

**37. Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Kraljevino Švedsko o odpravi dvojnega obdavčevanja v zvezi z davki od dohodka in premoženja ter preprečevanju davčnih utaj in izogibanja davkom, s protokolom (BSEODO)**

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

### U K A Z

**o razglasitvi Zakona o ratifikaciji Konvencije med Republiko Slovenijo in Kraljevino Švedsko o odpravi dvojnega obdavčevanja v zvezi z davki od dohodka in premoženja ter preprečevanju davčnih utaj in izogibanja davkom, s protokolom (BSEODO)**

Razglašam Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Kraljevino Švedsko o odpravi dvojnega obdavčevanja v zvezi z davki od dohodka in premoženja ter preprečevanju davčnih utaj in izogibanja davkom, s protokolom (BSEODO), ki ga je sprejel Državni zbor Republike Slovenije na seji dne 22. septembra 2021.

Št. 003-02-3/2021-204

Ljubljana, dne 30. septembra 2021

**Borut Pahor**  
predsednik  
Republike Slovenije

### Z A K O N

**O RATIFIKACIJI KONVENCIJE MED REPUBLIKO SLOVENIJO IN KRALJEVINO ŠVEDSKO O ODPRAVI DVOJNEGA OBDAVČEVANJA V ZVEZI Z DAVKI OD DOHODKA IN PREMOŽENJA TER PREPREČEVANJU DAVČNIH UTAJ IN IZOGIBANJA DAVKOM, S PROTOKOLOM (BSEODO)**

#### 1. člen

Ratificira se Konvencija med Republiko Slovenijo in Kraljevino Švedsko o odpravi dvojnega obdavčevanja v zvezi z davki od dohodka in premoženja ter preprečevanju davčnih utaj in izogibanja davkom, s protokolom, sklenjena v Bruslju 12. maja 2021.

#### 2. člen

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

**CONVENTION  
BETWEEN THE REPUBLIC OF SLOVENIA  
AND THE KINGDOM OF SWEDEN  
FOR THE ELIMINATION OF DOUBLE TAXATION  
WITH RESPECT TO TAXES ON INCOME  
AND ON CAPITAL AND THE PREVENTION  
OF TAX EVASION AND AVOIDANCE**

The Republic of Slovenia and the Kingdom of Sweden,  
Intending to conclude a Convention for the elimination of double taxation with respect to taxes on income and on capital without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Convention for the indirect benefit of residents of third States),

Have agreed as follows:

**KONVENCIJA  
MED REPUBLIKO SLOVENIJO IN KRALJEVINO  
ŠVEDSKO O ODPRAVI DVOJNEGA  
OBDAVČEVANJA V ZVEZI Z DAVKI  
OD DOHODKA IN PREMOŽENJA  
TER PREPREČEVANJU DAVČNIH UTAJ  
IN IZOGIBANJA DAVKOM**

Republika Slovenija in Kraljevina Švedska sta se z namenom, da skleneta konvencijo o odpravi dvojnega obdavčevanja v zvezi z davki od dohodka in premoženja, ne da bi ustvarili možnosti za neobdavčitev ali zmanjšanje obdavčitve z davčnimi utajami ali izogibanjem davkom (vključno z izkoriščanjem ugodnejših mednarodnih sporazumov zaradi pridobitve ugodnosti, ki jih zagotavlja ta konvencija, za posredne koristi rezidentov tretjih držav), sporazumeli:

**Article 1***Persons covered*

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

2. For the purposes of this Convention, income derived by or through an entity or arrangement that is treated as wholly or partly fiscally transparent under the tax law of either Contracting State shall be considered to be income of a resident of a Contracting State but only to the extent that the income is treated, for purposes of taxation by that State, as the income of a resident of that State. In no case shall the provisions of this paragraph be construed to affect a Contracting State's right to tax the residents of that State.

**Article 2***Taxes covered*

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

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

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

a) in Slovenia:

- (i) the tax on income of legal persons (davek od dohodkov pravnih oseb);
- (ii) the tax on income of individuals (dohodnina); and
- (iii) the tax on property (davek od premoženja)

(hereinafter referred to as "Slovenian tax");

b) in Sweden:

- (i) the national income tax (den statliga inkomstskatten);
- (ii) the withholding tax on dividends (kupongskatten);
- (iii) the income tax on non-residents (den särskilda inkomstskatten för utomlands bosatta);
- (iv) the income tax on non-resident artistes and athletes (den särskilda inkomstskatten för utomlands bosatta artister m.fl.); and
- (v) the municipal income tax (den kommunala inkomstskatten)

(hereinafter referred to as "Swedish tax").

4. The Convention shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes referred to in paragraph 3. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their taxation laws.

**Article 3***General definitions*

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

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

b) the term "Sweden" means the Kingdom of Sweden and, when used in a geographical sense, includes the national territory, the territorial sea of Sweden as well as other maritime areas over which Sweden, in accordance with international law, exercises sovereign rights or jurisdiction;

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

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

**1. ČLEN***Osebe, za katere se uporablja konvencija*

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

2. Za namene te konvencije se dohodek, ki ga doseže subjekt ali dogovor ali je dosežen prek subjekta ali dogovora, ki se obravnava kot v celoti ali delno davčno transparenten po davčni zakonodaji ene ali druge države pogodbenice, šteje za dohodek rezidenta države pogodbenice, vendar le, če ta država za namene obdavčitve dohodek obravnava kot dohodek rezidenta te države. V nobenem primeru se določbe tega odstavka ne razlagajo, kakor da vplivajo na pravico države pogodbenice, da obdavči svoje rezidente.

**2. ČLEN***Davki, za katere se uporablja konvencija*

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

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

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

a) v Sloveniji:

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

(v nadaljnjem besedilu: "slovenski davek");

b) v Švedski:

- (i) državni davek od dohodka (den statliga inkomstskatten),
- (ii) davek, odtegnjen od dividend (kupongskatten),
- (iii) davek od dohodka nerezidentov (den särskilda inkomstskatten för utomlands bosatta),
- (iv) davek od dohodka umetnikov in športnikov nerezidentov (den särskilda inkomstskatten för utomlands bosatta artister m.fl.) in
- (v) občinski davek od dohodka (den kommunala inkomstskatten)

(v nadaljnjem besedilu: "švedski davek").

4. Konvencija se uporablja tudi za enake ali vsebinsko podobne davke, ki se po dnevu podpisa konvencije uvedejo poleg ali namesto obstoječih davkov iz tretjega odstavka. Pristojna organa držav pogodbenic drug drugega uradno obvestita o vseh bistvenih spremembah njunih davčnih zakonodaj.

**3. ČLEN***Opredelitev temeljnih pojmov*

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

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

b) izraz "Švedska" pomeni Kraljevino Švedsko in, kadar se uporablja v geografskem pomenu, vključuje nacionalno ozemlje, teritorialno morje Švedske in druga morska območja, na katerih Švedska v skladu z mednarodnim pravom izvaja svoje suverene pravice ali jurisdikcijo;

c) izraza "država pogodbenica" in "druga država pogodbenica" pomenita Slovenijo ali Švedsko, kakor zahteva sobesedilo;

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

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

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

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

h) the term "international traffic" means any transport by a ship or aircraft except when the ship or aircraft is operated solely between places in a Contracting State and the enterprise that operates the ship or aircraft is not an enterprise of that State;

i) the term "competent authority" means:

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

(ii) in Sweden: the Minister of Finance, his authorized representative or the authority which is designated as a competent authority for the purposes of this Convention;

j) the term "national", in relation to a Contracting State, means:

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

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

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

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

#### Article 4

##### *Resident*

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes that State and any governmental body or agency, political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

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

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

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

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

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

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

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

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

h) izraz "mednarodni promet" pomeni kakršen koli prevoz z ladjo ali zrakoplovom, razen če se z ladjo ali zrakoplovom opravljajo prevozi samo med kraji v državi pogodbenici in podjetje, ki opravlja prevoze z ladjo ali zrakoplovom, ni podjetje te države;

i) izraz "pristojni organ" pomeni:

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

(ii) v Švedski: ministra za finance, njegovega pooblaščenega predstavnika ali organ, določen kot pristojni organ za namene te konvencije;

j) izraz "državljan" v zvezi z državo pogodbenico pomeni:

(i) posameznika, ki ima državljanstvo te države pogodbenice, in

(ii) pravno osebo, partnerstvo ali združenje, katerega tovrstni status izhaja iz veljavne zakonodaje v tej državi pogodbenici;

k) izraz "poslovanje" vključuje opravljanje poklicnih storitev in drugih samostojnih dejavnosti.

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

#### 4. ČLEN

##### *Rezident*

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

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

a) šteje se samo za rezidenta države, v kateri ima na voljo stalni dom; če ima stalni dom na voljo v obeh državah, se šteje samo za rezidenta države, s katero ima tesnejše osebne in ekonomske stike (središče življenjskih interesov);

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

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

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

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall endeavour to determine by mutual agreement the Contracting State of which such person shall be deemed to be a resident for the purposes of the Convention, having regard to its place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors. In the absence of such agreement, such person shall not be entitled to any relief or exemption from tax provided by this Convention except to the extent and in such manner as may be agreed upon by the competent authorities of the Contracting States.

### Article 5

#### *Permanent establishment*

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

2. The term "permanent establishment" includes especially:

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

3. A building site or a construction, assembly or installation project or supervisory activities in connection therewith constitutes a permanent establishment only if such site, project or activities last more than twelve months.

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

- a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- f) an installation project carried on by an enterprise of a Contracting State in the other Contracting State in connection with delivery of machinery or equipment produced by that enterprise;
- g) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) to f), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Paragraph 4 shall not apply to a fixed place of business that is used or maintained by an enterprise if the same enterprise or a closely related enterprise carries on business activities at the same place or at another place in the same Contracting State and

- a) that place or other place constitutes a permanent establishment for the enterprise or the closely related enterprise under the provisions of this Article, or

3. Kadar je zaradi določb prvega odstavka oseba, ki ni posameznik, rezident obeh držav pogodbenic, si pristojna organa držav pogodbenic prizadevata s skupnim dogovorom določiti državo pogodbenico, za katero se bo štelo, da je taka oseba njen rezident za namene konvencije, ob upoštevanju njenega sedeža dejanske uprave, kraja ustanovitve ali drugačnega oblikovanja in katerih koli drugih ustreznih dejavnikov. Če takega dogovora ni, taka oseba ni upravičena do davčnih olajšav ali oprostitev po tej konvenciji, razen v obsegu in na način, o katerih se lahko dogovorita pristojna organa držav pogodbenic.

### 5. ČLEN

#### *Stalna poslovna enota*

1. V tej konvenciji izraz "stalna poslovna enota" pomeni stalno mesto poslovanja, prek katerega v celoti ali delno potekajo posli podjetja.

2. Izraz "stalna poslovna enota" vključuje zlasti:

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

3. Gradbišče ali projekt gradnje, montaže ali namestitve ali dejavnosti nadzora v zvezi z njimi je stalna poslovna enota samo, če tako gradbišče, projekt ali dejavnosti obstajajo ali potekajo več kakor dvanajst mesecev.

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

- a) uporabe prostorov samo za skladiščenje, razstavljanje ali dostavo dobrin ali blaga, ki pripada podjetju;
- b) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za skladiščenje, razstavljanje ali dostavo;
- c) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za predelavo, ki jo opravi drugo podjetje;
- d) vzdrževanja stalnega mesta poslovanja samo za nakup dobrin ali blaga za podjetje ali zbiranje informacij za podjetje;
- e) vzdrževanja stalnega mesta poslovanja samo za opravljanje kakršne koli druge pripravljalne ali pomožne dejavnosti za podjetje;
- f) projekta namestitve, ki ga izvaja podjetje države pogodbenice v drugi državi pogodbenici v zvezi z dostavo strojev ali opreme, ki jih proizvaja to podjetje;
- g) vzdrževanja stalnega mesta poslovanja samo za kakršno koli kombinacijo dejavnosti, omenjenih v pododstavkih od a do f, če je celotna dejavnost stalnega mesta poslovanja, ki je posledica te kombinacije, pripravljalna ali pomožna.

5. Četrti odstavek se ne uporablja za stalno mesto poslovanja, ki ga uporablja ali vzdržuje podjetje, če to podjetje ali tesno povezano podjetje opravlja poslovne dejavnosti na istem ali drugem kraju v isti državi pogodbenici in:

- a) to mesto ali drugo mesto pomeni stalno poslovno enoto za podjetje ali tesno povezano podjetje v skladu z določbami tega člena ali



b) the overall activity resulting from the combination of the activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, is not of a preparatory or auxiliary character,

provided that the business activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, constitute complementary functions that are part of a cohesive business operation.

6. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 7 applies – is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

7. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, and conditions are made or imposed between that enterprise and the agent in their commercial and financial relations which differ from those which would have been made between independent enterprises, he will not be considered an agent of an independent status within the meaning of this paragraph.

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

9. For the purposes of this Article, an enterprise is closely related to an enterprise if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same persons or enterprises. In any case, an enterprise shall be considered to be closely related to an enterprise if one possesses directly or indirectly more than 50 per cent of the beneficial interest in the other (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) or if another person or enterprise possesses directly or indirectly more than 50 per cent of the beneficial interest (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) in the two enterprises.

## Article 6

### *Income from immovable property*

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

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

b) celotna dejavnost, ki je posledica kombinacije dejavnosti, ki jih opravljata ti dve podjetji na istem mestu ali isto podjetje ali tesno povezana podjetja na dveh mestih, ni pripravljalna ali pomožna

pod pogojem, da so poslovne dejavnosti, ki jih opravljata ti dve podjetji na istem mestu ali isto podjetje ali tesno povezana podjetja na dveh mestih, dopolnilne funkcije, ki so del celovitega poslovanja.

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

7. Ne šteje se, da ima podjetje stalno poslovno enoto v državi pogodbenici samo zato, ker posluje v tej državi prek posrednika, splošnega komisionarja ali katerega koli drugega zastopnika z neodvisnim statusom, če te osebe delujejo v okviru svojega rednega poslovanja. Kadar pa so dejavnosti takega zastopnika v celoti ali skoraj v celoti namenjene temu podjetju ter se med podjetjem in zastopnikom v njunih komercialnih ali finančnih odnosih vzpostavijo ali določijo pogoji, drugačni od tistih, ki bi se vzpostavili med neodvisnimi podjetji, se ta ne šteje za zastopnika z neodvisnim statusom v smislu tega odstavka.

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

9. Za namene tega člena je podjetje tesno povezano s podjetjem, če ima na podlagi vseh ustreznih dejstev in okoliščin eno nadzor nad drugim ali pa sta obe pod nadzorom istih oseb ali podjetij. V vsakem primeru se podjetje šteje za tesno povezano s podjetjem, če ima eno neposredno ali posredno več kakor 50 odstotkov upravičenega deleža v drugem (ali v primeru družbe več kakor 50 odstotkov seštevka glasov in vrednosti delnic družbe ali upravičenega lastniškega deleža v družbi) ali če ima druga oseba ali podjetje neposredno ali posredno več kakor 50 odstotkov upravičenega deleža (ali v primeru družbe več kakor 50 odstotkov seštevka glasov in vrednosti delnic družbe ali upravičenega lastniškega deleža v družbi) v teh dveh podjetjih.

## 6. ČLEN

### *Dohodek iz nepremičnin*

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

2. Izraz "nepremičnine" pomeni enako kakor po pravu države pogodbenice, v kateri so te nepremičnine. Izraz vedno vključuje premoženje, ki je sestavni del nepremičnin, živino in opremo, ki se uporablja v kmetijstvu in gozdarstvu, pravice, za katere se uporabljajo določbe splošnega prava v zvezi z zemljiško lastnino, zgradbe, užitek na nepremičninah in pravice do spremenljivih ali stalnih plačil kot nadomestilo za izkoriščanje ali pravico do izkoriščanja nahajališč rude, virov in drugega naravnega bogastva; ladje in zrakoplovi se ne štejejo za nepremičnine.

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

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

#### Article 7

##### *Business profits*

1. Profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits that are attributable to the permanent establishment in accordance with the provisions of paragraph 2 may be taxed in that other State.

2. For the purposes of this Article and Article 22, the profits that are attributable in each Contracting State to the permanent establishment referred to in paragraph 1 are the profits it might be expected to make, in particular in its dealings with other parts of the enterprise, if it were a separate and independent enterprise engaged in the same or similar activities under the same or similar conditions, taking into account the functions performed, assets used and risks assumed by the enterprise through the permanent establishment and through the other parts of the enterprise.

3. Where, in accordance with paragraph 2, a Contracting State adjusts the profits that are attributable to a permanent establishment of an enterprise of one of the Contracting States and taxes accordingly profits of the enterprise that have been charged to tax in the other State, the other Contracting State shall, to the extent necessary to eliminate double taxation on these profits, make an appropriate adjustment if it agrees with the adjustment made by the first-mentioned State; if the other Contracting State does not so agree, the Contracting States shall endeavour to eliminate any double taxation resulting therefrom by mutual agreement.

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

#### Article 8

##### *International shipping and air transport*

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

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

#### Article 9

##### *Associated enterprises*

1. Where

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

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

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

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

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

#### 7. ČLEN

##### *Poslovni dobiček*

1. Dobiček podjetja države pogodbenice se obdavči samo v tej državi, razen če podjetje ne posluje v drugi državi pogodbenici prek stalne poslovne enote v njej. Če podjetje posluje, kakor je prej omenjeno, se lahko dobiček, ki se pripiše stalni poslovni enoti v skladu z določbami drugega odstavka, obdavči v tej drugi državi.

2. Za namene tega člena in 22. člena je dobiček, ki se v vsaki državi pogodbenici pripiše stalni poslovni enoti iz prvega odstavka, dobiček, za katerega bi se lahko pričakovalo, da bi ga imela, še posebej pri poslovanju z drugimi deli podjetja, če bi bila ločeno in neodvisno podjetje, ki opravlja enake ali podobne dejavnosti pod enakimi ali podobnimi pogoji, ob upoštevanju opravljenih nalog, uporabljenih sredstev in tveganj, ki jih prevzame podjetje prek stalne poslovne enote in drugih delov podjetja.

3. Kadar v skladu z drugim odstavkom država pogodbenica prilagodi dobiček, ki se pripiše stalni poslovni enoti podjetja ene od držav pogodbenic, in torej obdavči dobiček podjetja, ki je bil obdavčen v drugi državi, druga država pogodbenica opravi ustrezen prilagoditev, kolikor je potrebno za odpravo dvojnega obdavčevanja tega dobička, če se strinja s prilagoditvijo, ki jo opravi prva omenjena država; če se druga država pogodbenica s tem ne strinja, si državi pogodbenici prizadevata s skupnim dogovorom odpraviti kakršno koli dvojno obdavčenje, ki iz tega izhaja.

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

#### 8. ČLEN

##### *Mednarodni ladijski in zračni prevoz*

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

2. Določbe prvega odstavka se uporabljajo tudi za dobiček iz udeležbe v interesnem združenju, skupnem poslovanju ali mednarodni prevozni agenciji.

#### 9. ČLEN

##### *Povezana podjetja*

1. Kadar

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

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

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

2. Where a Contracting State includes in the profits of an enterprise of that State – and taxes accordingly – profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits if that other State considers the adjustment justified. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

#### Article 10

##### *Dividends*

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

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

a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 25 per cent of the capital or controls directly at least 25 per cent of the voting power of the company paying the dividends throughout a 365 day period that includes the day of the payment of the dividend (for the purpose of computing that period, no account shall be taken of changes of ownership that would directly result from a corporate reorganisation, such as a merger or divisive reorganisation, of the company that holds the shares or that pays the dividend);

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

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

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

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

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

#### Article 11

##### *Interest*

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

2. Kadar država pogodbenica v dobiček podjetja te države vključuje – in ustrezno obdavči – dobiček, za katerega je bilo že obdavčeno podjetje druge države pogodbenice v tej drugi državi, in je tako vključen dobiček tisti dobiček, ki bi prirasel podjetju prve omenjene države, če bi bili pogoji, vzpostavljeni med podjetjema, taki, kakor bi jih vzpostavili neodvisni podjetji, ta druga država ustrezno prilagodi znesek davka, ki se v njej obračuna od tega dobička, če meni, da je prilagoditev upravičena. Pri določanju take prilagoditve je treba upoštevati druge določbe te konvencije, pristojna organa držav pogodbenic pa se po potrebi med seboj posvetujeta.

#### 10. ČLEN

##### *Dividende*

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

2. Vendar pa se lahko dividende, ki jih plačuje družba, ki je rezident države pogodbenice, obdavčijo tudi v tej državi v skladu z zakonodajo te države, če pa je upravičeni lastnik dividend rezident druge države pogodbenice, tako obračunani davek ne sme presegati:

a) 5 odstotkov bruto zneska dividend, če je upravičeni lastnik družba, ki ima v neposredni lasti najmanj 25 odstotkov kapitala ali neposredno nadzoruje najmanj 25 odstotkov glasov družbe, ki dividende plačuje, ves čas 365-dnevnega obdobja, ki vključuje dan plačila dividend (za namene izračuna tega obdobja se ne upoštevajo spremembe lastništva, ki bi nastale neposredno zaradi korporacijske reorganizacije, kot je združitev ali razdružitev družbe, ki ima delnice ali plačuje dividende);

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

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

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

4. Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik dividend, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, katere rezident je družba, ki dividende plačuje, prek stalne poslovne enote v njej in je delež, v zvezi s katerim se dividende plačajo, dejansko povezan s tako stalno poslovno enoto. V tem primeru se uporabljajo določbe 7. člena.

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

#### 11. ČLEN

##### *Obresti*

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

2. However, interest arising in a Contracting State may also be taxed in that State according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2 interest, mentioned in paragraph 1, shall be taxable only in the Contracting State of which the beneficial owner of the interest is a resident if one of the following requirements is fulfilled:

a) the payer or the recipient of the interest is the Contracting State itself, a governmental body or agency, a political subdivision or a local authority thereof or the Central Bank of a Contracting State;

b) the interest is paid with respect to a loan made, guaranteed or insured, or a credit extended, guaranteed or insured by an institution of the other Contracting State with the objective to promote exports or development;

c) the interest is paid in respect of an indebtedness arising on the sale on credit of any merchandise or industrial, commercial or scientific equipment to an enterprise of the other Contracting State.

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

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

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

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

## Article 12

### Royalties

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

2. However, royalties arising in a Contracting State may also be taxed in that State according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.

2. Vendar pa se lahko obresti, ki nastanejo v državi pogodbenici, obdavčijo tudi v tej državi v skladu z zakonodajo te države, če pa je upravičeni lastnik obresti rezident druge države pogodbenice, tako obračunani davek ne sme presegati 5 odstotkov bruto zneska obresti.

3. Ne glede na določbe drugega odstavka se obresti, navedene v prvem odstavku, obdavčijo samo v državi pogodbenici, katere rezident je upravičeni lastnik, če je izpolnjena ena od naslednjih zahtev:

a) plačnik ali prejemnik obresti je država pogodbenica sama, njen državni organ ali agencija, politična enota ali lokalna oblast ali centralna banka države pogodbenice;

b) obresti se plačajo v zvezi s posojilom, ki ga je institucija druge države pogodbenice dala, zanj dala poroštvo ali ga zavarovala, ali v zvezi s kreditom, ki ga je odobrila, zanj dala poroštvo ali ga zavarovala, z namenom spodbujanja izvoza ali razvoja;

c) obresti se plačajo v zvezi z zadolženostjo, ki izhaja iz prodaje na kredit katerega koli blaga ali industrijske, komercialne ali znanstvene opreme podjetju druge države pogodbenice.

4. Izraz "obresti", kakor je uporabljen v tem členu, pomeni dohodek iz vseh vrst terjatev ne glede na to, ali so zavarovane s hipoteko, in ne glede na to, ali dajejo pravico do udeležbe pri dolžnikovem dobičku, zlasti pa dohodek iz državnih vrednostnih papirjev ter dohodek iz obveznic ali zadolžnic, vključno s premijami in nagradami od takih vrednostnih papirjev, obveznic ali zadolžnic. Kazni zaradi zamude pri plačilu se za namen tega člena ne štejejo za obresti.

5. Določbe prvega, drugega in tretjega odstavka se ne uporabljajo, če upravičeni lastnik obresti, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, v kateri obresti nastanejo, prek stalne poslovne enote v njej in je terjatev, v zvezi s katero se obresti plačajo, dejansko povezana s tako stalno poslovno enoto. V tem primeru se uporabljajo določbe 7. člena.

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

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

## 12. ČLEN

### Licenčnine in avtorski honorarji

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

2. Vendar pa se lahko licenčnine in avtorski honorarji, ki nastanejo v državi pogodbenici, obdavčijo tudi v tej državi v skladu z zakonodajo te države, če pa je upravičeni lastnik licenčnin in avtorskih honorarjev rezident druge države pogodbenice, tako obračunani davek ne sme presegati 5 odstotkov bruto zneska licenčnin in avtorskih honorarjev.



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

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

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

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

### Article 13

#### *Capital gains*

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

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.

3. Gains that an enterprise of a Contracting State that operates ships or aircraft in international traffic derives from the alienation of such ships or aircraft, or of movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.

4. Gains derived by a resident of a Contracting State from the alienation of shares or comparable interests, such as interests in a partnership or trust, deriving more than 50 per cent of their value directly or indirectly from immovable property, as defined in Article 6, situated in the other Contracting State may be taxed in that other State.

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

6. Notwithstanding the provisions of paragraph 5, gains from the alienation of any property derived by an individual who has been a resident of a Contracting State and who has become a resident of the other Contracting State, may be taxed in the first-mentioned State if the alienation of the property occurs at any time during the ten years next following the date on which the individual has ceased to be a resident of the first-mentioned State. The gain so taxed shall not include the gain, if any, that accrues during the period during which the individual is or was a resident of the other Contracting State.

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

4. Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik licenčin in avtorskih honorarjev, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, v kateri licenčnine in avtorski honorarji nastanejo, prek stalne poslovne enote v njej in je pravica ali premoženje, v zvezi s katerim se licenčnine in avtorski honorarji plačajo, dejansko povezano s tako stalno poslovno enoto. V tem primeru se uporabljajo določbe 7. člena.

5. Šteje se, da licenčnine in avtorski honorarji nastanejo v državi pogodbenici, kadar je plačnik rezident te države. Kadar pa ima oseba, ki plačuje licenčnine in avtorske honorarje, ne glede na to, ali je rezident države pogodbenice, v državi pogodbenici stalno poslovno enoto, v zvezi s katero je nastala obveznost za plačilo licenčin in avtorskih honorarjev, ter take licenčnine in avtorske honorarje krije taka stalna poslovna enota, se šteje, da so take licenčnine in avtorski honorarji nastali v državi, v kateri je stalna poslovna enota.

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

### 13. ČLEN

#### *Kapitalski dobički*

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

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

3. Dobiček, ki ga podjetje države pogodbenice, ki opravlja prevoze z ladjami ali zrakoplovi v mednarodnem prometu, doseže z odtujitvijo takih ladij ali zrakoplovov ali z odtujitvijo premoženja, povezanih z opravljanjem prevozov s takimi ladjami ali zrakoplovi, se obdavči samo v tej državi.

4. Dobiček, ki ga rezident države pogodbenice doseže z odtujitvijo delnic ali primerljivih deležev, kot so deleži v partnerstvu ali skrbniškem skladu, katerih več kot 50 odstotkov vrednosti izhaja neposredno ali posredno iz nepremičnin, opredeljenih v 6. členu, ki so v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

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

6. Ne glede na določbe petega odstavka se lahko dobiček iz odtujitve premoženja, ki ga doseže posameznik, ki je bil rezident države pogodbenice in je postal rezident druge države pogodbenice, obdavči v prvi omenjeni državi, če se odtujitev premoženja zgodi kadar koli v desetih letih, ki sledijo dnevu, s katerim je posameznik prenehal biti rezident prve omenjene države. Tako obdavčen dobiček ne vključuje morebitnega dobička, ki priraste v obdobju, v katerem posameznik je ali je bil rezident druge države pogodbenice.

**Article 14***Income from employment*

1. Subject to the provisions of Articles 15, 17 and 18 salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

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

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

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

3. Notwithstanding the preceding provisions of this Article and Article 1, remuneration derived by an individual, whether a resident of a Contracting State or not, in respect of an employment, as a member of the regular complement of a ship or aircraft, that is exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State shall be taxable only in that Contracting State. Where, however, such remuneration is derived by a resident of the other Contracting State, it may also be taxed in that other State.

**Article 15***Directors' fees*

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

**Article 16***Entertainers and sportspersons*

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

2. Where income in respect of personal activities exercised by an entertainer or a sportsperson acting as such accrues not to the entertainer or sportsperson but to another person, that income may, notwithstanding the provisions of Article 14, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

**Article 17***Pensions, annuities and similar payments*

1. Pensions and other similar remuneration (including annuities) arising in a Contracting State and disbursements under the Social Security legislation of a Contracting State, paid to a resident of the other Contracting State may be taxed in the first-mentioned Contracting State.

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

**14. ČLEN***Dohodek iz zaposlitve*

1. Ob upoštevanju določb 15., 17. in 18. člena se plače, mezde in drugi podobni prejemki, ki jih dobi rezident države pogodbenice iz zaposlitve, obdavčijo samo v tej državi, razen če se zaposlitev ne izvaja v drugi državi pogodbenici. Če se zaposlitev izvaja tako, se lahko tako dobljeni prejemki obdavčijo v tej drugi državi.

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

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

b) prejemek plača delodajalec, ki ni rezident druge države, ali se plača zanj ter

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

3. Ne glede na prejšnje določbe tega člena in 1. člena se prejemek, ki ga dobi posameznik, ne glede na to, ali je rezident države pogodbenice, kot član redne posadke ladje ali zrakoplova, iz zaposlitve, ki se izvaja na ladji ali zrakoplovu, s katerim podjetje države pogodbenice opravlja prevoze v mednarodnem prometu, obdavči samo v tej državi pogodbenici. Kadar pa tak prejemek dobi rezident druge države pogodbenice, se tak prejemek lahko obdavči tudi v tej drugi državi.

**15. ČLEN***Prejemki direktorjev*

Prejemki direktorjev in druga podobna plačila, ki jih dobi rezident države pogodbenice kot član upravnega odbora ali podobnega organa družbe, ki je rezident druge države pogodbenice, se lahko obdavčijo v tej drugi državi.

**16. ČLEN***Nastopajoči izvajalci in športniki*

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

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

**17. ČLEN***Pokojnine, rente in podobna plačila*

1. Pokojnine in drugi podobni prejemki (vključno z rentami), ki nastanejo v državi pogodbenici, in izplačila po zakonodaji države pogodbenice o socialnem varstvu, ki se plačajo rezidentu druge države pogodbenice, se lahko obdavčijo v prvi omenjeni državi pogodbenici.

2. Izraz "renta" pomeni določen znesek, ki se redno izplačuje ob določenem času vse življenje ali v določenem ali določljivem časovnem obdobju, z obveznostjo izvršitve izplačil v zameno za ustrezno in celotno vplačilo v denarju ali v čem drugem, kar ima denarno vrednost.

**Article 18***Government service*

1. a) Salaries, wages and other similar remuneration, other than income to which Article 17 applies, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

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

(i) is a national of that State; or

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

2. The provisions of Article 14, 15 and 16 shall apply to salaries, wages, and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

**Article 19***Students*

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

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

**Article 20***Other income*

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

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

**Article 21***Capital*

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

2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State may be taxed in that other State.

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

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

**18. ČLEN***Državna služba*

1. a) Plače, mezde in drugi podobni prejemki, razen dohodka, za katerega se uporablja 17. člen, ki jih država pogodbenica ali njena politična enota ali lokalna oblast plačuje posamezniku za storitve, ki jih opravi za to državo ali enoto ali oblast, se obdavčijo samo v tej državi.

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

(i) je državljan te države ali

(ii) ni postal rezident te države samo zaradi opravljanja storitev.

2. Za plače, mezde in druge podobne prejemke za storitve, opravljene v zvezi s posli države pogodbenice ali njene politične enote ali lokalne oblasti, se uporabljajo določbe 14., 15. in 16. člena.

**19. ČLEN***Študenti*

1. Plačila, ki jih za svoje vzdrževanje, izobraževanje ali usposabljanje prejme študent ali oseba na praksi, ki je ali je bila tik pred obiskom države pogodbenice rezident druge države pogodbenice in je v prvi omenjeni državi navzoča samo zaradi svojega izobraževanja ali usposabljanja, se ne obdavčijo v tej državi, če taka plačila izhajajo iz virov zunaj te države.

2. Pri nagradah, štipendijah in drugih podobnih prejemkih ter prejemkih iz zaposlitve, ki niso zajeti v prvem odstavku, je študent ali oseba na praksi iz prvega odstavka upravičena tudi do enakih davčnih oprostitvev, olajšav ali znižanj med izobraževanjem ali usposabljanjem kakor rezidenti države pogodbenice, v kateri je na obisku.

**20. ČLEN***Drugi dohodki*

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

2. Določbe prvega odstavka se ne uporabljajo za dohodek, ki ni dohodek iz nepremičnin, kakor so opredeljene v drugem odstavku 6. člena, če prejemnik takega dohodka, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici prek stalne poslovne enote v njej in je pravica ali premoženje, v zvezi s katerim se plača dohodek, dejansko povezano s tako stalno poslovno enoto. V tem primeru se uporabljajo določbe 7. člena.

**21. ČLEN***Premoženje*

1. Premoženje v obliki nepremičnin, navedenih v 6. členu, ki je v lasti rezidenta države pogodbenice in je v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

2. Premoženje v obliki premičnin, ki so del poslovnega premoženja stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.

3. Premoženje podjetja države pogodbenice, ki opravlja prevoze z ladjami ali zrakoplovi v mednarodnem prometu, ki je v obliki takih ladij ali zrakoplovov in premičnin, povezanih z opravljanjem prevozov s takimi ladjami ali zrakoplovi, se obdavči samo v tej državi.

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

**Article 22***Elimination of double taxation*

Double taxation shall be eliminated as follows:

1. In Slovenia:

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

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

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

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

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

2. In Sweden:

a) Where a resident of Sweden derives income which under the laws of Slovenia and in accordance with the provisions of this Convention may be taxed in Slovenia, Sweden shall allow – subject to the provisions of the laws of Sweden concerning credit for foreign tax (as they may be amended from time to time without changing the general principle hereof) – as a deduction from the tax on such income, an amount equal to the Slovenian tax paid in respect of such income.

b) Where a resident of Sweden derives income which, in accordance with the provisions of this Convention, shall be taxable only in Slovenia, Sweden may, when determining the graduated rate of Swedish tax, take into account the income which shall be taxable only in Slovenia.

c) Notwithstanding the provisions of sub-paragraph a) of this paragraph, dividends paid by a company which is a resident of Slovenia to a company which is a resident of Sweden shall be exempt from Swedish tax according to the provisions of Swedish law governing the exemption of tax on dividends paid to Swedish companies by companies abroad.

**Article 23***Non-discrimination*

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

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

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

**22. člen***Odprava dvojnega obdavčevanja*

Dvojno obdavčevanje se odpravi, kot sledi:

1. v Sloveniji:

a) Kadar rezident Slovenije doseže dohodek ali ima v lasti premoženje, ki se v skladu z določbami te konvencije lahko obdavči v Švedski, Slovenija dovolji:

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

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

Tak odbitek v nobenem primeru ne sme presežati tistega dela pred odbitkom izračunanega davka od dohodka ali premoženja, ki se nanaša, odvisno od primera, na dohodek ali premoženje, ki se lahko obdavči v Švedski.

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

2. v Švedski:

a) Kadar rezident Švedske doseže dohodek, ki se po zakonodaji Slovenije in v skladu z določbami te konvencije lahko obdavči v Sloveniji, Švedska dovolji – ob upoštevanju določb zakonodaje Švedske v zvezi z odbitkom tujega davka (kot se lahko občasno spremenijo, ne da bi se spremenilo splošno načelo te konvencije) – kot odbitek od davka od takega dohodka, znesek, ki je enak slovenskemu davku, plačanemu v zvezi s takim dohodkom.

b) Kadar rezident Švedske doseže dohodek, ki se v skladu z določbami te konvencije obdavči samo v Sloveniji, lahko Švedska pri določanju stopničaste stopnje švedskega davka upošteva dohodek, ki se obdavči samo v Sloveniji.

c) Ne glede na določbe pododstavka a) tega odstavka so dividende, ki jih družba, ki je rezident Slovenije, plača družbi, ki je rezident Švedske, oproščene švedskega davka v skladu z določbami švedskega zakona, ki ureja oprostitve davka od dividend, ki jih švedskim družbam plačajo družbe v tujini.

**23. ČLEN***Enako obravnavanje*

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

2. Obdavčevanje stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, v tej drugi državi ne sme biti manj ugodno, kakor je obdavčevanje podjetij te druge države, ki opravljajo enake dejavnosti. Ta določba se ne razlaga kot zavezujoča za državo pogodbenico, da prizna rezidentom druge države pogodbenice kakršne koli osebne olajšave, druge olajšave in znižanja za davčne namene zaradi osebnega stanja ali družinskih obveznosti, ki jih priznava svojim rezidentom.

3. Razen kadar se uporabljajo določbe prvega odstavka 9. člena, sedmega odstavka 11. člena ali šestega odstavka 12. člena, se obresti, licenčnine in avtorski honorarji ter druga izplačila, ki jih plača podjetje države pogodbenice rezidentu druge države pogodbenice, pri ugotavljanju obdavčljivega dobička takega podjetja odbijejo pod enakimi pogoji, kakor če bi bili plačani rezidentu prve omenjene države. Podobno se tudi kakršni koli dolgovi podjetja države pogodbenice do rezidenta druge države pogodbenice pri ugotavljanju obdavčljivega premoženja takega podjetja odbijejo pod enakimi pogoji, kakor če bi bili pogodbeno dogovorjeni z rezidentom prve omenjene države.



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

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

#### Article 24

##### *Mutual agreement procedure*

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

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

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

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

#### Article 25

##### *Exchange of information*

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

4. Podjetja države pogodbenice, katerih kapital je v celoti ali delno, neposredno ali posredno v lasti ali pod nadzorom enega ali več rezidentov druge države pogodbenice, ne smejo biti v prvi omenjeni državi zavezana kakršnemu koli obdavčevanju ali kakršni koli zahtevi v zvezi s tem, ki je drugačna ali bolj obremenjujoča, kakor so ali so lahko obdavčevanje in s tem povezane zahteve do podobnih podjetij prve omenjene države.

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

#### 24. ČLEN

##### *Postopek skupnega dogovarjanja*

1. Kadar oseba meni, da imajo ali bodo imela dejanja ene ali obeh držav pogodbenic zanjo za posledico obdavčenje, ki ni v skladu z določbami te konvencije, lahko ne glede na pravna sredstva, ki ji jih omogoča domače pravo teh držav, predloži zadevo pristojnemu organu države pogodbenice, katere rezident je, ali če se njena zadeva nanaša na prvi odstavek 23. člena, tiste države pogodbenice, katere državljan je. Zadeva mora biti predložena v treh letih od prvega uradnega obvestila o dejanju, ki je imelo za posledico obdavčenje, ki ni v skladu z določbami konvencije.

2. Če pristojni organ meni, da je pritožba upravičena, in če sam ne more najti zadovoljive rešitve, si prizadeva rešiti zadevo s skupnim dogovorom s pristojnim organom druge države pogodbenice, da bi se izognili obdavčenju, ki ni v skladu s konvencijo. Vsak doseženi dogovor se izvaja ne glede na roke v domačem pravu držav pogodbenic.

3. Pristojna organa držav pogodbenic si prizadevata s skupnim dogovorom rešiti katere koli težave ali odpraviti dvome, ki nastanejo pri razlagi ali uporabi konvencije. Poleg tega se lahko posvetujeta o odpravi dvojnega obdavčevanja v primerih, ki jih konvencija ne predvideva.

4. Da bi pristojna organa držav pogodbenic dosegla dogovor v skladu s prejšnjimi odstavki, se lahko dogovarjata neposredno.

#### 25. ČLEN

##### *Izmenjava informacij*

1. Pristojna organa držav pogodbenic si izmenjavata informacije, ki so predvidoma pomembne za izvajanje določb te konvencije ali za izvajanje ali uveljavljanje domače zakonodaje glede davkov vseh vrst in opisov, ki se uvedejo v imenu držav pogodbenic ali njihovih političnih enot ali lokalnih oblasti, če obdavčevanje na njeni podlagi ni v nasprotju s konvencijo. Izmenjava informacij ni omejena s 1. in 2. členom.

2. Vsaka informacija, ki jo država pogodbenica prejme na podlagi prvega odstavka, se obravnava kot tajnost enako kakor informacije, pridobljene po domači zakonodaji te države, in se razkrije samo osebam ali organom (vključno s sodišči in upravnimi organi), udeleženi pri odmeri ali pobiranju davkov, izterjavi ali pregonu ali pri odločanju o pritožbah glede davkov iz prvega odstavka ali pri nadzoru nad omenjenim. Te osebe ali organi uporabljajo informacije samo v te namene. Informacije lahko razkrijejo v javnih sodnih postopkih ali sodnih odločbah. Ne glede na to se lahko informacija, ki jo pridobi država pogodbenica, uporablja za druge namene, kadar se v take druge namene lahko uporablja po zakonodaji obeh držav in če pristojni organ države dajalke tako uporabo dovoli.

3. Določbe prvega in drugega odstavka se v nobenem primeru ne razlagajo, kakor da nalagajo državi pogodbenici obveznost, da:

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

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

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

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

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

#### Article 26

##### *Members of diplomatic missions and consular posts*

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

#### Article 27

##### *Limitation on benefits*

1. Notwithstanding the other provisions of this Convention, a benefit under this Convention shall not be granted in respect of an item of income or capital if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Convention.

2. Notwithstanding the other provisions of this Convention, where

a) a company that is a resident of a Contracting State derives its income primarily from other States

(i) from activities such as banking, shipping, financing or insurance or

(ii) from being the headquarters, co-ordination centre or similar entity providing administrative services or other support to a group of companies which carry on business primarily in other States; and

b) such income would bear a significantly lower tax under the laws of that State than income from similar activities carried out within that State or from being the headquarters, co-ordination centre or similar entity providing administrative services or other support to a group of companies which carry on business in that State, as the case may be,

any provisions of this Convention conferring an exemption or a reduction of tax shall not apply to the income of such company and to the dividends paid by such company.

#### Article 28

##### *Entry into force*

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

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

b) predloži informacije, ki jih ni mogoče dobiti na podlagi zakonodaje ali po običajni upravni poti te ali druge države pogodbenice;

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

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

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

#### 26. ČLEN

##### Člani diplomatskih predstavništev in konzulatov

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

#### 27. ČLEN

##### *Omejitev ugodnosti*

1. Ne glede na druge določbe te konvencije se ugodnost po tej konvenciji v zvezi z delom dohodka ali premoženja ne prizna, če je ob upoštevanju vseh ustreznih dejstev in okoliščin mogoče sklepati, da je bila pridobitev te ugodnosti eden od glavnih namenov katerega koli dogovora ali transakcije, na podlagi katerega je bila neposredno ali posredno pridobljena ta ugodnost, razen če se ne ugotovi, da bi bilo priznavanje take ugodnosti v teh okoliščinah skladno s cilji in nameni ustreznih določb te konvencije.

2. Ne glede na druge določbe te konvencije se, kadar:

a) družba, ki je rezident države pogodbenice, svoj dohodek dosega predvsem v drugih državah

(i) iz dejavnosti, kot so bančništvo, ladijski prevozi, financiranje ali zavarovanje, ali

(ii) kot glavni sedež, koordinacijski center ali podobni subjekt, ki zagotavlja administrativne storitve ali drugo podporo skupini družb, ki poslujejo predvsem v drugih državah, in

b) bi bil tak dohodek po zakonodaji te države bistveno manj obdavčen kot dohodek iz podobnih dejavnosti, ki se izvajajo v tej državi, ali dohodek glavnega sedeža, koordinacijskega centra ali podobnega subjekta, ki zagotavlja administrativne storitve ali drugo podporo skupini družb, ki poslujejo v tej državi, odvisno od primera,

katere koli določbe te konvencije, ki omogočajo oprostitev ali znižanje davka ne uporabljajo za dohodek take družbe in za dividende, ki jih plača taka družba.

#### 28. ČLEN

##### *Začetek veljavnosti*

1. Državi pogodbenici se po diplomatski poti pisno obvešča, da so končani postopki, ki so po njuni zakonodaji potrebni za začetek veljavnosti te konvencije.

2. The Convention shall enter into force on the thirtieth day after the receipt of the later of these notifications and shall thereupon have effect:

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

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

3. Notwithstanding the provisions of paragraph 2, the provisions of Article 24 (Mutual agreement procedure) and Article 25 (Exchange of information) shall have effect from the date of entry into force of this Convention, without regard to the taxable period to which the matter relates.

4. The Convention between the Socialist Federal Republic of Yugoslavia and the Kingdom of Sweden for the avoidance of double taxation with respect to taxes on income and capital, signed at Stockholm on 18th June 1980 ("the prior Convention"), shall cease to have effect between Slovenia and Sweden with respect to any tax on the date upon which this Convention has effect with respect to that tax in accordance with the provisions of paragraph 2.

5. Notwithstanding the provisions of paragraphs 2 and 4 and the provisions of Article 17, where, immediately before the entry into force of this Convention, an individual was in receipt of payments falling within paragraphs 1, 2 and 3 of Article 18 of the prior Convention, that individual may make an election that the provisions of that Article, and not the provisions of Article 17 of this Convention, shall continue to apply to those payments. That election shall have effect for the year in which it is made and for subsequent years unless revoked by the individual. Where an election has been so revoked, no further election under this paragraph may be made.

#### Article 29

##### Termination

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving written notice of termination at least six months before the end of any calendar year. In such case, the Convention shall cease to have effect:

a) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of January of the calendar year next following the end of the six-month period;

b) in respect of other taxes on income, and taxes on capital, on taxes chargeable for any tax year beginning on or after the first day of January of the calendar year next following the end of the six-month period.

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

DONE at Brussels this 12<sup>th</sup> day of May 2021 in duplicate in the English language.

For the Republic of Slovenia  
Iztok Jarc (s)

For the Kingdom of Sweden  
Lars Danielsson (s)

2. Konvencija začne veljati trideseti dan po prejemu zadnjega uradnega obvestila in se po tem uporablja:

a) v zvezi z davki, odtegnjenimi pri viru, za zneske, plačane ali pripisane prvi dan januarja v koledarskem letu po dnevu, ko začne veljati konvencija, ali po njem;

b) v zvezi z drugimi davki od dohodka in davki od premoženja za davke, obračunane za katero koli davčno leto, ki se začne 1. januarja v koledarskem letu po dnevu, ko začne veljati konvencija, ali po njem.

3. Ne glede na določbe drugega odstavka se določbe 24. člena (Postopek skupnega dogovarjanja) in 25. člena (Izmenjava informacij) začnejo uporabljati z dnem, ko začne veljati ta konvencija, ne glede na davčno obdobje, na katero se zadeva nanaša.

4. Konvencija med Socialistično federativno republiko Jugoslavijo in Kraljevino Švedsko o izogibanju dvojnemu obdavčevanju dohodka in premoženja, ki je bila podpisana 18. junija 1980 v Stockholmu ("prejšnja konvencija"), se preneha uporabljati med Slovenijo in Švedsko v zvezi s katerim koli davkom na dan, ko se v skladu z določbami drugega odstavka v zvezi s tem davkom začne uporabljati ta konvencija.

5. Ne glede na določbe drugega in četrtega odstavka in določbe 17. člena, kadar je posameznik tik pred začetkom veljavnosti te konvencije prejemal plačila, ki spadajo v prvi, drugi in tretji odstavek 18. člena prejšnje konvencije, ta posameznik lahko izbere, da se za ta plačila še naprej uporabljajo določbe tistega člena in ne določbe 17. člena te konvencije. Ta izbira učinkuje za leto, v katerem je bila opravljena, in za naslednja leta, če je posameznik ne prekliče. Če je bila izbira tako preklicana, nova izbira po tem odstavku ni več mogoča.

#### 29. ČLEN

##### Prenehanje veljavnosti

Ta konvencija velja, dokler je država pogodbenica ne odpove. Vsaka država pogodbenica lahko odpove konvencijo po diplomatski poti s pisnim obvestilom o odpovedi najmanj šest mesecev pred koncem katerega koli koledarskega leta. V tem primeru se konvencija preneha uporabljati:

a) v zvezi z davki, odtegnjenimi pri viru, za zneske, plačane ali pripisane prvi dan januarja v koledarskem letu po izteku šestmesečnega obdobja ali po njem;

b) v zvezi z drugimi davki od dohodka in davki od premoženja za davke, obračunane za katero koli davčno leto, ki se začne 1. januarja v koledarskem letu po izteku šestmesečnega obdobja, ali po njem.

V POTRDATEV TEGA sta podpisana, ki sta bila za to ustrezno pooblaščenca, podpisala to konvencijo.

SKLENJENO v Bruslju dne 12. maja 2021 v dveh izvodih v angleškem jeziku.

Za Republiko Slovenijo  
Iztok Jarc l.r.

Za Kraljevino Švedsko  
Lars Danielsson l.r.

## Protocol

At the moment of signing the Convention between the Kingdom of Sweden and the Republic of Slovenia for the elimination of double taxation with respect to taxes on income and on capital and the prevention of tax evasion and avoidance (hereinafter referred as "the Convention"), the Kingdom of Sweden and the Republic of Slovenia have agreed that the following provisions shall form an integral part of the Convention:

1. *With reference to Article 2:*

It is understood that should Sweden in the future introduce a tax on capital, the Convention shall apply to such tax. In such case double taxation shall be eliminated as follows:

Where a resident of Sweden owns capital which, in accordance with the provisions of the Convention, may be taxed in Slovenia, Sweden shall allow as a deduction from the tax on the capital of that resident an amount equal to the capital tax paid in Slovenia. Such deduction shall not, however, exceed that part of the Swedish capital tax, as computed before the deduction is given, which is attributable to the capital which may be taxed in Slovenia.

2. *With reference to Article 8:*

With respect to profits derived by the air transport consortium Scandinavian Airlines System (SAS), the provisions of paragraph 1 of Article 8 of the Convention shall apply only to such part of the profits as corresponds to the participation held in that consortium by SAS Sverige AB, the Swedish partner of SAS.

3. *With reference to Article 11:*

At the time of the signing of the Convention, the institutions referred to in subparagraph b) of paragraph 3 of Article 11 of the Convention are:

a) in Slovenia, the Slovenian Export and Development Bank (SID – Slovenska izvozna in razvojna banka);

b) in Sweden, The Swedish Export Credit Corporation (AB Svensk Exportkredit) and The Swedish Export Credit Agency (Exportkreditnämnden).

The competent authorities of the Contracting States may agree on additional similar institutions to be covered by subparagraph b) of paragraph 3 of Article 11 of the Convention.

4. *With reference to Article 13:*

With respect to gains derived by the air transport consortium Scandinavian Airlines System (SAS), the provisions of paragraph 3 of Article 13 of the Convention shall apply only to such part of the gains as corresponds to the participation held in that consortium by SAS Sverige AB, the Swedish partner of SAS.

5. *With reference to Article 21:*

With respect to capital owned by the air transport consortium Scandinavian Airlines System (SAS), the provisions of paragraph 3 of Article 21 of the Convention shall apply only to such part of the capital as corresponds to the participation held in that consortium by SAS Sverige AB, the Swedish partner of SAS.

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

DONE at Brussels this 12<sup>th</sup> day of May 2021 in duplicate in the English language.

For the Republic of Slovenia  
Iztok Jarc (s)

For the Kingdom of Sweden  
Lars Danielsson (s)

## Protokol

Ob podpisu Konvencije med Republiko Slovenijo in Kraljevino Švedsko o odpravi dvojnega obdavčevanja v zvezi z davki od dohodka in premoženja ter preprečevanju davčnih utaj in izogibanja davkom (v nadaljnjem besedilu: "konvencija") sta se Republika Slovenija in Kraljevina Švedska sporazumeli, da so naslednje določbe sestavni del konvencije:

1. *V zvezi z 2. členom:*

Razume se, da če Švedska v prihodnosti uvede davek od premoženja, se za ta davek uporablja konvencija. V takem primeru se dvojno obdavčevanje odpravi kot sledi:

Kadar ima rezident Švedske v lasti premoženje, ki se v skladu z določbami konvencije lahko obdavči v Sloveniji, Švedska dovoli kot odbitek od davka od premoženja tega rezidenta znesek, ki je enak davku od premoženja, plačanemu v Sloveniji. Tak odbitek pa ne sme presežati tistega dela pred odbitkom izračunanega švedskega davka od premoženja, ki se nanaša na premoženje, ki se lahko obdavči v Sloveniji.

2. *V zvezi z 8. členom:*

Določbe prvega odstavka 8. člena konvencije se v zvezi z dobičkom, ki ga doseže konzorcij zračnega prometa Scandinavian Airlines System (SAS), uporabljajo samo za tisti del dobička, ki ustreza udeležbi, ki jo ima v tem konzorciju SAS Sverige AB, švedski partner v SAS.

3. *V zvezi z 11. členom:*

V času podpisa konvencije so institucije iz pododstavka b) tretjega odstavka 11. člena konvencije:

a) v Sloveniji: SID – Slovenska izvozna in razvojna banka,

b) v Švedski: Švedska izvoznokreditna korporacija (AB Svensk Exportkredit) in Švedska izvoznokreditna agencija (Exportkreditnämnden).

Pristojna organa držav pogodbenic se lahko dogovorita o dodatnih podobnih institucijah, ki jih zajema pododstavek b) tretjega odstavka 11. člena konvencije.

4. *V zvezi s 13. členom:*

Določbe tretjega odstavka 13. člena konvencije se v zvezi z dobičkom, ki ga doseže konzorcij zračnega prometa Scandinavian Airlines System (SAS), uporabljajo samo za tisti del dobička, ki ustreza udeležbi, ki jo ima v tem konzorciju SAS Sverige AB, švedski partner v SAS.

5. *V zvezi z 21. členom:*

Določbe tretjega odstavka 21. člena konvencije se v zvezi s premoženjem, ki ga ima v lasti konzorcij zračnega prometa Scandinavian Airlines System (SAS), uporabljajo samo za tisti del premoženja, ki ustreza udeležbi, ki jo ima v tem konzorciju SAS Sverige AB, švedski partner v SAS.

V POTRDITEV TEGA sta podpisana, ki sta bila za to ustrezno pooblaščenca, podpisala ta protokol.

SKLENJENO v Bruslju dne 12. maja 2021 v dveh izvodih v angleškem jeziku.

Za Republiko Slovenijo  
Iztok Jarc l.r.

Za Kraljevino Švedsko  
Lars Danielsson l.r.



3. člen

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

4. člen

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

Št. 432-01/19-26/13

Ljubljana, dne 22. septembra 2021

EPA 694-VIII

Državni zbor  
Republike Slovenije  
**Branko Simonovič**  
podpredsednik

## VSEBINA

37. Zakon o ratifikaciji Konvencije med Republiko Slovenijo in Kraljevino Švedsko o odpravi dvojnega obdavčevanja v zvezi z davki od dohodka in premoženja ter preprečevanju davčnih utaj in izogibanja davkom, s protokolom (BSEODO) 417

