information suggesting that the individual who receives an interest payment or for whom an interest payment is secured may not be the beneficial owner, and where neither paragraph (1)(a) nor (1)(b) of this Article applies, it shall take reasonable steps to establish the identity of the beneficial owner. If the paying agent is unable to identify the beneficial owner, it shall treat the individual in question as the beneficial owner.

Article 6 Identity and residence of beneficial owners

(1) Each Party shall, within its territory, adopt and ensure the application of the procedures necessary to allow the paying agent to identify the beneficial owners and their residence for the purposes of this Agreement. Such procedures shall comply with the minimum standards established in paragraphs (2) and (3).

(2) The paying agent shall establish the identity of the beneficial owner on the basis of minimum standards which vary according to when relations between the paying agent and the recipient of the interest are entered into, as follows:

(a) for contractual relations entered into before 1 January 2004, the paying agent shall establish the identity of the beneficial owner, consisting of his name and address, by using the information at its disposal, in particular pursuant to the regulations in force in its country of establishment and to Council Directive 91/308/EEC of the 10th June, 1991 in the case of the Republic of Slovenia or equivalent legislation in the case of Jersey on prevention of the use of the financial system for the purpose of money laundering;

(b) for contractual relations entered into, or transactions carried out in the absence of contractual relations, on or after 1 January, 2004 the paying agent shall establish the identity of the beneficial owner, consisting of the name, address and, if there is one, the tax identification number allocated by the Member State of residence for tax purposes. These details should be established on the basis of the passport or of the official identity card presented by the beneficial owner. If it does not appear on that passport or official identity card, the address shall be established on the basis of any other documentary proof of identity presented by the beneficial owner. If the tax identification number is not mentioned on the passport, on the official identity card or any other documentary proof of identity, including, possibly the certificate of residence for tax purposes, presented by the beneficial owner, the identity shall be supplemented by a reference to the latter's date and place of birth established on the basis of his passport or official identification card.

(3) Plačilni zastopnik ugotavlja rezidentstvo upravičenega lastnika na podlagi minimalnih standardov, ki se razlikujejo glede na to, kdaj se vzpostavi razmerje med plačilnim zastopnikom in prejemnikom obresti. Ob upoštevanju spodaj navedenih pogojev se šteje, da je rezidentstvo v državi, v kateri ima upravičeni lastnik stalni naslov:

a) pri pogodbenih razmerjih, ki so bila sklenjena pred 1. januarjem 2004, plačilni zastopnik ugotavlja rezidentstvo upravičenega lastnika iz podatkov, ki jih ima na voljo, zlasti v skladu z veljavnimi predpisi države, v kateri je ustanovljen, in z Direktivo 91/308/EGS v primeru Republike Slovenije ali enakovredno zakonodajo v primeru Jerseyja;

b) pri pogodbenih razmerjih, ki so bila sklenjena, ali pri transakcijah, ki so bile opravljene brez pogodbenega razmerja, na dan 1. januarja 2004 ali po njem, plačilni zastopnik ugotavlja rezidentstvo upravičenega lastnika na podlagi naslova, navedenega v potnem listu, na uradni osebni izkaznici ali, po potrebi, na podlagi drugega dokumentarnega dokazila o identiteti, ki ga predloži upravičeni lastnik, in skladno z naslednjim postopkom: pri posameznikih, ki predložijo potni list ali uradno osebno izkaznico, ki jo je izdala država članica, in ki izjavijo, da so rezidenti tretje države, se rezidentstvo ugotavlja na podlagi potrdila o davčnem rezidentstvu, ki ga izda pristojni organ tretje države, za katero posameznik trdi, da je njen rezident. Če posameznik takšnega potrdila ne predloži, se za državo rezidentstva šteje država članica, ki je izdala potni list ali drug uradni osebni dokument.

Člen 7 Opredelitev plačilnega zastopnika

(1) V tem sporazumu "plačilni zastopnik" pomeni vsakega nosilca gospodarske dejavnosti, ki plača ali zagotovi plačilo obresti v neposredno korist upravičenega lastnika, bodisi da je nosilec dolžnik terjatve, za katero se plačajo obresti, ali nosilec, ki po nalogu dolžnika ali upravičenega lastnika plača ali zagotovi plačilo obresti.

(2) Vsak subjekt, ki je ustanovljen v pogodbenici, kateremu se plačajo obresti ali zagotovi plačilo obresti v korist upravičenega lastnika, se ob takem plačilu ali ob zagotovitvi takega plačila šteje za plačilnega zastopnika. Ta določba se ne uporablja, če nosilec e dejavnosti na podlagi uradnih dokazil, ki jih ta subjekt predloži, utemeljeno domneva, da:

- a) je subjekt pravna oseba, z izjemo pravnih oseb iz odstavka (5) tega člena; ali
- b) so dobički subjekta obdavčeni po splošni ureditvi za podjetniško obdavčitev; ali
- c) je subjekt KNPVP, priznan v skladu z Direktivo 85/611/EGS Sveta ali enakovreden kolektivni naložbeni podjetjem s sedežem na Jerseyju.

Nosilec gospodarske dejavnosti, ki plača ali zagotovi plačilo obresti takšnemu subjektu, ki je ustanovljen v drugi pogodbenici, ki se po tem odstavku šteje za plačilnega zastopnika, sporoči naziv in naslov subjekta ter skupni znesek subjektu plačanih ali zagotovljenih obresti pristojnemu organu pogodbenice, v kateri je ustanovljen, ta pa te podatke pošlje pristojnemu organu pogodbenice, v kateri je subjekt ustanovljen.

(3) Vendar ima subjekt iz odstavka (2) tega člena možnost, da se ga za namene tega sporazuma obravnava kot KNPVP ali enakovreden podjetem iz odstavka (2)(c). To možnost lahko subjekt izkoristi tako, da nosilcu gospodarske dejavnosti predloži potrdilo, ki ga izda pogodbenica, v kateri je subjekt ustanovljen. Pogodbenica določi podrobna pravila glede možnosti za subjekte, ki so ustanovljeni na njenem ozemlju.

(3) The paying agent shall establish the residence of the beneficial owner on the basis of minimum standards which vary according to when relations between the paying agent and the recipient of the interest are entered into. Subject to the conditions set out below, residence shall be considered to be situated in the country where the beneficial owner has his permanent address:

(a) for contractual relations entered into before 1 January, 2004 the paying agent shall establish the residence of the beneficial owner by using the information at its disposal, in particular pursuant to the regulations in force in its country of establishment and to Directive 91/308/EEC in the case of the Republic of Slovenia or equivalent legislation in the case of Jersey;

(b) for contractual relations entered into, or transactions carried out in the absence of contractual relations, on or after 1 January, 2004, the paying agents shall establish the residence of the beneficial owner on the basis of the address mentioned on the passport, on the official identity card or, if necessary, on the basis of any documentary proof of identity presented by the beneficial owner and according to the following procedure: for individuals presenting a passport or official identity card issued by a Member State who declare themselves to be resident in a third country, residence shall be established by means of a tax residence certificate issued by the competent authority of the third country in which the individual claims to be resident. Failing the presentation of such a certificate, the Member State which issued the passport or other official identity document shall be considered to be the country of residence.

Article 7 Definition of paying agent

(1) For the purposes of this Agreement, 'paying agent' means any economic operator who pays interest to or secures the payment of interest for the immediate benefit of the beneficial owner, whether the operator is the debtor of the debt claim which produces the interest or the operator charged by the debtor or the beneficial owner with paying interest or securing the payment of interest.

(2) Any entity established in a contracting party to which interest is paid or for which interest is secured for the benefit of the beneficial owner shall also be considered a paying agent upon such payment or securing of such payment. This provision shall not apply if the economic operator has reason to believe, on the basis of official evidence produced by that entity that:

- (a) it is a legal person with the exception of those legal persons referred to in paragraph (5) of this Article; or
- (b) its profits are taxed under the general arrangements for business taxation; or
- (c) it is an UCITS recognised in accordance with Directive 85/611/EEC of the Council or an equivalent undertaking for collective investment established in Jersey.

An economic operator paying interest to, or securing interest for, such an entity established in the other contracting party which is considered a paying agent under this paragraph shall communicate the name and address of the entity and the total amount of interest paid to, or secured for, the entity to the competent authority of its contracting party of establishment, which shall pass this information on to the competent authority of the contracting party where the entity is established.

(3) The entity referred to in paragraph (2) of this Article shall, however, have the option of being treated for the purposes of this Agreement as an UCITS or equivalent undertaking as referred to in sub-paragraph (c) of paragraph (2) of this article. The exercise of this option shall require a certificate to be issued by the contracting party in which the entity is established and presented to the economic operator by that entity. A contracting party shall lay down the detailed rules for this option for entities established in its territory.

(4) Kadar sta nosilec gospodarske dejavnosti in subjekt iz odstavka (2) tega člena ustanovljena v isti pogodbenici, ta pogodbenica sprejme potrebne ukrepe, s katerimi zagotovi, da subjekt izpolnjuje vsa določila tega sporazuma, kadar deluje kot plačilni zastopnik.

(5) Pravne osebe, izvzete iz odstavka (2)(a) tega člena so:

- a) na Finskem: avoin yhtiö (Ay) in kommandiittiyhtiö (Ky)/öppet bolag in kommanditbolag;
- b) na Švedskem: handelsbolag (HB) in kommanditbolag (KB).

Člen 8 Opredelitev plačila obresti

(1) Za namene tega sporazuma "plačilo obresti" pomeni:

a) obresti, ki se plačajo ali pripišejo na račun in se nanašajo na dolžniške terjatve vseh vrst ne glede na to, ali so zavarovane s hipoteko, in ne glede na to, ali imajo pravico do udeležbe v dolžnikovem dobičku, in še posebej dohodek od državnih vrednostnih papirjev ter dohodek iz obveznic ali zadolžnic, vključno s premijami in nagradami od takih vrednostnih papirjev, obveznic ali zadolžnic; kazni zaradi zamude pri plačilu se ne štejejo za plačilo obresti;

b) obračunane ali h glavnici pripisane obresti pri prodaji, povračilu ali odkupu dolžniških terjatev iz točke (a);

c) dohodek, ki bodisi neposredno ali posredno preko subjekta iz člena 7(2) tega sporazuma izvira iz plačila obresti in ki ga razdelijo:

- i) KNPVP, priznani v skladu z ES Direktivo 85/611/EGS Sveta;
- ii) enakovreden kolektivni naložbeni podjem s sedežem na Jerseyju;
- iii) subjekti, ki izpolnjujejo pogoje za možnost iz člena 7(3) tega sporazuma;
- iv) kolektivni naložbeni podjem, ustanovljen zunaj ozemlja, na katerega se nanaša Pogodba o ustanovitvi Evropske skupnosti na podlagi člena 229 te pogodbe in zunaj Jerseyja.

d) dohodek, dosežen s prodajo, povračilom ali odkupom delnic ali enot v naslednjih podjetjih in subjektih, če ti neposredno ali posredno prek drugih kolektivnih naložbenih podjetij ali subjektov, ki so navedeni spodaj, naložijo več kot 40 % svojih sredstev v dolžniške terjatve iz točke (a):

- i) KNPVP, priznani v skladu z Direktivo 85/611/EGS;
- ii) enakovreden kolektivni naložbeni podjem, ustanovljen na Jerseyju;
- iii) subjekti, ki izpolnjujejo pogoje za možnost iz člena 7(3) tega sporazuma;
- iv) kolektivni naložbeni podjetji, ustanovljeni zunaj ozemlja, za katerega velja Pogodba o ustanovitvi Evropske skupnosti na podlagi njenega člena 299 in zunaj Jerseyja.

Pogodbenici pa imata možnost, da v opredelitev obresti vključita dohodek iz odstavka (1)(d) tega člena samo v višini dobičkov, ki neposredno ali posredno izvirajo iz plačil obresti v smislu odstavkov (1)(a) in (b) tega člena.

(2) Glede odstavkov (1)(c) in (d) tega člena, kadar plačilni zastopnik nima podatkov o deležu dohodka, ki izvira iz plačil obresti, se celoten znesek dohodka šteje za plačilo obresti.

(3) Glede odstavka (1)(d) tega člena, kadar plačilni zastopnik nima podatkov o odstotku sredstev, ki so bila naložena v dolžniške terjatve ali v delnice ali enote, kot določa navedeni odstavki, se šteje, da ta odstotek presega 40 %. Kadar plačilni zastopnik ne more določiti zneska dohodka upravičenega lastnika, se šteje, da je dohodek enak prihodku od prodaje, povračila ali odkupa delnic ali enot.

(4) Where the economic operator and the entity referred to in paragraph (2) of this Article are established in the same contracting party, that contracting party shall take the necessary measures to ensure that the entity complies with the provisions of this Agreement when it acts as a paying agent.

(5) The legal persons exempted from sub-paragraph (a) of paragraph (2) of this Article are:

- (a) in Finland: avoin yhtiö (Ay) and kommandiittiyhtiö (Ky)/öppet bolag and kommanditbolag;
- (b) in Sweden: handelsbolag (HB) and kommanditbolag (KB).

Article 8 Definition of interest payment

(1) For the purposes of this Agreement "interest payment" shall mean:

(a) interest paid, or credited to an account, relating to debt claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and, in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures; penalty charges for late payment shall not be regarded as interest payment;

(b) interest accrued or capitalised at the sale, refund or redemption of the debt claims referred to in (a);

(c) income deriving from interest payments either directly or through an entity referred to in Article 7(2) of this Agreement, distributed by:

- (i) an UCITS authorised in accordance with EC Directive 85/611/EEC of the Council;
- (ii) an equivalent undertaking for collective investment established in Jersey;
- (iii) entities which qualify for the option under Article 7(3) of this Agreement;
- (iv) undertakings for collective investment established outside the territory to which the Treaty establishing the European Community applies by virtue of Article 299 thereof and outside Jersey.

(d) income realised upon the sale, refund or redemption of shares or units in the following undertakings and entities, if they invest directly or indirectly, via other undertakings for collective investment or entities referred to below, more than 40 % of their assets in debt claims as referred to in (a):

- (i) an UCITS authorised in accordance with Directive 85/611/EEC;
- (ii) an equivalent undertaking for collective investment established in Jersey.
- (iii) entities which qualify for the option under Article 7(3) of this Agreement;
- (iv) undertakings for collective investment established outside the territory to which the Treaty establishing the European Community applies by virtue of Article 299 thereof and outside Jersey.

However, the contracting parties shall have the option of including income mentioned under paragraph (1)(d) of this Article in the definition of interest only to the extent that such income corresponds to gains directly or indirectly deriving from interest payments within the meaning of paragraphs (1)(a) and (b) of this Article.

(2) As regards paragraphs (1)(c) and (d) of this Article, when a paying agent has no information concerning the proportion of the income which derives from interest payments, the total amount of the income shall be considered an interest payment.

(3) As regards paragraph (1)(d) of this Article, when a paying agent has no information concerning the percentage of the assets invested in debt claims or in shares or units as defined in that paragraph, that percentage shall be considered to be above 40 %. Where he cannot determine the amount of income realised by the beneficial owner, the income shall be deemed to correspond to the proceeds of the sale, refund or redemption of the shares or units.

(4) Kadar se obresti, kot jih opredeljuje odstavek (1) tega člena, plačajo ali pripisejo na račun subjekta iz člena 7(2) tega sporazuma, pri čemer ta subjekt ne izpolnjuje pogojev za možnost po členu 7(3) tega sporazuma, se to šteje za plačilo obresti takega subjekta.

(5) Glede odstavkov (1)(b) in (d) tega člena ima pogodbenica možnost, da od plačilnih zastopnikov na svojem ozemlju zahteva obračun obresti v obdobju, ki ne sme presegati eno leto, ter da tako obračunane obresti obravnavajo kot plačilo obresti, četudi v tem obdobju ne pride do prodaje, odkupa ali povračila.

(6) Z odstopanjem od odstavkov (1)(c) in (d) tega člena ima pogodbenica možnost, da iz opredelitve plačil obresti izključijo dohodek iz navedenih določb od podjetij ali subjektov, ki so ustanovljeni na njenem ozemlju, če naložbe v dolžniške terjatve iz odstavka (1)(a) tega člena takšnih subjektov ne presegajo 15 % njihovih sredstev. Prav tako ima pogodbenica možnost, da z odstopanjem od odstavka (4) tega člena iz opredelitve plačil obresti iz odstavka (1) tega člena izključi obresti, ki se plačajo ali pripisejo na račun subjekta iz člena 7(2) tega sporazuma, ki ne izpolnjuje pogojev za možnost iz člena 7(3) tega sporazuma in je ustanovljen na njenem ozemlju, če naložbe takega subjekta v dolžniške terjatve iz odstavka (1)(a) tega člena ne presegajo 15 % njegovih sredstev.

Če pogodbenica uporabi takšno možnost, je to zavezujoče za drugo pogodbenico.

(7) Od 1. januarja 2011 bo odstotek iz odstavka (1)(d) tega člena in odstavka (3) tega člena znašal 25 %.

(8) Odstotki iz odstavka (1)(d) tega člena in odstavka (6) tega člena se določajo glede na naložbeno politiko kot jo določajo pravila sklada ali ustanovna listina zadevnih podjetij ali subjektov, ali, če te ni, glede na dejansko sestavo sredstev zadevnih podjetij ali subjektov.

Člen 9 Delitev prihodkov iz retencijskega davka

(1) Jersey zadrži 25 % retencijskega davka, odbitega po določilih tega sporazuma, preostalih 75 % pa prenese na drugo pogodbenico.

(2) Jersey, ki pobira retencijski davek v skladu s členom 4(4) tega sporazuma, zadrži 25 % prihodkov in prenese 75 % na Republiko Slovenijo, sorazmerno s prenosi, izvedenimi v skladu z odstavkom (1) tega člena.

(3) Taki prenosi se izvršijo za vsako leto v enem obroku, najkasneje v obdobju šestih mesecev po zaključku davčnega leta, določenega z zakoni Jerseyja.

(4) Jersey pri pobiranju retencijskega davka sprejme potrebne ukrepe, s katerimi zagotovi pravilno delovanje sistema delitve prihodka.

Člen 10 Odprava dvojnega obdavčevanja

(1) Pogodbenica, katere rezident je upravičeni lastnik za davčne namene, zagotovi, odpravo vsakršnega dvojnega obdavčevanja, ki bi lahko bilo posledica uvedbe retencijskega davka iz tega sporazuma s strani Jerseyja, v skladu z naslednjimi določbami

i) če je bil od obresti, ki jih je prejel upravičeni lastnik, odtegnjen retencijski davek na Jerseyju, mu druga pogodbenica v skladu s svojo nacionalno zakonodajo prizna davčni odbitek v znesku, enakem višini odtegnjenega davka. Kadar ta znesek presega znesek davčne obveznosti v skladu z njeno nacionalno zakonodajo, druga pogodbenica upravičenemu lastniku povrne presežni znesek odtegnjenega davka;

(4) When interest, as defined in paragraph (1) of this Article, is paid to or credited to an account held by an entity referred to in Article 7(2) of this Agreement, such entity not having qualified for the option under Article 7(3) of this Agreement, such interest shall be considered an interest payment by such entity.

(5) As regards paragraphs (1)(b) and (d) of this Article, a contracting party shall have the option of requiring paying agents in its territory to annualise the interest over a period of time which may not exceed one year, and treating such annualised interest as an interest payment even if no sale, redemption or refund occurs during that period.

(6) By way of derogation from paragraphs (1)(c) and (d) of this Article, a contracting party shall have the option of excluding from the definition of interest payment any income referred to in those provisions from undertakings or entities established within its territory where the investment in debt claims referred to in paragraph (1)(a) of this Article of such entities has not exceeded 15 % of their assets. Likewise, by way of derogation from paragraph (4) of this Article, a contracting party shall have the option of excluding from the definition of interest payment in paragraph (1) of this Article interest paid or credited to an account of an entity referred to in Article 7(2) of this Agreement which has not qualified for the option under Article 7(3) of this Agreement and is established within its territory, where the investment of such an entity in debt claims referred to in paragraph (1)(a) of this Article has not exceeded 15 % of its assets.

The exercise of such option by one contracting party shall be binding on the other contracting party.

(7) The percentage referred to in paragraph (1)(d) of this Article and paragraph (3) of this Article shall from 1 January, 2011 be 25 %.

(8) The percentages referred to in paragraph (1)(d) of this Article and in paragraph (6) of this Article shall be determined by reference to the investment policy as laid down in the fund rules or instruments of incorporation of the undertakings or entities concerned or, failing which, by reference to the actual composition of the assets of the undertakings or entities concerned.

Article 9 Retention Tax Revenue sharing

(1) Jersey shall retain 25 % of the retention tax deducted under this Agreement and transfer the remaining 75 % of the revenue to the other contracting party.

(2) Jersey levying retention tax in accordance with Article 4(4) of this Agreement shall retain 25 % of the revenue and transfer 75 % to the Republic of Slovenia proportionate to the transfers carried out pursuant to paragraph (1) of this Article.

(3) Such transfers shall take place for each year in one instalment at the latest within a period of six months following the end of the tax year established by the laws of Jersey.

(4) Jersey levying retention tax shall take the necessary measures to ensure the proper functioning of the revenue sharing system.

Article 10 Elimination of double taxation

(1) A contracting party in which the beneficial owner is resident for tax purposes shall ensure the elimination of any double taxation which might result from the imposition by Jersey of the retention tax to which this Agreement refers in accordance with the following provisions:

(i) if interest received by a beneficial owner has been subject to retention tax in Jersey, the other contracting party shall grant a tax credit equal to the amount of the tax retained in accordance with its national law. Where this amount exceeds the amount of tax due in accordance with its national law, the other contracting party shall repay the excess amount of tax retained to the beneficial owner;

ii) če je bil od obresti, ki jih je prejel upravičeni lastnik, poleg retencijskega davka iz člena 4 tega sporazuma, odtegnjen kakršen koli drug davčni odtegljaj/retencijski davek, in pogodbenica, v kateri je upravičeni lastnik rezident za davčne namene, v skladu s svojo nacionalno zakonodajo ali konvencijami o dvojnem obdavčevanju zagotavlja davčni odbitek za takšen davčni odtegljaj/retencijski davek, se takšen davčni odtegljaj/retencijski davek odbije pred uporabo postopka iz pododstavka (i) tega člena.

(2) Pogodbenica, katere rezident je upravičeni lastnik za davčne namene, lahko mehanizem davčnega odbitka iz odstavka (1) tega člena nadomesti z vračilom retencijskega davka iz člena 1 tega sporazuma.

Člen 11 Prehodne določbe o prenosljivih dolžniških vrednostnih papirjih

(1) V prehodnem obdobju iz člena 14 tega sporazuma, vendar najpozneje do 31. decembra 2010, se domače in mednarodne obveznice in drugi prenosljivi dolžniški vrednostni papirji, ki so bili prvič izdani pred 1. marcem 2001 ali za katere so pristojni organi v smislu Direktive Sveta 80/390/EGS ali odgovorni organi v tretjih državah odobrili prvotne prospekte za izdajo pred tem datumom, ne štejejo za dolžniške terjatve v smislu člena 8(1)(a) tega sporazuma, pod pogojem, da od vključno 1. marca 2002 naprej ni bila izdana nadaljna izdaja takšnih prenosljivih dolžniških vrednostnih papirjev. Če pa bi se prehodno obdobje nadaljevalo tudi po 31. decembru 2010, se določbe tega člena še naprej uporabljajo samo za takšne prenosljive dolžniške vrednostne papirje:

– ki vsebujejo klavzuli o obrutjenju in predčasem odkupu ter

– kadar je plačilni zastopnik ustanovljen v pogodbenici, ki uporablja retencijski davek in ta plačilni zastopnik plača ali zagotovi plačilo obresti v neposredno korist upravičenega lastnika, ki je rezident druge pogodbenice.

Če država ali z njo povezan subjekt, ki deluje kot organ oblasti ali katerega vloga je priznana z mednarodno pogodbo, kot je opredeljena v prilogi k temu sporazumu, na dan 1. marca 2002 ali po njem izda dodatno izdajo prej omenjenega prenosljivega dolžniškega vrednostnega papirja, se celotna izdaja takšnega vrednostnega papirja, ki je sestavljena iz prvotne izdaje in vseh naslednjih izdaj, šteje za dolžniško terjatev v smislu člena 8(1)(a) tega sporazuma.

Če kateri koli drug izdajatelj, ki ni zajet v drugem pododstavku, na dan 1. marca 2002 ali po njem izda dodatno izdajo prej omenjenega prenosljivega dolžniškega vrednostnega papirja, se takšna dodatna izdaja šteje za dolžniško terjatev v smislu člena 8(1)(a) tega sporazuma.

(2) Nobena določba tega člena pogodbenicam ne preprečuje obdavčevanja dohodka od prenosljivih dolžniških vrednostnih papirjev iz odstavka (1) v skladu s svojo nacionalno zakonodajo.

Člen 12 Postopek medsebojnega dogovora

Kadar se med pogodbenicami pojavijo težave ali nejasnosti glede izvajanja ali tolmačenja tega sporazuma, si pogodbenice po svojih najboljših močeh prizadevajo rešiti zadevo z medsebojnim dogovorom.

Člen 13 Zaupnost

(1) Vse informacije, ki jih pristojni organi pogodbenice posredujejo in prejmejo, se obravnavajo kot zaupne.

(2) Informacije, ki jih prejmejo pristojni organi pogodbenice, se brez predhodnega pisnega soglasja druge pogodbenice ne smejo uporabiti za noben drug namen razen neposrednega obdavčevanja.

(ii) if, in addition to the retention tax referred to in Article 4 of this Agreement, interest received by a beneficial owner has been subject to any other type of withholding/retention tax and the contracting party of residence for tax purposes grants a tax credit for such withholding/retention tax in accordance with its national law or double taxation conventions, such other withholding/retention tax shall be credited before the procedure in sub-paragraph (i) of this Article is applied.

(2) The contracting party which is the country of residence for tax purposes of the beneficial owner may replace the tax credit mechanism referred to in paragraph (1) of this Article by a refund of the retention tax referred to in Article 1 of this Agreement.

Article 11 Transitional provisions for negotiable debt securities

(1) During the transitional period referred to in Article 14 of this Agreement, but until 31 December 2010 at the latest, domestic and international bonds and other negotiable debt securities which have been first issued before 1 March 2001 or for which the original issuing prospectuses have been approved before that date by the competent authorities within the meaning of Council Directive 80/390/EEC or by the responsible authorities in third countries shall not be considered as debt claims within the meaning of Article 8(1)(a) of this Agreement, provided that no further issues of such negotiable debt securities are made on or after 1 March 2002. However, should the transitional period continue beyond 31 December 2010, the provisions of this Article shall only continue to apply in respect of such negotiable debt securities:

– which contain gross up and early redemption clauses; and,

– where the paying agent is established in a contracting party applying retention tax and that paying agent pays interest to, or secures the payment of interest for the immediate benefit of a beneficial owner resident in the other contracting party.

If a further issue is made on or after 1 March 2002 of an aforementioned negotiable debt security issued by a Government or a related entity acting as a public authority or whose role is recognised by an international treaty, as defined in the Annex to this Agreement, the entire issue of such security, consisting of the original issue and any further issue, shall be considered a debt claim within the meaning of Article 8(1)(a) of this Agreement.

If a further issue is made on or after 1 March 2002 of an aforementioned negotiable debt security issued by any other issuer not covered by the second sub-paragraph, such further issue shall be considered a debt claim within the meaning of Article 8(1)(a) of this Agreement.

(2) Nothing in this Article shall prevent the contracting parties from taxing the income from the negotiable debt securities referred to in paragraph (1) in accordance with their national laws.

Article 12 Mutual agreement procedure

Where difficulties or doubts arise between the parties regarding the implementation or interpretation of this Agreement, the contracting parties shall use their best endeavours to resolve the matter by mutual agreement.

Article 13 Confidentiality

(1) All information provided and received by the competent authority of a contracting party shall be kept confidential.

(2) Information provided to the competent authority of a contracting party may not be used for any purpose other than for the purposes of direct taxation without the prior written consent of the other contracting party.

(3) Prejete informacije se lahko razkrijejo le osebam ali organom oblasti, ki se ukvarjajo z neposrednim obdavčevanjem; te osebe ali organi oblasti jih lahko uporabijo le v ta namen ali v namen pregleda nad delovanjem, vključno z reševanjem pritožb. V te namene se informacije lahko razkrijejo v upravnih ali sodnih postopkih.

(4) Kadar pristojni organ pogodbenice meni, da so informacije, ki jih je prejel od pristojnega organa druge pogodbenice, uporabne za pristojni organ druge države članice, jih temu pristojnemu organu lahko posreduje ob dogovoru s pristojnim organom, ki je informacije priskrbel.

Člen 14 Prehodno obdobje

Ob koncu prehodnega obdobja iz člena 10(2) direktive bo Jersey prenehal uporabljati retencijski davek in delitev prihodkov, kot določa ta sporazum, in začel za drugo pogodbenico uporabljati določbe o avtomatični izmenjavi podatkov na enak način, kot je določeno v poglavju II Direktive. Če se v prehodnem obdobju Jersey odloči, da bo začel uporabljati določbe o avtomatični izmenjavi podatkov na enak način, kot je določeno v poglavju II Direktive, bo prenehal uporabljati davčni odtegljaj/retencijski davek in delitev prihodkov iz člena 9 tega sporazuma.

Člen 15 Začetek veljavnosti

Ob upoštevanju določb člena 17 tega sporazuma, ta sporazum začne veljati 1. januarja 2005.

Člen 16 Prenehanje veljavnosti

(1) Ta sporazum velja, dokler ga ne odpove ena od pogodbenic.

(2) Vsaka pogodbenica lahko odpove ta sporazum tako, da s pisnim obvestilom o odpovedi uradno obvesti drugo pogodbenico, takšno pisno obvestilo naj opredeljuje okoliščine, ki so pripeljale do odpovedi. V takem primeru ta sporazum preneha veljati 12 mesecev po predložitvi uradnega obvestila.

Člen 17 Uporaba in ustaveitev uporabe

(1) Ta sporazum se lahko uporablja pod pogojem, da vse države članice Evropske unije, Združene države Amerike, Švica, Andora, Lihtenštajn, Monako in San Marino in vsa odvisna in pridružena ozemlja držav članic Evropske skupnosti sprejmejo in izvajajo ukrepe, ki so skladni ali enaki ukrepom v Direktivi ali v tem sporazumu in predvidevajo enake datume začetka izvajanja.

(2) Pogodbenici vsaj šest mesecev pred datumom iz člena 15 tega sporazuma v medsebojnem soglasju odločita, ali bodo izpolnjeni pogoji iz odstavka (1), pri čemer upoštevata datume začetka veljavnosti ustreznih ukrepov v zadevnih državah članicah, imenovanih tretjih državah in odvisnih ali pridruženih ozemljih.

(3) V primeru, da se direktiva začasno ali stalno ne more več uporabljati v skladu s pravom Evropske skupnosti ali v primeru, da država članica ustavi uporabo svojih izvedbenih predpisov, lahko katera koli pogodbenica, ob upoštevanju stopka medsebojnega dogovora iz člena 12 tega sporazuma, z uradnim obvestilom s takojšnjim učinkom drugi pogodbenici ustavi uporabo tega sporazuma ali delov tega sporazuma in v takem uradnem obvestilu opredeli okoliščine, ki so pripeljale do takega obvestila. Sporazum se ponovno uporablja takoj, ko so odpravljene okoliščine, ki so pripeljale do ustavitve njegove uporabe.

(3) Information provided shall be disclosed only to persons or authorities concerned with the purposes of direct taxation, and used by such persons or authorities only for such purposes or for oversight purposes, including the determination of any appeal. For these purposes, information may be disclosed in public court proceedings or in judicial proceedings.

(4) Where a competent authority of a contracting party considers that information which it has received from the competent authority of the other contracting party is likely to be useful to the competent authority of another Member State, it may transmit it to the latter competent authority with the agreement of the competent authority which supplied the information.

Article 14 Transitional Period

At the end of the transitional period as defined in Article 10(2) of the Directive, Jersey shall cease to apply the retention tax and revenue sharing provided for in this Agreement and shall apply in respect of the other contracting party the automatic exchange of information provisions in the same manner as is provided for in Chapter II of the Directive. If during the transitional period Jersey elects to apply the automatic exchange of information provisions in the same manner as is provided for in Chapter II of the Directive, it shall no longer apply the withholding/retention tax and the revenue sharing provided for in Article 9 of this Agreement.

Article 15 Entry into force

Subject to the provisions of Article 17 of this Agreement, this Agreement shall come into force on 1 January 2005.

Article 16 Termination

(1) This Agreement shall remain in force until terminated by either contracting party.

(2) Either contracting party may terminate this Agreement by giving notice of termination in writing to the other contracting party, such notice to specify the circumstances leading to the giving of such notice. In such a case, this Agreement shall cease to have effect 12 months after the serving of notice.

Article 17 Application and suspension of application

(1) The application of this Agreement shall be conditional on the adoption and implementation by all the Member States of the European Union, by the United States of America, Switzerland, Andorra, Liechtenstein, Monaco and San Marino, and by all the relevant dependent and associated territories of the Member States of the European Community, respectively, of measures which conform with or are equivalent to those contained in the Directive or in this Agreement, and providing for the same dates of implementation.

(2) The contracting parties shall decide, by common accord, at least six months before the date referred to in Article 15 of this Agreement, whether the condition set out in paragraph (1) will be met having regard to the dates of entry into force of the relevant measures in the Member States, the named third countries and the dependent or associated territories concerned.

(3) Subject to the mutual agreement procedure provided for in Article 12 of this Agreement, the application of this Agreement or parts thereof may be suspended by either contracting party with immediate effect through notification to the other specifying the circumstances leading to such notification should the Directive cease to be applicable either temporarily or permanently in accordance with European Community law or in the event that a Member State should suspend the application of its implementing legislation. Application of the Agreement shall resume as soon as the circumstances leading to the suspension no longer apply.

(4) V primeru, da ena od tretjih držav ali ozemelj iz poglavja (1) preneha uporabljati ukrepe iz omenjenega odstavka, lahko katera koli pogodbenica, ob upoštevanju postopka medsebojnega dogovora iz člena 12 tega sporazuma, z uradnim obvestilom drugi pogodbenici odloži uporabo tega sporazuma ali delov tega sporazuma in v takem uradnem obvestilu opredeli okoliščine, ki so pripeljale do takega obvestila. Odložitev uporabe se ne začne izvajati pred potekom dveh mesecev od takega uradnega obvestila. Uporaba sporazuma se nadaljuje takoj, ko zadevna tretja država ali ozemlje obnovi uporabo ukrepov.

Sestavljeno v slovenskem in angleškem jeziku, pri čemer sta obe besedili enako verodostojni.

(4) Subject to the mutual agreement procedure provided for in Article 12 of this Agreement, either contracting party may suspend the application of this Agreement through notification to the other specifying the circumstances leading to such notification in the event that one of the third countries or territories referred to in paragraph (1) should subsequently cease to apply the measures referred to in that paragraph. Suspension of application shall take place no earlier than two months after notification. Application of the Agreement shall resume as soon as the measures are reinstated by the third country or territory in question.

Done in the Slovenian and English languages, all texts being equally authentic.

PRILOGA

ANNEX

Seznam povezanih subjektov iz člena 11

List of related entities referred to in Article 11

Za namene člena 11 tega sporazuma se za "povezane subjekte, ki delujejo kot državni organi ali katerih vloga je priznana z mednarodno pogodbo," štejejo naslednji subjekti:

For the purposes of Article 11 of this Agreement, the following entities will be considered to be a "related entity acting as a public authority or whose role is recognised by an international treaty":

SUBJEKTI V EVROPSKI UNIJI:**ENTITIES WITHIN THE EUROPEAN UNION:****Belgija**

Vlaams Gewest (Flamska regija)
Région wallonne (Valonska regija)
Région bruxelloise/Brussels Gewest (Regija glavnega mesta Bruslja)
Communauté française (Francoska skupnost)
Vlaamse Gemeenschap (Flamska skupnost)
Deutschsprachige Gemeinschaft (Nemško govoreča skupnost)

Belgium

Vlaams Gewest (Flemish Region)
Région wallonne (Walloon Region)
Région bruxelloise/Brussels Gewest (Brussels Region)

Communauté française (French Community)
Vlaamse Gemeenschap (Flemish Community)
Deutschsprachige Gemeinschaft (German-speaking Community)

Španija

Xunta de Galicia (Regionalni zakonodajni svet Galicije)
Junta de Andalucía (Regionalni zakonodajni svet Andaluzije)
Junta de Extremadura (Regionalni zakonodajni svet Extremadure)
Junta de Castilla-La Mancha (Regionalni zakonodajni svet Kastilje-La Manche)
Junta de Castilla-León (Regionalni zakonodajni svet Kastilje-León)
Gobierno Foral de Navarra (Regionalna vlada Navarre)

Govern de les Illes Balears (Vlada Balearskih otokov)
Generalitat de Catalunya (Avtonomna vlada Katalonije)
Generalitat de Valencia (Avtonomna vlada Valencije)
Diputación General de Aragón (Regionalni svet Aragona)
Gobierno de las Islas Canarias (Vlada Kanarskih otokov)

Gobierno de Murcia (Vlada Murcie)
Gobierno de Madrid (Vlada Madrida)
Gobierno de la Comunidad Autónoma del País Vasco/Euzkadi (Vlada avtonomne skupnosti Baskije)

Diputación Foral de Guipúzcoa (Regionalni svet Guipúzcoe)
Diputación Foral de Vizcaya/Bizkaia (Regionalni svet Biskaje)
Diputación Foral de Alava (Regionalni svet Alave)
Ayuntamiento de Madrid (Svet mesta Madrida)
Ayuntamiento de Barcelona (Svet mesta Barcelone)
Cabildo Insular de Gran Canaria (Otoški svet Gran Canarie)
Cabildo Insular de Tenerife (Otoški svet Tenerifeja)
Instituto de Crédito Oficial (Javna kreditna institucija)
Instituto Catalán de Finanzas (Finančna institucija Katalonije)
Instituto Valenciano de Finanzas (Finančna institucija Valencije)

Spain

Xunta de Galicia (Regional Executive of Galicia)
Junta de Andalucía (Regional Executive of Andalusia)

Junta de Extremadura (Regional Executive of Extremadura)
Junta de Castilla-La Mancha (Regional Executive of Castilla-La Mancha)
Junta de Castilla-León (Regional Executive of Castilla-León)
Gobierno Foral de Navarra (Regional Government of Navarre)
Govern de les Illes Balears (Government of the Balearic Islands)
Generalitat de Catalunya (Autonomous Government of Catalonia)
Generalitat de Valencia (Autonomous Government of Valencia)
Diputación General de Aragón (Regional Council of Aragon)
Gobierno de las Islas Canarias (Government of the Canary Islands)
Gobierno de Murcia (Government of Murcia)
Gobierno de Madrid (Government of Madrid)
Gobierno de la Comunidad Autónoma del País Vasco/Euzkadi (Government of the Autonomous Community of the Basque Country)
Diputación Foral de Guipúzcoa (Regional Council of Guipúzcoa)
Diputación Foral de Vizcaya/Bizkaia (Regional Council of Vizcaya)
Diputación Foral de Alava (Regional Council of Alava)
Ayuntamiento de Madrid (City Council of Madrid)
Ayuntamiento de Barcelona (City Council of Barcelona)
Cabildo Insular de Gran Canaria (Island Council of Gran Canaria)
Cabildo Insular de Tenerife (Island Council of Tenerife)
Instituto de Crédito Oficial (Public Credit Institution)
Instituto Catalán de Finanzas (Finance Institution of Catalonia)
Instituto Valenciano de Finanzas (Finance Institution of Valencia)

Grčija

Οργανισμός Τηλεπικοινωνιών Ελλάδος (Državna telekomunikacijska organizacija)
Οργανισμός Σιδηροδρόμων Ελλάδος (Državne železnice)
Δημόσια Επιχείρηση Ηλεκτρισμού (Javno elektrogospodarstvo)

Greece

Οργανισμός Τηλεπικοινωνιών Ελλάδος (National Telecommunications Organisation)
Οργανισμός Σιδηροδρόμων Ελλάδος (National Railways Organisation)
Δημόσια Επιχείρηση Ηλεκτρισμού (Public Electricity Company)

Francija

La Caisse d'amortissement de la dette sociale (CADES) (Sklad za odkup socialnega dolga) L'Agence française de développement (AFD) (Francoska razvojna agencija)
Réseau Ferré de France (RFF) (Francoske železnice)
Caisse Nationale des Autoroutes (CNA) (Državni sklad za avtoceste)
Assistance publique Hôpitaux de Paris (APHP) (Državna pomoč pariškim bolnišnicam) Charbonnages de France (CDF) (Francoska uprava za premog)
Entreprise minière et chimique (EMC) (Podjetje za rudarstvo in kemikalije)

Italija

Regije
Province
Občine
Cassa Depositi e Prestiti (Sklad za depozite in posojila)

Latvija

Pašvaldības (lokalne vlade)

Poljska

gminy (občine)
powiaty (okraji)
województwa (vojvodstva)
związki gmin (skupnosti občin)
powiatów (skupnosti okrajev)
województw (skupnosti vojvodstev)
miasto stołeczne Warszawa (glavno mesto Varšava)
Agencja Restrukturyzacji i Modernizacji Rolnictwa (Agencija za prestrukturiranje in modernizacijo kmetijstva)
Agencja Nieruchomości Rolnych (Agencija za kmetijsko premoženje)

Portugalska

Região Autónoma da Madeira (Avtonomna regija Madeira)
Região Autónoma dos Açores (Avtonomna regija Azorskih otokov)
Občine

Slovaška

mestá a obce (občine)
Železnice Slovenskej republiky (Slovaške železnice)
Štátny fond cestného hospodárstva (Državni sklad cestnega gospodarstva)
Slovenské elektrárne (Slovaške elektrarne)
Vodohospodárska výstavba (Družba za vodnogospodarske gradnje)

MEDNARODNI SUBJEKTI:

Evropska banka za obnovo in razvoj
Evropska investicijska banka
Azijska razvojna banka
Afriška razvojna banka
Svetovna banka / Mednarodna banka za obnovo in razvoj / Mednarodni denarni sklad Mednarodna finančna korporacija
Medameriška razvojna banka
Sklad Sveta Evrope za socialni razvoj
EURATOM
Evropska skupnost
Corporación Andina de Fomento (CAF) (Andska razvojna korporacija)
Eurofima
Evropska skupnost za premog in jeklo
Nordijska investicijska banka
Karibska razvojna banka

France

La Caisse d'amortissement de la dette sociale (CADES) (Social Debt Redemption Fund) L'Agence française de développement (AFD) (French Development Agency)
Réseau Ferré de France (RFF) (French Rail Network)
Caisse Nationale des Autoroutes (CNA) (National Motorways Fund)
Assistance publique Hôpitaux de Paris (APHP) (Paris Hospitals Public Assistance) Charbonnages de France (CDF) (French Coal Board)
Entreprise minière et chimique (EMC) (Mining and Chemicals Company)

Italy

Regions
Provinces
Municipalities
Cassa Depositi e Prestiti (Deposits and Loans Fund)

Latvia

Pašvaldības (Local governments)

Poland

gminy (communes)
powiaty (districts)
województwa (provinces)
związki gmin (associations of communes)
związki powiatów (association of districts)
związki województw (association of provinces)
miasto stołeczne Warszawa (capital city of Warsaw)
Agencja Restrukturyzacji i Modernizacji Rolnictwa (Agency for Restructuring and Modernisation of Agriculture)
Agencja Nieruchomości Rolnych (Agricultural Property Agency)

Portugal

Região Autónoma da Madeira (Autonomous Region of Madeira)
Região Autónoma dos Açores (Autonomous Region of Azores)
Municipalities

Slovakia

mestá a obce (municipalities)
Železnice Slovenskej republiky (Slovak Railway Company)
Štátny fond cestného hospodárstva (State Road Management Fund)
Slovenské elektrárne (Slovak Power Plants)
Vodohospodárska výstavba (Water Economy Building Company)

INTERNATIONAL ENTITIES:

European Bank for Reconstruction and Development
European Investment Bank
Asian Development Bank
African Development Bank
World Bank / IBRD / IMF
International Finance Corporation
Inter-American Development Bank
Council of Europe Social Development Fund
EURATOM
European Community
Corporación Andina de Fomento (CAF) (Andean Development Corporation)
Eurofima
European Coal & Steel Community
Nordic Investment Bank
Caribbean Development Bank

Določbe člena 11 ne vplivajo na morebitne mednarodne obveznosti, ki jih imajo pogodbenice do zgoraj navedenih mednarodnih subjektov.

SUBJEKTI V TRETJIH DRŽAVAH:

Subjekti, ki izpolnjujejo naslednje pogoje:

1) Subjekt se po nacionalnih merilih jasno šteje za osebo javnega prava.

2) Takšna oseba javnega prava je netržni proizvajalec, ki upravlja in financira skupino dejavnosti, predvsem dobavo netržnega blaga in storitev, ki so namenjene v korist skupnosti in ki jih država dejansko nadzira.

3) Takšna oseba javnega prava se v velikem obsegu in redno zadolžuje.

4) Zadevna država lahko jamči, da takšna oseba javnega prava v primeru klavzul o obrutenju ne bo izvedla predčasnega odkupa.

POGOJI ZA SPREMEMBO TE PRILOGE:

Seznam povezanih subjektov iz te priloge se lahko spremeni z medsebojnim dogovorom.

The provisions of Article 11 are without prejudice to any international obligations that the Contracting Parties may have entered into with respect to the above mentioned international entities.

ENTITIES IN THIRD COUNTRIES:

The entities that meet the following criteria:

1) The entity is clearly considered to be a public entity according to the national criteria.

2) Such public entity is a non-market producer which administers and finances a group of activities, principally providing non-market goods and services, intended for the benefit of the community and which are effectively controlled by general government.

3) Such public entity is a large and regular issuer of debt.

4) The State concerned is able to guarantee that such public entity will not exercise early redemption in the event of gross-up clauses.

CONDITIONS FOR AMENDING THE PRESENT ANNEX:

The list of related entities in this Annex may be amended by mutual agreement.

3. člen

Za izvajanje sporazuma skrbi ministrstvo, pristojno za finance.

4. člen

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

Št. 00724-60/2012

Ljubljana, dne 6. decembra 2012

EVA 2012-1811-0093

Vlada Republike Slovenije

Janez Janša l.r.
Predsednik

96. Uredba o ratifikaciji Sporazuma v obliki izmenjave pisem o obdavčevanju dohodka od prihrankov in začasni uporabi tega sporazuma, sklenjenega med Republiko Slovenijo in Kraljevino Nizozemsko glede Nizozemskih Antilov

Na podlagi petega odstavka 75. 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) izdaja Vlada Republike Slovenije

U R E D B O

o ratifikaciji Sporazuma v obliki izmenjave pisem o obdavčevanju dohodka od prihrankov in začasni uporabi tega sporazuma, sklenjenega med Republiko Slovenijo in Kraljevino Nizozemsko glede Nizozemskih Antilov

1. člen

Ratificira se Sporazum v obliki izmenjave pisem o obdavčevanju dohodka od prihrankov in začasni uporabi tega sporazuma, sklenjen z izmenjavo pisem 27. avgusta 2004 med Republiko Slovenijo in Kraljevino Nizozemsko glede Nizozemskih Antilov.

2. člen

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

S P O R A Z U M
V OBLIKI IZMENJAVE PISEM
O OBDAVČEVANJU DOHODKA
OD PRIHRANKOV IN ZAČASNI UPORABI
TEGA SPORAZUMA

A. Pismo Republike Slovenije
Spoštovani!

V čast mi je, da se sklicujem na besedila "Konvencije med Kraljevino Nizozemsko glede Nizozemskih Antilov in (Belgijo, Avstrijo in Luksemburgom) o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov v obliki plačil obresti", "Konvencije med Kraljevino Nizozemsko glede Nizozemskih Antilov in (državo članico EU, ki ni Belgija, Avstrija in Luksemburg) o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov v obliki plačil obresti", "Konvencije med Kraljevino Nizozemsko glede Arube in (državo članico EU, ki ni Belgija, Avstrija in Luksemburg) o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov v obliki plačil obresti", "Konvencije med Kraljevino Nizozemsko glede Arube in (Belgijo, Avstrijo in Luksemburgom) o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov v obliki plačil obresti", ki so rezultat pogajanj z Nizozemskimi Antili in Arubo o Sporazumu o obdavčevanju prihrankov in so bila kot Priloga I, II, III in IV priložena izidom posvetovanja Skupine na visoki ravni Sveta ministrov Evropske unije z dne 12. marca (Dok. 7660/04 FISC 68).

V čast mi je, da vam v zvezi z zgoraj omenjenimi besedili lahko predložim "Konvencijo o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov v obliki plačil obresti", kot je navedena v Dodatku 1 tega pisma, in predlagam, da se obe strani zavežeta čimprej opraviti formalnosti, predvidene v njuni ustavi, za začetek veljavnosti te konvencije ter o zaključku teh formalnosti druga drugo nemudoma obvestita.

A G R E E M E N T
IN THE FORM OF AN EXCHANGE
OF LETTERS ON THE TAXATION
OF SAVINGS INCOME AND THE PROVISIONAL
APPLICATION THEREOF

A. Letter from the Republic of Slovenia
Madam/Sir,

I have the honour to refer to the texts of respectively the "Convention between the Kingdom of the Netherlands in respect of the Netherlands Antilles and (Belgium, Austria and Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments", the "Convention between the Kingdom of the Netherlands in respect of the Netherlands Antilles and (the EU Member State, other than Belgium, Austria and Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments", the "Convention between the Kingdom of the Netherlands in respect of Aruba and (the EU Member State, other than Belgium, Austria and Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments" and the "Convention between the Kingdom of the Netherlands in respect of Aruba and (Belgium, Austria and Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments", that resulted from the negotiations with the Netherlands Antilles and Aruba on a Savings Tax Agreement, and that were annexed, respectively as Annex I, II, III and IV, to the Outcome of Proceedings of the High Level Working Party of the Council of Ministers of the European Union of 12 March (doc. 7660/04 FISC 68).

In view of the above mentioned texts I have the honour to propose to you the "Convention concerning the automatic exchange of information regarding savings income in the form of interest payments" as contained in Appendix 1 to this letter, and our mutual undertaking to comply at the earliest possible date with our internal constitutional formalities for the entry into force of this Convention and to notify each other without delay when such formalities are completed.

* Besedilo sporazuma v nizozemskem jeziku je na vpogled v Sektorju za mednarodno pravo Ministrstva za zunanje zadeve.

V pričakovanju zaključka teh notranjih postopkov in začetka veljavnosti "Konvencije o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov v obliki plačil obresti" predlagam, da Republika Slovenija in Kraljevina Nizozemska glede Nizozemskih Antilov to konvencijo začasno uporabljata od 1. januarja 2005 ali datuma začetka uporabe Direktive Sveta 2003/48/ES z dne 3. junija 2003 o obdavčevanju dohodka od prihrankov v obliki plačil obresti, katerikoli je kasnejši.

Če se vaša vlada z navedenim strinja, predlagam, da to pismo in vaš odgovor nanj skupaj tvorita sporazum med Republiko Slovenijo in Kraljevino Nizozemsko glede Nizozemskih Antilov.

Prosim, sprejmite izraze našega najglobljega spoštovanja.

Za Republiko Slovenijo
Dušan Mramor l.r.

V Ljubljani, dne 4. junija 2004 v treh izvodih.

B. Pismo Nizozemskih Antilov
Spoštovani!

V čast mi je potrditi prejem vašega današnjega pisma, v katerem je zapisano:

"Spoštovani!

V čast mi je, da se sklicujem na besedila "Konvencije med Kraljevino Nizozemsko glede Nizozemskih Antilov in (Belgijo, Avstrijo in Luksemburgom) o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov v obliki plačil obresti", "Konvencije med Kraljevino Nizozemsko glede Nizozemskih Antilov in (državo članico EU, ki ni Belgija, Avstrija in Luksemburg) o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov v obliki plačil obresti", "Konvencije med Kraljevino Nizozemsko glede Arube in (državo članico EU, ki ni Belgija, Avstrija in Luksemburg) o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov v obliki plačil obresti" in "Konvencije med Kraljevino Nizozemsko glede Arube in (Belgijo, Avstrijo in Luksemburgom) o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov v obliki plačil obresti", ki so rezultat pogajanj z Nizozemskimi Antili in Arubo o Sporazumu o obdavčevanju prihrankov in so bila kot Priloga I, II, III in IV priložena izidom posvetovanja Skupine na visoki ravni Sveta ministrov Evropske unije 12. marca (Dok. 7660/04 FISC 68).

V čast mi je, da vam v zvezi z zgoraj omenjenimi besedili lahko predložim "Konvencijo o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov v obliki plačil obresti", kot je navedena v Dodatku 1 tega pisma, in predlagam, da se obe strani zavežeta čimprej opraviti formalnosti, predvidene v njunih ustavah, za začetek veljavnosti te konvencije ter o zaključku teh formalnosti druga drugo nemudoma obvestita.

V pričakovanju zaključka teh notranjih postopkov in začetka veljavnosti "Konvencije o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov v obliki plačil obresti" predlagam, da Republika Slovenija in Kraljevina Nizozemska glede Nizozemskih Antilov to konvencijo začasno uporabljata od 1. januarja 2005 ali datuma začetka uporabe Direktive Sveta 2003/48/ES z dne 3. junija 2003 o obdavčevanju dohodka od prihrankov v obliki plačil obresti, katerikoli je kasnejši.

Pending the completion of these internal procedures and the entry into force of this "Convention concerning the automatic exchange of information regarding savings income in the form of interest payments", I have the honour to propose to you that the Republic of Slovenia and the Kingdom of the Netherlands in respect of the Netherlands Antilles apply this Convention provisionally, within the framework of our respective domestic constitutional requirements, as from 1 January 2005, or the date of application of Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments, whichever is later.

I have the honour to propose that, if the above is acceptable to your Government, this letter and your confirmation shall together constitute an Agreement between the Republic of Slovenia and the Kingdom of the Netherlands in respect of the Netherlands Antilles.

Please accept, Madam/Sir, the assurance of our highest consideration,

For the Republic of Slovenia
Dušan Mramor (s)

Done at Ljubljana, on 4 June 2004, in three copies.

B. Letter from the Netherlands Antilles
Sir,

I have the honour to acknowledge receipt of your letter of today's date, which reads as follows:

"Sir,

I have the honour to refer to the texts of respectively the "Convention between the Kingdom of the Netherlands in respect of the Netherlands Antilles and (Belgium, Austria and Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments", the "Convention between the Kingdom of the Netherlands in respect of the Netherlands Antilles and (the EU Member State, other than Belgium, Austria and Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments", the "Convention between the Kingdom of the Netherlands in respect of Aruba and (the EU Member State, other than Belgium, Austria and Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments" and the "Convention between the Kingdom of the Netherlands in respect of Aruba and (Belgium, Austria and Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments", that resulted from the negotiations with the Netherlands Antilles and Aruba on a Savings Tax Agreement, and that were annexed, respectively as Annex I, II, III and IV, to the Outcome of Proceedings of the High Level Working Party of the Council of Ministers of the European Union of 12 March (doc. 7660/04 FISC 68).

In view of the above mentioned texts I have the honour to propose to you the "Convention concerning the automatic exchange of information regarding savings income in the form of interest payments" as contained in Appendix 1 to this letter, and our mutual undertaking to comply at the earliest possible date with our internal constitutional formalities for the entry into force of this Convention and to notify each other without delay when such formalities are completed.

Pending the completion of these internal procedures and the entry into force of this "Convention concerning the automatic exchange of information regarding savings income in the form of interest payments", I have the honour to propose to you that the Republic of Slovenia and the Kingdom of the Netherlands in respect of the Netherlands Antilles apply this Convention provisionally, within the framework of our respective domestic constitutional requirements, as from 1 January 2005, or the date of application of Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments, whichever is later.

Če se vaša vlada z navedenim strinja, predlagam, da to pismo in vaš odgovor nanj skupaj tvorita sporazum med Republiko Slovenijo in Kraljevino Nizozemsko glede Nizozemskih Antilov.

Prosim, sprejmite izraze našega najglobljega spoštovanja."

Potrdim lahko, da se Nizozemski Antili strinjajo z vsebino vašega pisma.

Prosim, sprejmite izraze mojega najglobljega spoštovanja.

Za Nizozemske Antile
E.T.M. de Lannooy l.r.

V Haagu, dne 27. avgusta 2004 v treh izvodih.

I have the honour to propose that, if the above is acceptable to your Government, this letter and your confirmation shall together constitute an Agreement between the Republic of Slovenia and the Kingdom of the Netherlands in respect of the Netherlands Antilles.

Please accept, Sir, the assurance of our highest consideration,"

I am able to confirm that the Netherlands Antilles is in agreement with the contents of your letter.

Please accept, Sir, the assurance of my highest consideration,

For the Netherlands Antilles
E.T.M. de Lannooy (s)

Done at The Hague, on 27 August 2004, in three copies.

Dodatek 1

Appendix 1

KONVENCIJA MED KRALJEVINO NIZOZEMSKO GLEDE
NIZOZEMSKIH ANTILOV IN REPUBLIKO SLOVENIJO
O AVTOMATIČNI IZMENJAVI PODATKOV
O OBDAVČEVANJU DOHODKA OD PRIHRANKOV
V OBLIKI PLAČIL OBRESTI

OB UPOŠTEVANJU NASLEDNJEGA:

1. Člen 17(2) Direktive 2003/48/EGS ("Direktiva") Sveta Evropske unije ("Svet") o obdavčevanju dohodka od prihrankov predvideva, da države članice sprejmejo in objavijo zakone in druge predpise, potrebne za uskladitev s to direktivo, katere določbe se uporabljajo od 1. januarja 2005, kolikor

– Švicarska konfederacija, Kneževina Lihtenštajn, Republika San Marino, Kneževina Monako in Kneževina Andora z istim dnem uporabljajo ukrepe, ki so enakovredni ukrepom iz te direktive, skladno s sporazumi, ki jih te države sklenejo z Evropsko skupnostjo na podlagi soglasne odločitve Sveta;

– so v veljavi vsi sporazumi ali drugi dogovori, ki zagotavljajo, da vsa odvisna ali pridružena ozemlja z istim dnem uporabljajo avtomatično izmenjavo podatkov na način, kot je določeno v poglavju II te direktive, ali v prehodnem obdobju, ki ga določa člen 10, uporabljajo davčni odtegljaj pod enakimi pogoji, kot jih vsebujeta člena 11 in 12.

2. Nizozemski Antili niso del davčnega območja EU, temveč so za potrebe Direktive pridruženo ozemlje EU in kot tako niso vezani na določila Direktive. Vendar je Kraljevina Nizozemska za Nizozemske Antile na temelju sporazuma med Nizozemskimi Antili in Nizozemsko pripravljena skleniti sporazume z državami članicami EU o uporabi davčnega odtegljaja od 1. januarja 2005 pod enakimi pogoji, kot jih vsebujeta člena 11 in 12 Direktive v prehodnem obdobju v smislu člena 10 Direktive in po poteku prehodnega obdobja uporabljati avtomatično izmenjavo podatkov na enak način, kot je predvideno v poglavju II Direktive.

3. Pogoj za sporazum med Nizozemskimi Antili in Nizozemsko iz prejšnjega odstavka je, da vse države članice sprejmejo zakone in predpise, potrebne za uskladitev z Direktivo, in da so izpolnjene zahteve člena 17 Direktive.

4. Nizozemski Antili s to konvencijo, če v njej ni drugače določeno, privolijo v uporabo določb Direktive glede upravičenih lastnikov, ki so rezidenti Republike Slovenije in Republika Slovenija privoli v uporabo Direktive za upravičene lastnike, ki so rezidenti Nizozemskih Antilov.

Vlada Kraljevine Nizozemske v zvezi z Nizozemskimi Antili in vlada Republike Slovenije sta se v želji, da bi sklenili Konvencijo o učinkovitem obdavčevanju dohodka od prihrankov v obliki plačil obresti, plačanih v eni državi pogodbenici upravičenim lastnikom, ki so posamezniki, rezidenti druge države pogodbenice, v skladu z zakonodajo države pogodbenice, katere rezidenti so, in skladno z Direktivo in zgoraj opredeljenimi nameni držav pogodbenic, sporazumeli kot sledi:

CONVENTION BETWEEN THE KINGDOM OF THE
NETHERLANDS IN RESPECT OF THE NETHERLANDS
ANTILLES AND THE REPUBLIC OF SLOVENIA
CONCERNING THE AUTOMATIC EXCHANGE OF
INFORMATION REGARDING SAVINGS INCOME
IN THE FORM OF INTEREST PAYMENTS

WHEREAS:

1. Article 17(2) of Directive 2003/48/EEC ("the Directive") of the Council of the European Union ("the Council") on taxation of savings income provides that Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with the Directive from January 1, 2005, provided that:

– the Swiss Confederation, the Principality of Liechtenstein, the Republic of San Marino, the Principality of Monaco and the Principality of Andorra from that same date apply measures equivalent to those contained in the Directive, in accordance with agreements entered into by them with the European Community, following unanimous decisions of the Council;

– all agreements or other arrangements are in place, which provide that all the relevant dependent or associated territories apply from that date automatic exchange of information in the same manner as is provided for in Chapter II of the Directive, or, during the transitional period defined in Article 10, apply a withholding tax on the same terms as are contained in Articles 11 and 12.

2. The Netherlands Antilles are not within the EU fiscal territory but are, for purposes of the Directive, an EU associated territory and as such are not bound by the terms of the Directive. However, the Kingdom of the Netherlands in respect of the Netherlands Antilles, on the basis of an agreement between the Netherlands Antilles and the Netherlands, is willing to enter into agreements with the Member States of the EU to apply from January 1, 2005, a withholding tax on the same terms as are contained in Articles 11 and 12 of the Directive during the transitional period defined in Article 10 thereof, and, after expiration of the transitional period, to apply automatic exchange of information in the same manner as is provided for in Chapter II of the Directive.

3. The agreement between the Netherlands Antilles and the Netherlands, as stated in the previous paragraph, is contingent on the adoption by all the Member States of the laws, regulations and administrative provisions necessary to comply with the Directive, and on the requirements of Article 17 of the Directive being met.

4. Through this Convention, the Netherlands Antilles agrees to apply the provisions of the Directive, subject to what is otherwise agreed herein, in regard of Beneficial Owners that are residents of the Republic of Slovenia and the Republic of Slovenia agrees to apply the Directive in regard to Beneficial Owners that are residents of the Netherlands Antilles.

The Government of the Kingdom of the Netherlands in respect of the Netherlands Antilles and the Government of the Republic of Slovenia, desiring to conclude a Convention which enables savings income in the form of Interest Payments made in one of the Contracting States to Beneficial Owners who are individuals resident in the other Contracting State, to be made subject to effective taxation in accordance with the laws of the latter Contracting State, in conformity with the Directive and with the intentions of the Contracting States as laid down herein above, have agreed as follows:

Člen 1

Splošno področje uporabe

Ta konvencija se uporablja za obresti, ki jih plača plačilni zastopnik, ustanovljen na ozemlju ene od držav pogodbenic, kar naj bi omogočilo učinkovito obdavčevanje dohodka od prihrankov v obliki plačil obresti v drugi državi pogodbenici upravičenim lastnikom, ki so posamezniki, za davčne namene rezidenti druge države pogodbenice, v skladu z zakonodajo države pogodbenice, katere rezidenti so.

Področje uporabe te konvencije je treba omejiti na obdavčevanje dohodka od prihrankov v obliki plačil obresti na dolžniške terjatve, pri čemer so med drugim izključena vprašanja v zvezi z obdavčevanjem pokojninskih prejemkov in prejemkov iz zavarovanja.

Glede Kraljevine Nizozemske se ta sporazum uporablja samo za Nizozemske Antile.

Člen 2

Opredelitev izrazov

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

a) izraza "država pogodbenica" in "druga država pogodbenica" pomenita Kraljevino Nizozemsko v zvezi z Nizozemskimi Antili ali Republiko Slovenijo, kot zahteva sobesedilo;

b) "Nizozemski Antili" pomeni del Kraljevine Nizozemske, ki leži na Karibskem območju in ga sestavljajo otoška ozemlja Bonaire, Curaçao, Saba, St. Eustatius in nizozemski del St. Maartena;

c) "Pogodbenica", država članica Evropske unije, pomeni Republiko Slovenijo;

d) izraz "Direktiva" pomeni Direktivo 2003/48/ES Sveta Evropske unije z dne 3. junija 2003 o obdavčevanju dohodka od prihrankov v obliki plačil obresti, kot se uporablja na dan podpisa te konvencije;

e) izraz "upravičeni lastnik(-i)" pomeni upravičenega(-e) lastnika(-e) skladno s členom 2 Direktive;

f) izraz "plačilni zastopnik(-i)" pomeni plačilnega(-e) zastopnika(-e) skladno s členom 4 Direktive;

g) izraz "pristojni organ" pomeni:

i) v primeru Nizozemskih Antilov: ministra za finance ali njegovega pooblaščenega predstavnika;

ii) v primeru Republike Slovenije: pristojni organ te države skladno s členom 5 Direktive;

h) izraz "plačilo(-a) obresti" pomeni plačilo(-a) obresti skladno s členom 6 Direktive, pri čemer se ustrezno upošteva člen 15 Direktive;

i) katerikoli izraz, ki v tej konvenciji ni drugače opredeljen, ima pomen kot ga ima po Direktivi.

2. Za namene te konvencije v določbah Direktive, na katero se ta konvencija sklicuje, izraz "države članice" pomeni države pogodbenice.

Člen 3

Identiteta in rezidentstvo upravičenih lastnikov

Vsaka država pogodbenica na svojem ozemlju sprejme in zagotovi uporabo potrebnih postopkov, ki plačilnemu zastopniku omogočajo identificirati upravičene lastnike in njihovo rezidentstvo za namene členov 4 do 6. Ti postopki so v skladu z minimalnimi standardi, določenimi v odstavkih 2 in 3 člena 3 Direktive, s tem, da se za Nizozemske Antile, v zvezi s pododstavkoma 2(a) in 3(a) tega člena, identiteta in rezidentstvo upravičenega lastnika ugotavljata iz podatkov, ki jih ima na voljo plačilni zastopnik na podlagi uporabe ustreznih določb zakonov in drugih predpisov Nizozemskih Antilov. Morebitne obstoječe izjeme ali oprostitve, podeljene na temelju teh določb na zahtevo upravičenega lastnika, ki je rezident v Republiki Sloveniji, se prenehajo uporabljati in takim upravičenim lastnikom se ne podeli nobenih tovrstnih nadaljnjih izjem ali oprostitvev.

Article 1

General Scope

1. This Convention shall apply to interest paid by a Paying Agent established within the territory of one of the Contracting States with a view to enable savings income in the form of Interest Payments made in one Contracting State to Beneficial Owners who are individuals resident for tax purposes in the other Contracting State to be made subject to effective taxation in accordance with the laws of the latter Contracting State.

2. The scope of this Convention shall be limited to taxation of savings income in the form of Interest Payments on debt claims, to the exclusion, inter alia, of the issues relating to the taxation of pension and insurance benefits.

3. As regards the Kingdom of the Netherlands, this Agreement shall apply only to the Netherlands Antilles.

Article 2

Definitions

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

a) The terms "a Contracting State" and "the other Contracting State" mean the Kingdom of the Netherlands in respect of the Netherlands Antilles or the Republic of Slovenia as the context requires;

b) The Netherlands Antilles mean that part of the Kingdom of the Netherlands that is situated in the Caribbean area and consists of the Island territories of Bonaire, Curaçao, Saba, St. Eustatius and the Dutch part of St. Maarten;

c) The "contracting party" being a Member State of the European Union means: the Republic of Slovenia;

d) The term "Directive" means Directive 2003/48/EC of the Council of the European Union of 3 June 2003 on taxation of savings income in the form of interest payments, as applicable at the date of signing this Convention;

e) the term "Beneficial Owner(s)" means the beneficial owner(s) according to Article 2 of the Directive;

f) the term "Paying Agent(s)" means the paying agent(s) according to Article 4 of the Directive;

g) the term "Competent Authority" means:

i) In the case of the Netherlands Antilles: the Minister of Finance or his authorised representative.

ii) In the case of the Republic of Slovenia: the competent authority of that State according to Article 5 of the Directive.

h) the term "Interest Payment(s)" means the interest payment(s) according to Article 6, due account being taken of Article 15, of the Directive;

i) Any term not otherwise defined herein shall have the meaning given to it in the Directive.

2. For the purposes of this Convention, in the provisions of the Directive to which this Convention refers, instead of "Member States" has to be read: Contracting States.

Article 3

Identity and residence of beneficial owners

Each Contracting State shall, within its territory, adopt and ensure the application of the procedures necessary to allow the Paying Agent to identify the Beneficial Owners and their residence for the purpose of the Articles 4 to 6. These procedures shall comply with the minimum standards established in Article 3, paragraph 2 and 3 of the Directive, with the provision, that, in regard to the Netherlands Antilles, in relation to subparagraphs 2.a) and 3.a) of that Article, the identity and residence of the Beneficial Owner shall be established on the basis of the information which is available to the Paying Agent by virtue of the application of the relevant provisions of Netherlands Antilles law and regulations. However, existing exemptions or dispensations, if any, provided on request to Beneficial Owners resident in the Republic of Slovenia under these provisions shall cease to apply and no further exemptions or dispensations of this nature shall be provided to such Beneficial Owners.

Člen 4

Avtomatična izmenjava podatkov

1. Pristojni organ države pogodbenice, v kateri je plačilni zastopnik ustanovljen, sporoči podatke iz člena 8 Direktive pristojnemu organu druge države pogodbenice, katere rezident je upravičeni lastnik.

2. Sporočanje podatkov je avtomatično in se opravi vsaj enkrat letno v šestih mesecih po koncu davčnega leta države pogodbenice plačilnega zastopnika za vsa plačila obresti v tem letu.

3. Za izmenjavo podatkov po tej konvenciji države pogodbenice uporabljajo določbe člena 7 Direktive 77/799/EGS.

Člen 5

Prehodne določbe

1. Če je upravičeni lastnik rezident Republike Slovenije in plačilni zastopnik rezident Nizozemskih Antilov, Nizozemski Antili v prehodnem obdobju iz člena 10 odmerijo davčni odtegljaj od plačila obresti po stopnji 15% v prvih treh letih prehodnega obdobja, po stopnji 20% v nadaljnjih treh letih in nato pa po stopnji 35%. V tem obdobju Nizozemskim Antilom ni treba uporabljati določb člena 4. Vendar pa prejemajo od Republike Slovenije podatke v skladu s tem členom.

2. Plačilni zastopnik obračuna davčni odtegljaj na način, kot je opisan v odstavkih 2 in 3 člena 11 Direktive.

3. Davčni odtegljaj, ki ga uvedejo Nizozemski Antili, pa ne preprečuje Republiki Sloveniji obdavčevanja dohodka v skladu z njeno nacionalno zakonodajo.

4. V prehodnem obdobju lahko Nizozemski Antili določijo, da se nosilec gospodarske dejavnosti, ki plača obresti ali zagotovi obresti za subjekt iz odstavka 2 člena 4 Direktive, ustanovljen v Republiki Sloveniji, šteje za plačilnega zastopnika namesto subjekta in pobira davčni odtegljaj od teh obresti, razen če se subjekt ni uradno strinjal, da se podatki o njegovem imenu, naslovu in skupnem znesku plačanih ali zagotovljenih obresti sporočijo v skladu z zadnjim pododstavkom tega odstavka.

5. Ob koncu prehodnega obdobja morajo Nizozemski Antili začeti uporabljati določbe člena 4 in prenehati uporabljati davčni odtegljaj in delitev prihodkov iz členov 5 in 6. Če se v prehodnem obdobju Nizozemski Antili odločijo za uporabo predpisov člena 4, ne uporabljajo več davčnega odtegljaja in delitev prihodkov iz členov 5 in 6.

Člen 6

Delitev prihodkov

1. Nizozemski Antili obdržijo 25% prihodkov od davčnega odtegljaja iz odstavka 1 člena 5 in ostalih 75% prenesejo na Republiko Slovenijo.

2. Če Nizozemski Antili pobirajo davčni odtegljaj v skladu z odstavkom 4 člena 5, obdržijo 25% prihodkov in ostalih 75% prihodkov od davčnega odtegljaja, pobranega od plačil obresti prenesejo subjektom iz odstavka 2 člena 4 Direktive, s sedežem v Republiki Sloveniji.

3. Taki prenosi se opravijo najkasneje v obdobju šestih mesecev po zaključku davčnega leta Nizozemskih Antilov.

4. Nizozemski Antili sprejmejo potrebne ukrepe, s katerimi zagotovijo pravilno delovanje sistema delitve dohodka.

Article 4

Automatic exchange of information

1. The Competent Authority of the Contracting State where the Paying Agent is established, shall communicate the information referred to in Article 8 of the Directive to the Competent Authority of the other Contracting State of residence of the Beneficial Owner.

2. The communication of information shall be automatic and shall take place at least once a year, within six months following the end of the tax year of the Contracting State of the Paying Agent, for all Interest Payments made during that year.

3. Information exchange under this Convention shall be treated by the Contracting States in a manner consistent with the provisions of Article 7 of Directive 77/799/EEC.

Article 5

Transitional provisions

1. During the transitional period referred to in Article 10 of the Directive, where the Beneficial Owner is resident in the Republic of Slovenia and the Paying Agent is resident in the Netherlands Antilles, the Netherlands Antilles shall levy a withholding tax on Interest Payments at a rate of 15% during the first three years of the transitional period, 20% for the subsequent three years and 35% thereafter. During this period, the Netherlands Antilles shall not be required to apply the provisions of Article 4. It shall, however, receive information from the Republic of Slovenia in accordance with that Article.

2. The Paying Agent shall levy the withholding tax in the manner as described in Article 11, paragraphs 2 and 3 of the Directive.

3. The imposition of withholding tax by the Netherlands Antilles shall not preclude the Republic of Slovenia from taxing the income in accordance with its national law.

4. During the transitional period, the Netherlands Antilles may provide that an economic operator paying interest to, or securing interest for, an entity referred to in Article 4, paragraph 2, of the Directive, established in the Republic of Slovenia shall be considered the Paying Agent in place of the entity and shall levy the withholding tax on that interest, unless the entity has formally agreed to its name, address and the total amount of interest paid to it or secured for it being communicated in accordance with the last subparagraph of that paragraph.

5. At the end of the transitional period, the Netherlands Antilles shall be required to apply the provisions of Article 4 and shall cease to apply the withholding tax and the revenue sharing provided for in Article 5 and Article 6. If, during the transitional period, the Netherlands Antilles elects to apply the provisions of Article 4, it shall no longer apply the withholding tax and the revenue sharing provided for in Article 5 and Article 6.

Article 6

Revenue sharing

1. The Netherlands Antilles shall retain 25% of the revenue of the withholding tax mentioned in Article 5, paragraph 1, and transfer 75% of the revenue to the Republic of Slovenia.

2. If the Netherlands Antilles levies withholding tax in accordance with Article 5, paragraph 4, the Netherlands Antilles shall retain 25% of the revenue and transfer 75% to the Republic of Slovenia of the revenue of the withholding tax levied on interest payments made to entities referred to in Article 4, paragraph 2, of the Directive, established in the Republic of Slovenia.

3. Such transfers shall take place at the latest within a period of six months following the end of the tax year of the Netherlands Antilles.

4. The Netherlands Antilles shall take the necessary measures to ensure the proper functioning of this revenue-sharing system.

Člen 7

Izjeme pri postopku pobiranja davčnega odtegljaja

1. Nizozemski Antili predpišejo enega ali oba izmed postopkov iz odstavka 1 člena 13 Direktive, po katerih lahko upravičeni lastnik zahteva, da se davek ne odtegne.

2. Na zahtevo upravičenega lastnika pristojni organ države pogodbenice, katere rezident je upravičeni lastnik za davčne namene, izda potrdilo v skladu z odstavkom 2 člena 13 Direktive.

Člen 8

Odprava dvojnega obdavčevanja

Republika Slovenija zagotovi odpravo dvojnega obdavčevanja, ki bi bilo lahko posledica uvedbe davčnega odtegljaja iz člena 5, v skladu z določbami odstavkov 2 in 3 člena 14 Direktive, ali zagotovi povračilo davčnega odtegljaja.

Člen 9

Drugi davčni odtegljaji

Konvencija ne preprečuje državam pogodbenicam, da poleg davčnega odtegljaja iz člena 5 pobirajo tudi druge oblike davčnega odtegljaja v skladu s svojo nacionalno zakonodajo ali konvencijami o izogibanju dvojnega obdavčevanja.

Člen 10

Prenos

Države pogodbenice do 1. januarja 2005 sprejmejo in objavijo zakone in druge predpise, potrebne za uskladitev s to konvencijo.

Člen 11

Priloga

Besedili Direktive in člena 7 Direktive 77/799/EGS Sveta Evropske unije z dne 19. decembra 1977 o vzajemni pomoči pristojnih organov držav članic na področju neposrednega in posrednega obdavčevanja, kot se uporabljata na dan podpisa te konvencije in na kateri se ta konvencija sklicuje, sta dodani kot priloga k tej konvenciji in sta njen sestavni del. Besedilo člena 7 Direktive 77/799/EGS v tej prilogi se nadomesti z besedilom navedenega člena v popravljeni Direktivi 77/799/EGS, če ta popravljen direktiva začne veljati pred dnevom začetka veljavnosti določb te konvencije.

Člen 12

Začetek veljavnosti

Ta konvencija začne veljati trideseti dan od zadnjega od datumov, na katerega sta vladi pisno obvestili druga drugo, da so izpolnjene njune ustavne zahteve in njene določbe veljajo z dnem, ko se začne uporabljati Direktiva v skladu z odstavkoma 2 in 3 člena 17 Direktive.

Člen 13

Odpoved

Ta konvencija velja, dokler je ne odpove ena od držav pogodbenic. Vsaka država lahko odpove konvencijo po diplomatski poti z obvestilom o odpovedi najmanj šest mesecev pred koncem katerega koli koledarskega leta, ki sledi obdobju treh let od datuma začetka veljavnosti te konvencije. V takem primeru Konvencija preneha veljati za obdobja, ki sledijo zaključku koledarskega leta, v katerem je bilo dano obvestilo o odpovedi.

Article 7

Exceptions to the withholding procedure

1. The Netherlands Antilles shall provide for one or both of the procedures of Article 13, paragraph 1, of the Directive in order to ensure that the Beneficial Owners may request that no tax be withheld.

2. At the request of the Beneficial Owner, the Competent Authority of his Contracting State of residence for tax purposes shall issue a certificate in accordance with Article 13, paragraph 2, of the Directive.

Article 8

Elimination of double taxation

The Republic of Slovenia shall ensure the elimination of any double taxation which might result from the imposition of the withholding tax referred to in Article 5, in accordance with the provisions of Article 14, paragraphs 2 and 3, of the Directive or will provide a refund of the withholding tax.

Article 9

Other withholding taxes

The Convention shall not preclude the Contracting States from levying other types of withholding tax than that referred to in Article 5 in accordance with their national laws or double-taxation conventions.

Article 10

Transposition

Before 1 January 2005 the Contracting States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Convention.

Article 11

Annex

The texts of the Directive and of Article 7 of Directive 77/799/EEC of the Council of the European Union of 19 December, 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct and indirect taxation, as applicable at the date of signing this Convention and to which this Convention refers, are appended as an Annex to, and form an integral part of, this Convention. The text of Article 7 of Directive 77/799/EEC in this Annex shall be replaced by the text of the said Article in the revised Directive 77/799/EEC if this revised Directive enters into force before the date from which the provisions of this Convention shall take effect.

Article 12

Entry Into Force

This Convention shall enter into force on the thirtieth day after the latter of the dates on which the respective Governments have notified each other in writing that the formalities constitutionally required in their respective States have been complied with, and its provisions shall have effect from the date from which the Directive is applicable according to Article 17, paragraphs 2 and 3, of the Directive.

Article 13

Termination

This Convention shall remain in force until terminated by one of the Contracting States. Either State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the expiration of a period of three years from the date of its entry into force. In such event the Convention shall cease to have effect for periods beginning after the end of the calendar year in which the notice of termination has been given.

Sestavljeno v slovenskem, angleškem jeziku in nizozemskem jeziku, pri čemer so vsa besedila enako verodostojna. V primeru kakršnega koli razhajanja v razlagi med jezikovnimi različicami besedil, prevlada angleško besedilo.

Za Republiko Slovenijo
Dušan Mramor l.r.

Za Kraljevino Nizozemsko
glede Nizozemskih Antilov
E.T.M. de Lannooy l.r.

Done in the Slovenian, English and Dutch languages all texts being equally authentic. In case there is any divergence of interpretation between the different language versions of the texts, the English text shall prevail.

For the Republic
of Slovenia
Dušan Mramor (s)

For the Kingdom
of the Netherlands in respect
of the Netherlands Antilles
E.T.M. de Lannooy (s)

PRILOGA

Člen 7
Določbe o tajnosti

1. Vse informacije, s katerimi se seznanjajo država članica v skladu s to direktivo, se v navedeni državi hranijo kot zaupne na enak način kot informacije, prejete v skladu z njeno nacionalno zakonodajo. V vsakem primeru se take informacije:

– lahko dajo na razpolago le osebam, ki se neposredno ukvarjajo z odmero davka ali upravnim nadzorom te odmere,

– lahko sporočijo samo v povezavi s sodnimi postopki ali upravnimi postopki, ki vključujejo sankcije, uvedene zaradi ali v zvezi z izdelavo ali revizijo davčne odmere, in samo osebam, ki so neposredno vpletene v take postopke; take informacije pa se lahko razkrijejo med javnimi zaslišanji ali v sodbah, če pristojni organ države članice, ki daje informacijo, ob prvi predložitvi te informacije ne ugovarja,

– v nobenem primeru ne smejo uporabiti za druge namene kot za namene obdavčevanja ali v povezavi s sodnimi postopki ali upravnimi postopki, ki vključujejo sankcije, uvedene zaradi ali v zvezi z izdelavo ali revizijo davčne odmere.

Poleg tega države članice lahko določijo, da se informacije iz prvega pododstavka uporabijo za odmero drugih prelevmanov, dajatev in davkov, zajetih v členu 2 Direktive 76/308/EGS.

2. Odstavek 1 ne obvezuje države članice, katere zakonodaja ali upravna praksa določa za domače namene ožje omejitve, kot jih vsebujejo določbe tega odstavka, da zagotovi informacije, če zadevna država ne upošteva teh ožjih omejitev.

3. Ne glede na odstavek 1 lahko pristojni organi države članice, ki zagotovi informacije, dovolijo, da se v državi prosilki uporabijo za druge namene, če bi bile lahko po zakonodaji države, ki je informacije posredovala, te v podobnih okoliščinah uporabljene za podobne namene v državi, ki jih je posredovala.

4. Če pristojni organ države članice meni, da so informacije, ki jih je prejel od pristojnega organa druge države članice, verjetno uporabne za pristojni organ tretje države članice, jih lahko posreduje temu pristojnemu organu s soglasjem pristojnega organa, ki je informacije posredoval.

3. člen

V skladu z ustavno preureditvijo Kraljevine Nizozemske se sporazum uporablja za Curaçao, Sint Maarten in Karibski del Nizozemske.

4. člen

Za izvajanje sporazuma skrbi ministrstvo, pristojno za finance.

5. člen

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

Št. 00724-58/2012

Ljubljana, dne 6. decembra 2012

EVA 2012-1811-0122

Vlada Republike Slovenije

Janez Janša l.r.
Predsednik

ANNEX

Article 7
Provisions relating to secrecy

1. All information made known to a Member State under this Directive shall be kept secret in that State in the same manner as information received under its national legislation. In any case, such information:

– may be made available only to the persons directly involved in the assessment of the tax or in the administrative control of this assessment,

– may be made known only in connection with judicial proceedings or administrative proceedings involving sanctions undertaken with a view to, or relating to, the making or reviewing of the tax assessment and only to persons who are directly involved in such proceedings; such information may, however, be disclosed during public hearings or in judgements if the competent authority of the Member State supplying the information raises no objection at the time when it first supplies the information,

– shall in no circumstances be used other than for taxation purposes or in connection with judicial proceedings or administrative proceedings involving sanctions undertaken with a view to, or in relation to, the making or reviewing of the tax assessment.

In addition, Member States may provide for the information referred to in the first subparagraph to be used for assessment of other levies, duties and taxes covered by Article 2 of Directive 76/308/EEC.

2. Paragraph 1 shall not oblige a Member State whose legislation or administrative practice lays down, for domestic purposes, narrower limits than those contained in the provisions of that paragraph, to provide information if the State concerned does not undertake to respect those narrower limits.

3. Notwithstanding paragraph 1, the competent authorities of the Member State providing the information may permit it to be used for other purposes in the requesting State, if, under the legislation of the informing State, the information could, in similar circumstances, be used in the informing State for similar purposes.

4. Where a competent authority of a Member State considers that information which it has received from the competent authority of another Member State is likely to be useful to the competent authority of a third Member State, it may transmit it to the latter competent authority with the agreement of the competent authority which supplied the information.

97. Uredba o ratifikaciji Sporazuma v obliki izmenjave pisem o obdavčevanju dohodka od prihrankov in začasni uporabi tega sporazuma, sklenjenega med Republiko Slovenijo in Kraljevino Nizozemsko glede Arube

Na podlagi petega odstavka 75. 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) izdaja Vlada Republike Slovenije

U R E D B O**o ratifikaciji Sporazuma v obliki izmenjave pisem o obdavčevanju dohodka od prihrankov in začasni uporabi tega sporazuma, sklenjenega med Republiko Slovenijo in Kraljevino Nizozemsko glede Arube**

1. člen

Ratificira se Sporazum v obliki izmenjave pisem o obdavčevanju dohodka od prihrankov in začasni uporabi tega sporazuma, sklenjen z izmenjavo pisem 9. novembra 2004 med Republiko Slovenijo in Kraljevino Nizozemsko glede Arube.

2. člen

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

S P O R A Z U M
V OBLIKI IZMENJAVE PISEM
O OBDAVČEVANJU DOHODKA
OD PRIHRANKOV IN ZAČASNI UPORABI
TEGA SPORAZUMA

A. Pismo Republike Slovenije

Spoštovani!

V čast mi je, da se sklicujem na besedila "Konvencije med Kraljevino Nizozemsko glede Nizozemskih Antilov in (Belgijo, Avstrijo in Luksemburgom) o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov", "Konvencije med Kraljevino Nizozemsko glede Nizozemskih Antilov in (državo članico EU, ki ni Belgija, Avstrija in Luksemburg) o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov", "Konvencije med Kraljevino Nizozemsko glede Arube in (državo članico EU, ki ni Belgija, Avstrija in Luksemburg) o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov", "Konvencije med Kraljevino Nizozemsko glede Arube in (Belgijo, Avstrijo in Luksemburgom) o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov", ki so rezultat pogajanj z Nizozemskimi Antili in Arubo o Sporazumu o obdavčevanju prihrankov in so bila kot Priloga I, II, III in IV priložena izidom posvetovanja Skupine na visoki ravni Sveta ministrov Evropske unije z dne 12. marca (Dok. 7660/04 FISC 68).

V čast mi je, da vam v zvezi z zgoraj omenjenimi besedili lahko predložim "Konvencijo o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov v obliki plačil obresti", kot je navedena v Dodatku 1 tega pisma, in predlagam, da se obe strani zavežeta čimprej opraviti formalnosti, predvidene v njihovih ustavah, za začetek veljavnosti te konvencije ter o zaključku teh formalnosti druga drugo nemudoma obvestita.

V pričakovanju zaključka teh notranjih postopkov in začetka veljavnosti "Konvencije o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov v obliki plačil obresti" predlagam, da Republika Slovenija in Kraljevina Nizozemska glede Arube to konvencijo začasno uporabljata od 1. januarja 2005 ali datuma začetka uporabe Direktive Sveta 2003/48/ES z dne 3. junija 2003 o obdavčevanju dohodka od prihrankov v obliki plačil obresti, katerikoli je kasnejši.

A G R E E M E N T
IN THE FORM OF AN EXCHANGE
OF LETTERS ON THE TAXATION
OF SAVINGS INCOME AND THE PROVISIONAL
APPLICATION THEREOF

A. Letter from the Republic of Slovenia

Sir,

I have the honour to refer to the texts of respectively the "Convention between the Kingdom of the Netherlands in respect of the Netherlands Antilles and (Belgium, Austria and Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments", the "Convention between the Kingdom of the Netherlands in respect of the Netherlands Antilles and (the EU Member State, other than Belgium, Austria and Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments", the "Convention between the Kingdom of the Netherlands in respect of Aruba and (the EU Member State, other than Belgium, Austria and Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments" and the "Convention between the Kingdom of the Netherlands in respect of Aruba and (Belgium, Austria and Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments", that resulted from the negotiations with the Netherlands Antilles and Aruba on a Savings Tax Agreement, and that were annexed, respectively as Annex I, II, III and IV, to the Outcome of Proceedings of the High Level Working Party of the Council of Ministers of the European Union of 12 March (doc. 7660/04 FISC 68).

In view of the above mentioned texts I have the honour to propose to you the "Convention concerning the automatic exchange of information regarding savings income in the form of interest payments" as contained in Appendix 1 to this letter, and our mutual undertaking to comply at the earliest possible date with our internal constitutional formalities for the entry into force of this Convention and to notify each other without delay when such formalities are completed.

Pending the completion of these internal procedures and the entry into force of this "Convention concerning the automatic exchange of information regarding savings income in the form of interest payments", I have the honour to propose to you that the Republic of Slovenia and the Kingdom of the Netherlands in respect of Aruba apply this Convention provisionally, within the framework of our respective domestic constitutional requirements, as from 1 January 2005, or the date of application of Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments, whichever is later.

*Besedilo sporazuma v nizozemskem jeziku je na vpogled v Sektorju za mednarodno pravo Ministrstva za zunanje zadeve.

Če se vaša vlada z navedenim strinja, predlagam, da to pismo in vaš odgovor nanj skupaj tvorita sporazum med Republiko Slovenijo in Kraljevino Nizozemsko glede Arube.

Prosim, sprejmite izraze našega najglobljega spoštovanja.

Za Republiko Slovenijo
Dušan Mramor l.r.

V Ljubljani, dne 4. junija 2004 v treh izvodih.

B. Pismo Arube

Spoštovani!

V čast mi je potrditi prejem vašega današnjega pisma, v katerem je zapisano:

"Spoštovani!

V čast mi je, da se sklicujem na besedila "Konvencije med Kraljevino Nizozemsko glede Nizozemske Antilov in (Belgijo, Avstrijo in Luksemburgom) o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov v obliki plačil obresti", "Konvencije med Kraljevino Nizozemsko glede Nizozemskih Antilov in (državo članico EU, ki ni Belgija, Avstrija in Luksemburg) o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov v obliki plačil obresti", "Konvencije med Kraljevino Nizozemsko glede Arube in (državo članico EU, ki ni Belgija, Avstrija in Luksemburg) o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov v obliki plačil obresti" in "Konvencije med Kraljevino Nizozemsko za Arubo in (Belgijo, Avstrijo in Luksemburgom) o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov v obliki plačil obresti", ki so rezultat pogajanj z Nizozemskimi Antili in Arubo o Sporazumu o obdavčevanju prihrankov in so bila kot Priloga I, II, III in IV priložena izidom posvetovanja Skupine na visoki ravni Sveta ministrov Evropske unije 12. marca (Dok. 7660/04 FISC 68).

V čast mi je, da vam v zvezi z zgoraj omenjenimi besedili lahko predložim "Konvencijo o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov", kot je naveden v Dodatku 1 tega pisma, in predlagam, da se obe strani zavežeta čimprej opraviti formalnosti, predvidene v njihovih ustavah, in za začetek veljavnosti te konvencije ter o zaključku teh formalnosti druga drugo nemudoma obvestita.

V pričakovanju zaključka teh notranjih postopkov in začetka veljavnosti "Konvencije o avtomatični izmenjavi podatkov o obdavčevanju dohodka od prihrankov v obliki plačil obresti" predlagam, da Republika Slovenija in Kraljevina Nizozemska glede Arube to konvencijo začasno uporabljata od 1. januarja 2005 ali datuma začetka uporabe Direktive Sveta 2003/48/ES z dne 3. junija 2003 o obdavčevanju dohodka od prihrankov v obliki plačil obresti, katerikoli je kasnejši.

Če se vaša vlada z navedenim strinja, predlagam, da to pismo in vaš odgovor nanj skupaj tvorita sporazum med Republiko Slovenijo in Kraljevino Nizozemsko glede Arube.

Prosim, sprejmite izraze našega najglobljega spoštovanja."

Potrdim lahko, da se Aruba strinja z vsebino vašega pisma.

Prosim, sprejmite izraze mojega najglobljega spoštovanja.

Za Arubo
A.A. Tromp-Yarzagaray l.r.

V Haagu, dne 9. novembra 2004 v treh izvodih.

I have the honour to propose that, if the above is acceptable to your Government, this letter and your confirmation shall together constitute an Agreement between the Republic of Slovenia and the Kingdom of the Netherlands in respect of Aruba.

Please accept, Sir, the assurance of our highest consideration,

For the Republic of Slovenia
Dušan Mramor (s)

Done at Ljubljana, on 4 June 2004, in three copies.

B. Letter from Aruba

Sir,

I have the honour to acknowledge receipt of your letter of today's date, which reads as follows:

"Sir,

I have the honour to refer to the texts of respectively the "Convention between the Kingdom of the Netherlands in respect of the Netherlands Antilles and (Belgium, Austria and Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments", the "Convention between the Kingdom of the Netherlands in respect of the Netherlands Antilles and (the EU Member State, other than Belgium, Austria and Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments", the "Convention between the Kingdom of the Netherlands in respect of Aruba and (the EU Member State, other than Belgium, Austria and Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments" and the "Convention between the Kingdom of the Netherlands in respect of Aruba and (Belgium, Austria and Luxembourg) concerning the automatic exchange of information regarding savings income in the form of interest payments", that resulted from the negotiations with the Netherlands Antilles and Aruba on a Savings Tax Agreement, and that were annexed, respectively as Annex I, II, III and IV, to the Outcome of Proceedings of the High Level Working Party of the Council of Ministers of the European Union of 12 March (doc. 7660/04 FISC 68).

In view of the above mentioned texts I have the honour to propose to you the "Convention concerning the automatic exchange of information regarding savings income in the form of interest payments" as contained in Appendix 1 to this letter, and our mutual undertaking to comply at the earliest possible date with our internal constitutional formalities for the entry into force of this Convention and to notify each other without delay when such formalities are completed.

Pending the completion of these internal procedures and the entry into force of this "Convention concerning the automatic exchange of information regarding savings income in the form of interest payments", I have the honour to propose to you that the Republic of Slovenia and the Kingdom of the Netherlands in respect of Aruba apply this Convention provisionally, within the framework of our respective domestic constitutional requirements, as from 1 January 2005, or the date of application of Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments, whichever is later.

I have the honour to propose that, if the above is acceptable to your Government, this letter and your confirmation shall together constitute an Agreement between the Republic of Slovenia and the Kingdom of the Netherlands in respect of Aruba.

Please accept, Sir, the assurance of our highest consideration,"

I am able to confirm that Aruba is in agreement with the contents of your letter.

Please accept, Sir, the assurance of my highest consideration,

For Aruba
A.A. Tromp-Yarzagaray (s)

Done at The Hague, on 9 November 2004, in three copies.

Dodatek 1

Appendix 1

KONVENCIJA MED KRALJEVINO NIZOZEMSKO GLEDE
ARUBE IN REPUBLIKO SLOVENIJO O AVTOMATIČNI
IZMENJAVI PODATKOV O OBDAVČEVANJU DOHODKA
OD PRIHRANKOV V OBLIKI PLAČIL OBRESTI

CONVENTION BETWEEN THE KINGDOM OF THE
NETHERLANDS IN RESPECT OF ARUBA AND THE
REPUBLIC OF SLOVENIA CONCERNING THE AUTOMATIC
EXCHANGE OF INFORMATION ABOUT SAVINGS INCOME
IN THE FORM OF INTEREST PAYMENTS

Vlada Kraljevine Nizozemske v zvezi z Arubo in Republike Slovenije sta se v želji, da bi sklenili Konvencijo o učinkovitem obdavčevanju dohodka od prihrankov v obliki plačil obresti, plačanih v eni državi pogodbenici upravičenim lastnikom, ki so posamezniki, rezidenti druge države pogodbenice, v skladu z zakonodajo države pogodbenice, katere rezidenti so, in skladno z Direktivo 2003/48/ES Sveta Evropske unije z dne 3. junija 2003 o obdavčevanju dohodka od prihrankov v obliki plačil obresti, sporazumeli kot sledi:

The Government of the Kingdom of the Netherlands in respect of Aruba and the Republic of Slovenia, desiring to conclude a Convention which enables savings income in the form of interest payments made in one of the Contracting States to beneficial owners who are individuals resident in the other Contracting State, to be made subject to effective taxation in accordance with the laws of the latter Contracting State, in conformity with Directive 2003/48/EC of the Council of the European Union of 3 June 2003 on taxation of savings income in the form of interest payments, have agreed as follows:

Člen 1

Splošno področje uporabe

1. Ta konvencija se uporablja za obresti, ki jih plača plačilni zastopnik, ustanovljen na ozemlju ene od držav pogodbenic, kar naj bi omogočilo učinkovito obdavčevanje dohodka od prihrankov v obliki plačil obresti v drugi državi pogodbenici upravičenim lastnikom, ki so posamezniki, za davčne namene rezidenti druge države članice, v skladu z zakonodajo države pogodbenice, katere rezidenti so.

2. Področje uporabe te konvencije je treba omejiti na obdavčevanje dohodka od prihrankov v obliki plačil obresti na dolžniške terjatve, pri čemer so med drugim izključena vprašanja v zvezi z obdavčevanjem pokojninskih prejemkov in prejemkov iz zavarovanja.

3. Glede Kraljevine Nizozemske se ta sporazum uporablja samo za Arubo.

Člen 2

Opredelitev izrazov

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

a) izraz "država pogodbenica" in "druga država pogodbenica" pomenita Kraljevino Nizozemsko v zvezi z Arubo ali Republiko Slovenijo, kot zahteva sobesedilo;

b) izraz "Aruba" pomeni: del Kraljevine Nizozemske, ki leži na Karibskem območju in sestoji iz otoka Aruba;

c) "Pogodbenica", država članica Evropske unije, pomeni: Republiko Slovenijo;

d) izraz "Direktiva" pomeni Direktivo 2003/48/ES Sveta Evropske unije z dne 3. junija 2003 o obdavčevanju dohodka od prihrankov v obliki plačil, kot se uporablja na dan podpisa te konvencije;

e) izraz "upravičeni lastnik" pomeni upravičenega lastnika skladno s členom 2 Direktive;

f) izraz "plačilni zastopnik" pomeni plačilnega zastopnika skladno s členom 4 Direktive;

g) izraz "pristojni organ" pomeni:

i) v primeru Arube: ministra za finance ali njegovega pooblaščenega predstavnika;

ii) v primeru Republike Slovenije: pristojni organ te države skladno s členom 5 Direktive.

h) izraz "plačilo obresti" pomeni plačilo obresti skladno s členom 6 Direktive, pri čemer se ustrezno upošteva člen 15 Direktive;

i) katerikoli izraz, ki v tej konvenciji ni drugače opredeljen, ima pomen, kot ga ima po Direktivi.

2. Za namene te konvencije v določbah Direktive, na katero se ta konvencija sklicuje, izraz "države članice" pomeni: države pogodbenice.

Article 1

General Scope

1. This Convention shall apply to interest paid by a paying agent established within the territory of one of the Contracting States with a view to enable savings income in the form of interest payments made in one Contracting State to beneficial owners who are individuals resident for tax purposes in the other Contracting State to be made subject to effective taxation in accordance with the laws of the latter Contracting State

2. The scope of this Convention shall be limited to taxation of savings income in the form of interest payments on debt claims, to the exclusion, inter alia, of the issues relating to the taxation of pension and insurance benefits.

3. As regards the Kingdom of the Netherlands, this Agreement shall apply only to Aruba.

Article 2

Definitions

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

a) the term "a Contracting State" and "the other Contracting State" mean the Kingdom of the Netherlands in respect of Aruba or the Republic of Slovenia as the context requires;

b) the term "Aruba" means: that part of the Kingdom of the Netherlands that is situated in the Caribbean area and consisting of the Island Aruba;

c) The "contracting party" being a Member State of the European Union means: the Republic of Slovenia;

d) the term "Directive" means Directive 2003/48/EC of the Council of the European Union of 3 June 2003 on taxation of savings income in the form of interest payments, as applicable at the date of signing this Convention;

e) the term "beneficial owner" means the beneficial owner according to Article 2 of the Directive;

f) the term "paying agent" means the paying agent according to Article 4 of the Directive;

g) the term "competent authority" means:

i) In the case of Aruba: "The Minister of Finance or his authorised representative".

ii) In the case of the Republic of Slovenia: the competent authority of that State according to Article 5 of the Directive.

h) the term "interest payment" means the interest payment according to article 6, due account being taken of Article 15, of the Directive;

i) any term not otherwise defined herein shall have the meaning given to it in the Directive.

2. For the purposes of this Convention, in the provisions of the Directive to which this Convention refers, instead of "Member States" has to be read: Contracting States.

Člen 3

Identiteta in rezidentstvo upravičenih lastnikov

Vsaka država pogodbenica na svojem ozemlju sprejme in zagotovi uporabo potrebnih postopkov, ki plačilnemu zastopniku omogočajo identificirati upravičene lastnike in njihovo rezidentstvo za namene člena 4. Ti postopki so v skladu z minimalnimi standardi, določenimi v odstavkih 2 in 3 člena 3 Direktive, s tem, da se za Arubo v zvezi s pododstavkoma 2(a) in 3(a) tega člena, identiteta in rezidentstvo upravičenega lastnika ugotavljata iz podatkov, ki jih ima na voljo plačilni zastopnik na podlagi uporabe ustreznih določb zakonov in drugih predpisov Arube.

Člen 4

Avtomatična izmenjava podatkov

1. Pristojni organ države pogodbenice, v kateri je plačilni zastopnik ustanovljen, sporoči podatke iz člena 8 Direktive pristojnemu organu druge države pogodbenice, katere rezident je upravičeni lastnik.

2. Sporočanje podatkov je avtomatično in se opravi vsaj enkrat letno v šestih mesecih po koncu davčnega leta države pogodbenice plačilnega zastopnika, za vsa plačila obresti v tem letu.

3. Za izmenjavo podatkov po tej konvenciji države pogodbenice uporabljajo določbe člena 7 Direktive 77/799/EGS.

Člen 5

Prenos

Države pogodbenice do 1. januarja 2005 sprejmejo in objavijo zakone in druge predpise, potrebne za uskladitev s to konvencijo.

Člen 6

Priloga

Besedili Direktive in člena 7 Direktive 77/799/EGS Sveta Evropske unije z dne 19. decembra 1977 o vzajemni pomoči pristojnih organov držav članic na področju neposrednega in posrednega obdavčevanja, kot se uporabljata na dan podpisa te konvencije in na kateri se ta konvencija sklicuje, sta dodani kot priloga k tej konvenciji in sta njen sestavni del. Besedilo člena 7 Direktive 77/799/EGS v tej prilogi se nadomesti z besedilom navedenega člena v popravljeni Direktivi 77/799/EGS, če ta popravljen direktiva začne veljati pred dnevom začetka veljavnosti določb te konvencije.

Člen 7

Začetek veljavnosti

Ta konvencija začne veljati trideseti dan od zadnjega od datumov, na katerega sta vladi pisno obvestili druga drugo, da so izpolnjene njune ustavne zahteve in njene določbe veljajo z dnem, ko se začne uporabljati Direktiva v skladu z odstavkoma 2 in 3 člena 17 Direktive.

Article 3

Identity and residence of beneficial owners

Each Contracting State shall, within its territory, adopt and ensure the application of the procedures necessary to allow the paying agent to identify the beneficial owners and their residence for the purpose of Article 4. These procedures shall comply with the minimum standards established in Article 3, paragraph 2 and 3 of the Directive, with the provision that in regard to Aruba, in relation to subparagraphs 2.a) and 3.a) of that Article, the identity and residence of the Beneficial Owner shall be established on the basis of the information which is available to the Paying Agent by virtue of the application of the relevant provisions of Aruban law and regulations.

Article 4

Automatic exchange of information

1. The competent authority of the Contracting State where the paying agent is established, shall communicate the information referred to in Article 8 of the Directive to the competent authority of the other Contracting State of residence of the beneficial owner.

2. The communication of information shall be automatic and shall take place at least once a year, within six months following the end of the tax year of the Contracting State of the paying agent, for all interest payments made during that year.

3. Information exchange under this Convention shall be treated by the Contracting States in a manner consistent with the provisions as set out in Article 7 of Directive 77/799/EEC.

Article 5

Transposition

Before 1 January 2005 the Contracting States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Convention.

Article 6

Annex

The texts of the Directive and of Article 7 of Directive 77/799/EEC of the Council of the European Union of 19 December, 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct and indirect taxation, as applicable at the date of signing this Convention and to which this Convention refers, are appended as an Annex to, and form an integral part of, this Convention. The text of Article 7 of Directive 77/799/EEC in this annex shall be replaced by the text of the said Article in the revised Directive 77/799/EEC if this revised Directive enters into force before the date from which the provisions of this Convention shall take effect.

Article 7

Entry Into Force

This Convention shall enter into force on the thirtieth day after the latter of the dates on which the respective Governments have notified each other in writing that the formalities constitutionally required in their respective States have been complied with, and its provisions shall have effect from the date from which the Directive is applicable according to Article 17, paragraph 2 and 3, of the Directive.

Člen 8
Odpoved

Ta konvencija velja, dokler je ne odpove ena od držav pogodbenic. Vsaka država lahko odpove konvencijo po diplomatski poti z obvestilom o odpovedi najmanj šest mesecev pred koncem katerega koli koledarskega leta, ki sledi obdobju treh let od datuma začetka veljavnosti te konvencije. V takem primeru Konvencija preneha veljati za obdobja, ki sledijo zaključku koledarskega leta, v katerem je bilo dano obvestilo o odpovedi.

Sestavljeno v slovenskem, angleškem jeziku in nizozemskem jeziku, pri čemer so vsa besedila enako verodostojna. V primeru kakršnega koli razhajanja v razlagi med jezikovnimi različicami besedil, prevlada angleško besedilo.

Za Republiko Slovenijo
Dušan Mramor l.r.

Za Kraljevino Nizozemsko
glede Arube
A.A. Tromp-Yarzagaray l.r.

Article 8
Termination

This Convention shall remain in force until terminated by one of the Contracting States. Either State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the expiration of a period of three years from the date of its entry into force. In such event the Convention shall cease to have effect for periods beginning after the end of the calendar year in which the notice of termination has been given.

Done in the Slovenian, English and Dutch languages all texts being equally authentic. In case there is any divergence of interpretation between the different language versions of the texts, the English text shall prevail.

For the Republic of Slovenia
Dušan Mramor (s)

For the Kingdom
of the Netherlands
in respect of Aruba
A.A. Tromp-Yarzagaray (s)

PRILOGA

ANNEX

Člen 7

Določbe o tajnosti

1. Vse informacije, s katerimi se seznanila država članica v skladu s to direktivo, se v navedeni državi hranijo kot zaupne na enak način kot informacije, prejete v skladu z njeno nacionalno zakonodajo. V vsakem primeru se take informacije:

– lahko dajo na razpolago le osebam, ki se neposredno ukvarjajo z odmero davka ali upravnim nadzorom te odmere,

– lahko sporočijo samo v povezavi s sodnimi postopki ali upravnimi postopki, ki vključujejo sankcije, uvedene zaradi ali v zvezi z izdelavo ali revizijo davčne odmere, in samo osebam, ki so neposredno vpletene v take postopke; take informacije pa se lahko razkrijejo med javnimi zaslišanji ali v sodbah, če pristojni organ države članice, ki daje informacijo, ob prvi predložitvi te informacije ne ugovarja,

– v nobenem primeru ne smejo uporabiti za druge namene kot za namene obdavčevanja ali v povezavi s sodnimi postopki ali upravnimi postopki, ki vključujejo sankcije, uvedene zaradi ali v zvezi z izdelavo ali revizijo davčne odmere.

Poleg tega države članice lahko določijo, da se informacije iz prvega pododstavka uporabijo za odmero drugih prelevmanov, dajatev in davkov, zajetih v členu 2 Direktive 76/308/EGS.

2. Odstavek 1 ne obvezuje države članice, katere zakonodaja ali upravna praksa določa za domače namene ožje omejitve, kot jih vsebujejo določbe tega odstavka, da zagotovi informacije, če zadevna država ne upošteva teh ožjih omejitev.

3. Ne glede na odstavek 1 lahko pristojni organi države članice, ki zagotovi informacije, dovolijo, da se v državi prosilki uporabijo za druge namene, če bi bile lahko po zakonodaji države, ki je informacije posredovala, te v podobnih okoliščinah uporabljene za podobne namene v državi, ki jih je posredovala.

4. Če pristojni organ države članice meni, da so informacije, ki jih je prejel od pristojnega organa druge države članice, verjetno uporabne za pristojni organ tretje države članice, jih lahko posreduje temu pristojnemu organu s soglasjem pristojnega organa, ki je informacije posredoval.

3. člen

Za izvajanje sporazuma skrbi ministrstvo, pristojno za finance.

4. člen

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

Št. 00724-61/2012

Ljubljana, dne 6. decembra 2012

EVA 2012-1811-0123

Vlada Republike Slovenije

Janez Janša l.r.
Predsednik

Article 7

Provisions relating to secrecy

1. All information made known to a Member State under this Directive shall be kept secret in that State in the same manner as information received under its national legislation. In any case, such information:

– may be made available only to the persons directly involved in the assessment of the tax or in the administrative control of this assessment,

– may be made known only in connection with judicial proceedings or administrative proceedings involving sanctions undertaken with a view to, or relating to, the making or reviewing of the tax assessment and only to persons who are directly involved in such proceedings; such information may, however, be disclosed during public hearings or in judgements if the competent authority of the Member State supplying the information raises no objection at the time when it first supplies the information,

– shall in no circumstances be used other than for taxation purposes or in connection with judicial proceedings or administrative proceedings involving sanctions undertaken with a view to, or in relation to, the making or reviewing of the tax assessment.

In addition, Member States may provide for the information referred to in the first subparagraph to be used for assessment of other levies, duties and taxes covered by Article 2 of Directive 76/308/EEC.

2. Paragraph 1 shall not oblige a Member State whose legislation or administrative practice lays down, for domestic purposes, narrower limits than those contained in the provisions of that paragraph, to provide information if the State concerned does not undertake to respect those narrower limits.

3. Notwithstanding paragraph 1, the competent authorities of the Member State providing the information may permit it to be used for other purposes in the requesting State, if, under the legislation of the informing State, the information could, in similar circumstances, be used in the informing State for similar purposes.

4. Where a competent authority of a Member State considers that information which it has received from the competent authority of another Member State is likely to be useful to the competent authority of a third Member State, it may transmit it to the latter competent authority with the agreement of the competent authority which supplied the information.

Obvestila o začetku oziroma prenehanju veljavnosti mednarodnih pogodb

98. Obvestilo o začetku veljavnosti Sporazuma med Vlado Republike Slovenije in Vlado Romunije o medsebojnem varovanju tajnih podatkov

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 1. decembra 2012 začel veljati Sporazum med Vlado Republike Slovenije in Vlado Romunije o medsebojnem varovanju tajnih podatkov, sestavljen v Bukarešti 29. junija 2011 in objavljen v Uradnem listu Republike Slovenije – Mednarodne pogodbe, št. 14/11 (Uradni list Republike Slovenije, št. 93/11).

Ljubljana, dne 4. decembra 2012

Ministrstvo za zunanje zadeve
Republike Slovenije

99. Obvestilo o začetku veljavnosti Protokola med Vlado Republike Slovenije in Vlado Ruske federacije o izvajanju Sporazuma med Evropsko skupnostjo in Rusko federacijo o ponovnem sprejemu z dne 25. maja 2006

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 25. septembra 2012 začel veljati Protokol med Vlado Republike Slovenije in Vlado Ruske federacije o izvajanju Sporazuma med Evropsko skupnostjo in Rusko federacijo o ponovnem sprejemu z dne 25. maja 2006, podpisan 25. aprila 2012 v Moskvi in objavljen v Uradnem listu Republike Slovenije – Mednarodne pogodbe, št. 8/12 (Uradni list Republike Slovenije, št. 60/12).

Ljubljana, dne 6. decembra 2012

Ministrstvo za zunanje zadeve
Republike Slovenije

100. Obvestilo o začetku veljavnosti Sporazuma o varovanju tajnih podatkov in materiala na področju obrambnega sodelovanja med Ministrstvom za obrambo Republike Slovenije in Ministrstvom za obrambo Države Izrael

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

s p o r o č a,

da je dne 1. avgusta 2012 začel veljati Sporazum o varovanju tajnih podatkov in materiala na področju obrambnega sodelovanja med Ministrstvom za obrambo Republike Slovenije in Ministrstvom za obrambo Države Izrael, podpisan v Tel Avivu 18. aprila 2007 in objavljen v Uradnem listu Republike Slovenije – Mednarodne pogodbe, št. 5/08 (Uradni list Republike Slovenije, št. 22/08).

Ljubljana, dne 7. decembra 2012

Ministrstvo za zunanje zadeve
Republike Slovenije

VSEBINA

93.	Uredba o ratifikaciji Sporazuma v obliki izmenjave pisem o obdavčevanju dohodka od prihrankov in začasni uporabi tega sporazuma, sklenjenega med Republiko Slovenijo in Otokom Man	463
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96.	Uredba o ratifikaciji Sporazuma v obliki izmenjave pisem o obdavčevanju dohodka od prihrankov in začasni uporabi tega sporazuma, sklenjenega med Republiko Slovenijo in Kraljevino Nizozemsko glede Nizozemskih Antilov	507
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<i>Obvestila o začetku oziroma prenehanju veljavnosti mednarodnih pogodb</i>		
98.	Obvestilo o začetku veljavnosti Sporazuma med Vlado Republike Slovenije in Vlado Romunije o medsebojnem varovanju tajnih podatkov	521
99.	Obvestilo o začetku veljavnosti Protokola med Vlado Republike Slovenije in Vlado Ruske federacije o izvajanju Sporazuma med Evropsko skupnostjo in Rusko federacijo o ponovnem sprejemu z dne 25. maja 2006	521
100.	Obvestilo o začetku veljavnosti Sporazuma o varovanju tajnih podatkov in materiala na področju obrambnega sodelovanja med Ministrstvom za obrambo Republike Slovenije in Ministrstvom za obrambo Države Izrael	521

