

**No. 45618 \***

---

**Ireland  
and  
Slovenia**

**Agreement between the Government of Ireland and the Government of the Republic of Slovenia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on incomes and on capital gains. Ljubljana, 12 March 2002**

**Entry into force:** *11 December 2002 by notification, in accordance with article 28*

**Authentic texts:** *English and Slovene*

**Registration with the Secretariat of the United Nations:** *Ireland, 5 January 2009*

---

**Irlande  
et  
Slovénie**

**Convention entre le Gouvernement de l'Irlande et le Gouvernement de la République de Slovénie tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur les gains en capital. Ljubljana, 12 mars 2002**

**Entrée en vigueur :** *11 décembre 2002 par notification, conformément à l'article 28*

**Textes authentiques :** *anglais et slovène*

**Enregistrement auprès du Secrétariat des Nations Unies :** *Irlande, 5 janvier 2009*

\* *The text reproduced below is the original text of the agreement as submitted. For ease of reference, it was sequentially paginated. The final UNTS version of it is not yet available. Le texte reproduit ci-dessous est le texte authentique de l'accord tel que soumis pour enregistrement. Pour référence, il a été présenté sous forme de la pagination consécutive. La version finale RTNU n'est pas encore disponible.*

[ ENGLISH TEXT – TEXTE ANGLAIS ]

**Agreement between the Government of Ireland and the  
Government of the Republic of Slovenia for the avoidance of  
Double Taxation and the Prevention of Fiscal Evasion with  
respect to Taxes on Incomes and Capital Gains**

**Done at Ljubljana on 12 March 2002**

**Notification of completion of requirements for entry into force exchanged on 18  
November 2002 and 9 December 2002**

**Entered into force on 11 December 2002**

Presented to Dáil Éireann by the Minister for Foreign Affairs

**AGREEMENT BETWEEN THE GOVERNMENT OF IRELAND AND THE  
GOVERNMENT OF THE REPUBLIC OF SLOVENIA FOR THE  
AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF  
FISCAL EVASION WITH RESPECT TO TAXES ON INCOMES AND  
CAPITAL GAINS**

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

**HAVE AGREED** as follows:

Article 1  
*Personal Scope*

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

Article 2  
*Taxes Covered*

1. This Convention shall apply to taxes on income and on capital gains 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 gains all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property.

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

a) in the case of Slovenia:

- i. the tax on profits of legal persons; and
- ii. the tax on income of individuals, including wages and salaries, income from agricultural activities, income from business, capital gains and income from immovable and movable property;

(hereinafter referred to as "Slovenian tax");

b) in the case of Ireland:

- i. the income tax;
- ii. the corporation tax; and
- iii. the capital gains tax;

(hereinafter referred to as 'Irish tax').

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

Article 3  
*General Definitions*

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

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

b) the term "Ireland" includes any area outside the territorial waters of Ireland which, in accordance with international law, has been or may hereafter be designated under the laws of Ireland concerning the Continental Shelf, as an area within which the rights of Ireland with respect to the sea bed and subsoil and their natural resources may be exercised;

c) the terms "a Contracting State", "one of the Contracting States" and "the other Contracting State" mean Slovenia or Ireland, as the context requires; and the term "Contracting States" means Slovenia and Ireland;

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

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

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

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

h) the term "competent authority" means:

- i. in the case of Slovenia: the Ministry of Finance of the Republic of Slovenia or its authorised representative;

- ii. in the case of Ireland: the Revenue Commissioners or their authorised representative;
- i) the term “national” means:
- i. in relation to Slovenia, any individual possessing the nationality of Slovenia and any legal person, partnership or association deriving its status as such from the laws in force in Slovenia;
  - ii. in relation to Ireland, any citizen of Ireland and any legal person, partnership, association or other entity deriving its status as such from the laws in force in Ireland.
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. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:
- a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
  - b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;
  - c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;
  - d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.

Article 5  
*Permanent Establishment*

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

2. The term “permanent establishment” includes especially:

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

3. A person carrying on activities offshore in a Contracting State in connection with the exploration or exploitation of the sea bed and subsoil and their natural resources situated in that Contracting State shall be deemed to be carrying on a business through a permanent establishment in that Contracting State.

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

5. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include:

- a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that the

overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

6. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 7 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 5 which, if exercised through 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.

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 business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

#### Article 6

##### *Income from Immovable Property*

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

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

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

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7  
*Business Profits*

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.
4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items of income or gains which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8  
*Shipping and Air Transport*

1. Profits 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. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.



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

Article 9  
*Associated Enterprises*

1. Where

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

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

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

Article 10  
*Dividends*

- 1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
- 2. However, such dividends may also be taxed in the Contracting State or which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:
  - a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 25 per cent of the capital of the company paying the dividends;
  - b) 15 per cent of the gross amount of the dividends in all other cases.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

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

3. The term “dividends” as used in this Article means income from shares or other rights, not being debt-claims, and includes any income or distribution assimilated to income from shares under the taxation laws of the Contracting State of which the company paying dividends or income or making the distribution is a resident.

4. Notwithstanding paragraph 3, the term “dividends” shall not include interest which, by reason of the fact that it was paid to a non-resident company, is treated as a dividend under the domestic laws of a Contracting State, to the extent that such interest does not exceed the amount which would be expected to be paid between independent parties dealing at arm’s length.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other state independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

Article 11  
*Interest*

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

2. However, such interest may also be taxed in the Contracting State in which it arises, and according to the laws of that State, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 5 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and derived and beneficially owned by a Government of the other Contracting

State including political subdivisions or local authorities or by a Central Bank thereof, or any institutions as may be agreed from time to time between the Contracting States, shall be exempt from tax in the first mentioned State.

4. The term "interest" as used in this Article means income from debt claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures as well as all other income assimilated to income from money lent by the laws of the State in which the income arises but does not include any income which is treated as a dividend under Article 10. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

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

#### Article 12 *Royalties*

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

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 5 per cent of the gross amount of

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

3. The term “royalties”, as used in this Article, means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work (including motion pictures or films, recordings on tape or other media used for radio or television broadcasting or other means of reproduction or transmission), any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

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

#### Article 13 *Capital Gains*

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

2. For the purposes of paragraph 1, gains from the alienation of immovable property situated in the other Contracting State shall include gains from shares (including stock and any security), other than shares quoted on a stock exchange, deriving the greater part of their value directly or indirectly from immovable property situated in that other State.

3. Gains, other than those dealt with in paragraph 2, from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

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

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

6. The provisions of paragraph 5 shall not affect the right of a Contracting State to levy, according to its law, a tax on gains from the alienation of any property derived by an individual who is a resident of the other Contracting State and has been a resident of the first-mentioned State at any time during the three years immediately preceding the alienation of the property if the property was held by the individual before he became a resident of that other State.

#### Article 14

##### *Independent Personal Services*

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

#### Article 15

##### *Dependent Personal Services*

1. Subject to the provisions of Articles 16, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

- a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned of that other State, and
  - b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
  - c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that Contracting State.

Article 16  
*Directors' Fees*

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

Article 17  
*Artistes and Sportsmen*

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.
3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities exercised in a Contracting State by an entertainer or a sportsman if the visit to that State is wholly or mainly supported by public funds of one or both of the Contracting States or political subdivisions or local authorities thereof. In such a case, the income shall be taxable only in the Contracting State of which the entertainer or sportsman is a resident.

Article 18  
*Pensions and Annuities*

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment and any annuity paid to such a resident in consideration of past employment shall be taxable only in that 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.

Article 19  
*Government Service*

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

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

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

2. a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

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

3. The provisions of Articles 15, 16, 17 and 18 shall apply to salaries, wages and other similar remuneration and to pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20  
*Professors and Teachers*

1. A professor or teacher who visits one of the Contracting States for a period not exceeding two years for the sole purpose of teaching or carrying out advanced study (including research) at a university, college or other recognised research institute or other establishment for higher education in that Contracting State and who was immediately before that visit a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State on any remuneration for such teaching or research for a period not exceeding two years from the date he first visits that Contracting State for such purpose. An individual shall be entitled to the benefits of this Article only once.

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

Article 21  
*Students*

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

Article 22  
*Other Income*

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

Article 23  
*Methods for Elimination of Double Taxation*

1. Where a resident of Slovenia derives income which, in accordance with the provisions of this Convention, may be taxed in Ireland, Slovenia shall allow as a deduction from the tax on the income of that resident, an amount equal to the Irish tax paid in respect of that income. Such deduction shall not, however, exceed that portion of the income tax as computed before the deduction is given, which is attributable to the income which may be taxed in Ireland.
2. Subject to the provisions of the laws of Ireland regarding the allowance as a credit against Irish tax of tax payable in a territory outside Ireland (which shall not affect the general principle hereof):
  - a) Slovenian tax payable under the laws of Slovenia and in accordance with this Convention, whether directly or by deduction, on profits, income or gains from sources within Slovenia (excluding in the case of a dividend tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any Irish tax computed by reference to the same profits, income or gains by reference to which Slovenian tax is computed;
  - b) in the case of a dividend paid by a company which is a resident of Slovenia to a company which is a resident of Ireland and which controls directly or indirectly 10 per cent or more of the voting power in the company paying the dividend, the credit shall take into account (in addition to any Slovenian tax creditable under the



provisions of subparagraph (a) Slovenian tax payable by the company in respect of the profits out of which such dividend is paid.

3. For the purposes of paragraphs 1 and 2, profits, income and capital gains owned by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Convention shall be deemed to be derived from sources in that other Contracting State.

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

5. Where, under any provision of this Convention, income or gains is or are wholly or partly relieved from tax in a Contracting State and under the laws in force in the other Contracting State, an individual in respect of the said income or gains, is subject to tax by reference to the amount thereof which is remitted to or received in that other State, and not by reference to the full amount thereof, then the relief to be allowed under this Convention in the first-mentioned State shall apply only to so much of the income or gains as is remitted to or received in ha other State.

Article 24  
*Non-Discrimination*

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are riot 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 1 2, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

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

and connected requirements to which other similar enterprises of the first mentioned State are or may be subjected.

5. The provisions of this Article shall apply only to taxes covered by this Convention.

Article 25

*Mutual Agreement Procedure*

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. 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 26

*Exchange of Information*

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

- a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- b) to supply information which is not obtainable under the laws or in the normal course of the administration of that, or of the other Contracting State;
- c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

Article 27

*Members of Diplomatic Missions and Consular Posts*

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

Article 28

*Entry into Force*

1. Each of the Contracting States shall notify to the other the completion of the procedure required by its law for the bringing into force of this Convention.

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

a) In Slovenia:

- i. in respect of taxes withheld at source for amounts paid or credited on or after the first day of January in the calendar year next following the year in which the Convention enters into force;
- ii. in respect of other taxes on income and on capital gains, for any tax year beginning on or after the first day of January in the calendar year next following the year in which the Convention enters into force;

b) In Ireland:

- i. in respect of income tax and capital gains tax, for any year of assessment beginning on or after the first day of January in the year next following the year in which the Convention enters into force;
- ii. in respect of corporation tax, for any financial year beginning on or after the first day of January in the year next following the year in which the Convention enters into force.

Article 29  
*Termination*

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention at any time after five years from the date on which the Convention enters into force provided that at least six months prior notice of termination has been given through diplomatic channels.

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

a) In Slovenia:

- i. in respect of taxes withheld at source, for amounts paid or credited on or after the first day of January in the calendar year next following the year in which the period specified in the said notice of termination expires;
- ii. in respect of other taxes on income and on capital gains, for any tax year beginning on or after the first day of January in the calendar year next following the year in which the period specified in the said notice of termination expires;

b) In Ireland:

- i. in respect of income tax and capital gains tax, for any year of assessment beginning on or after the first day of January in the year next following the year in which the period specified in the said notice of termination expires;
- ii. in respect of corporation tax, for any financial year beginning on or after the first day of January in the year next following the year in which the period specified in the said notice of termination expires.

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

**DONE** in duplicate at Ljubljana on this 12th day of March, 2002, in the English and Slovenian languages, both texts being equally authentic.

[ SLOVENE TEXT – TEXTE SLOVÈNE ]

**U K A Z**  
**O RAZGLASITVI ZAKONA O RATIFIKACIJI KONVENCIJE MED VLADO REPUBLIKE SLOVENIJE IN VLADO IRSKE O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA IN DOBIČKA IZ KAPITALA (BIEDOU)**

Razglašam Zakon o ratifikaciji Konvencije med Vlado Republike Slovenije in Vlado Irske o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in dobička iz kapitala (BIEDOU), ki ga je sprejel Državni zbor Republike Slovenije na seji 25. oktobra 2002.

Št. 001-22-140/02

Ljubljana, 5. novembra 2002

Predsednik  
Republike Slovenije  
Milan Kučan l. r.

**Z A K O N**  
**O RATIFIKACIJI KONVENCIJE MED VLADO REPUBLIKE SLOVENIJE IN VLADO IRSKE O IZOGIBANJU DVOJNEGA OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA IN DOBIČKA IZ KAPITALA (BIEDOU)**

**1. člen**

Ratificira se Konvencija med Vlado Republike Slovenije in Vlado Irske o izogibanju dvojnega obdavčevanja in preprečevanju davčnih utaj v zvezi z davki od dohodka in dobička iz kapitala, podpisana v Ljubljani dne 12. marca 2002.

**2. člen**

Konvencija se v izvorniku v slovenskem in angleškem jeziku glasi:

**K O N V E N C I J A**  
**MED VLADO REPUBLIKE SLOVENIJE IN VLADO IRSKE O IZOGIBANJU DVOJNEGA**

## OBDAVČEVANJA IN PREPREČEVANJU DAVČNIH UTAJ V ZVEZI Z DAVKI OD DOHODKA IN DOBIČKA IZ KAPITALA

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

### 1. člen

#### OSEBE, ZA KATERE SE UPORABLJA KONVENCIJA

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

### 2. člen

#### DAVKI, ZA KATERE SE UPORABLJA KONVENCIJA

1. Ta konvencija se uporablja za davke od dohodka in dobička iz kapitala, ki se uvedejo v imenu pogodbenice ali njenih političnih entit ali lokalnih oblasti, ne glede na način njihove uvedbe.
2. Za davke od dohodka in dobička iz kapitala se štejejo vsi davki, uvedeni na celoten dohodek ali na sestavine dohodka, vključno z davki od dobička iz odtujitve premičnin ali nepremičnin.
3. Obstoječi davki, za katere se uporablja konvencija, so:
  - a) v Sloveniji:
    - i) davek od dobička pravnih oseb in
    - ii) davek od dohodka posameznikov, vključno z mezdami in plačami, dohodkom iz kmetijskih dejavnosti, dohodkom iz poslovanja, dobičkom iz kapitala in dohodkom iz nepremičnin in premičnin (v nadaljevanju "slovenski davek");
  - b) na Irskem:
    - i) davek od dohodka;
    - ii) davek od dobička pravnih oseb in
    - iii) davek od dobička iz kapitala (v nadaljevanju "irski davek").
4. Ta konvencija se uporablja tudi za kakršne koli enake ali vsebinsko podobne davke, ki se uvedejo po datumu podpisa konvencije dodatno k obstoječim davkom ali namesto njih. Pristojna organa držav pogodbenic drug drugega uradno obvestita o vseh bistvenih spremembah njunih davčnih zakonodaj.

### 3. člen

#### SPLOŠNA OPREDELITEV IZRAZOV

1. Za namene te konvencije, razen če sobesedilo zahteva drugače:
  - a) izraz "Slovenija" pomeni Republiko Slovenijo, in ko se uporablja v zemljepisnem smislu, ozemlje Slovenije, vključno z morskim območjem, morskim dnom in podzemljem ob teritorialnem morju, če Slovenija lahko nad takim morskim območjem, morskim dnom in podzemljem izvaja svoje suverene pravice in jurisdikcijo v skladu s svojo notranjo zakonodajo in mednarodnim pravom;
  - b) izraz "Irška" vključuje katero koli območje zunaj teritorialnega morja Irške, ki je bilo ali se lahko v prihodnje po zakonodaji Irške o epikontinentalnem pasu v skladu z mednarodnim pravom določi kot območje, na katerem lahko Irška izvaja svoje pravice v zvezi z morskim dnom in podzemljem ter naravnimi viri v njih;
  - c) izrazi "država pogodbenica", "ena od držav pogodbenic" in "druga država pogodbenica" pomenijo, kot zahteva sobesedilo, Slovenijo ali Irsko, izraz "državi pogodbenici" pa pomeni Slovenijo in Irsko;
  - d) izraz "oseba" vključuje posameznika, družbo in katero koli drugo telo, ki združuje več oseb;
  - e) izraz "družba" pomeni katero koli korporacijo ali kateri koli subjekt, ki se za davčne namene obravnava kot korporacija;
  - f) izraza "podjetje države pogodbenice" in "podjetje druge države pogodbenice" pomenita podjetje, ki ga upravlja rezident države pogodbenice, in podjetje, ki ga upravlja rezident druge države pogodbenice;
  - g) izraz "mednarodni promet" pomeni kakršen koli prevoz z ladjo ali letalom, ki ga opravlja podjetje države pogodbenice, razen če ladja ali letalo opravlja prevoze samo med kraji v drugi državi pogodbenici;
  - h) izraz "pristojni organ" pomeni:
    - i) v Sloveniji Ministrstvo za finance Republike Slovenije ali pooblaščenega predstavnika tega ministrstva;
    - ii) na Irskem Davčno upravo ali pooblaščenega predstavnika te uprave;
  - i) izraz "državljan" pomeni:
    - i) za Slovenijo katerega koli posameznika, ki ima državljanstvo Slovenije, in katero koli pravno osebo, osebno družbo ali združenje, katerih status izhaja iz veljavne zakonodaje v Sloveniji;
    - ii) za Irsko katerega koli posameznika, ki ima državljanstvo Irške, in katero koli pravno osebo, osebno družbo, združenje ali drug

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

#### 4. člen

##### REZIDENT

1. Za namene te konvencije izraz "rezident države pogodbenice" pomeni katero koli osebo, ki je po zakonodaji te države dolžna plačevati davke zaradi svojega stalnega prebivališča, prebivališča, sedeža uprave ali katerega koli drugega podobnega merila. Ta izraz pa ne vključuje katere koli osebe, ki je dolžna plačevati davke v tej državi samo v zvezi z dohodki iz virov v tej državi.
2. Kadar je zaradi določb prvega odstavka posameznik rezident obeh držav pogodbenic, se njegov status določi na naslednji način:
  - a) šteje se samo za rezidenta države, v kateri ima na razpolago stalno prebivališče; če ima stalno prebivališče na razpolago v obeh državah, se šteje za rezidenta države, s katero ima tesnejše osebne in ekonomske odnose (središče življenjskih interesov);
  - b) če ni mogoče opredeliti države, v kateri ima središče življenjskih interesov, ali če nima v nobeni od držav na razpolago stalnega prebivališča, se šteje samo za rezidenta države, v kateri ima običajno bivališče;
  - c) če ima običajno bivališče v obeh državah ali v nobeni od njiju, se šteje samo za rezidenta države, katere državljan je;
  - d) če je državljan obeh držav ali nobene od njiju, pristojna organa držav pogodbenic vprašanje rešita s skupnim dogovorom.
3. Kadar je zaradi določb prvega odstavka oseba, ki ni posameznik, rezident obeh držav pogodbenic, se šteje, da je samo rezident države, v kateri ima sedež dejanske uprave.

#### 5. člen

##### STALNA POSLOVNA ENOTA

1. Za namene te konvencije izraz "stalna poslovna enota" pomeni stalno mesto poslovanja, prek katerega v celoti ali delno potekajo posli podjetja.
2. Izraz "stalna poslovna enota" še posebej vključuje:
  - a) sedež uprave,
  - b) podružnico,
  - c) pisarno,
  - d) tovarno,
  - e) delavnico in
  - f) rudnik, nahajališče nafte ali plina, kamnolom ali kateri koli drug kraj pridobivanja naravnih virov.
3. Šteje se, da oseba, ki izvaja eksteritorialno dejavnost v državi pogodbenici v zvezi z raziskovanjem ali izkoriščanjem morskega dna in podzemlja ter naravnih virov v tej državi pogodbenici, posluje prek stalne poslovne enote v tej državi pogodbenici.
4. Gradbišče ali projekt gradnje ali montaže je stalna poslovna enota samo, če traja več kot dvanajst mesecev.
5. Ne glede na prejšnje določbe tega člena se šteje, da izraz "stalna poslovna enota" ne vključuje:
  - a) uporabe prostorov samo za namen skladiščenja, razstavljanja ali dostave dobrin ali blaga, ki pripada podjetju;
  - b) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za namen skladiščenja, razstavljanja ali dostave;
  - c) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za namen predelave s strani drugega podjetja;
  - d) vzdrževanja stalnega mesta poslovanja samo za namen nakupa dobrin ali blaga ali zbiranja informacij za podjetje;
  - e) vzdrževanja stalnega mesta poslovanja samo za namen opravljanja kakršne koli druge dejavnosti pripravljalne ali pomožne narave za podjetje;
  - f) vzdrževanja stalnega mesta poslovanja samo za kakršno koli kombinacijo dejavnosti, omenjenih v pododstavkih a) do e), pod pogojem, da je splošna dejavnost stalnega mesta poslovanja, ki je posledica te kombinacije, pripravljalne ali pomožne narave.
6. Ne glede na določbe prvega in drugega odstavka, kadar oseba ki ni zastopnik z neodvisnim statusom, za katerega se uporablja sedmi odstavek deluje v imenu podjetja ter ima in običajno uporablja v državi pogodbenici pooblastilo za sklepanje pogodb v imenu podjetja, se za to podjetje šteje, da ima stalno poslovno enoto v tej državi v zvezi s katerimi koli dejavnostmi, ki jih ta oseba prevzame za podjetje, razen če so dejavnosti te osebe omejene na tiste iz petega odstavka, zaradi katerih se to stalno mesto poslovanja po določbah tega odstavka ne bi štelo za stalno poslovno enoto, če bi se opravljal prek stalnega mesta poslovanja.
7. Ne šteje se, da ima podjetje stalno poslovno enoto v državi pogodbenici samo zato, ker opravlja posle v tej državi prek posrednika, splošnega komisionarja ali katerega koli drugega zastopnika z neodvisnim statusom, pod pogojem, da te osebe delujejo v okviru svojega rednega poslovanja.
8. Dejstvo, da družba, ki je rezident države pogodbenice, nadzoruje družbo, ki je rezident druge države pogodbenice ali opravlja posle v tej drugi državi (prek stalne poslovne enote ali drugače) ali je pod nadzorom take družbe, samo po sebi še ne pomeni, da je ena od družb stalna poslovna enota druge.

#### 6. člen

##### DOHODEK IZ NEPREMIČNIN

1. Dohodek rezidenta države pogodbenice, ki izhaja iz nepremičnin (vključno z dohodkom iz kmetijstva ali gozdarstva), ki so v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.
2. Izraz "nepremičnine" ima pomen, ki ga ima po pravu države pogodbenice, v kateri je ta nepremičnina. Izraz vedno vključuje premoženje, ki je sestavni del nepremičnin, živino in opremo, ki se uporablja v kmetijstvu in gozdarstvu, pravice, za katere veljajo določbe splošnega prava v zvezi z zemljiško lastnino, užitek na nepremičninah in pravice do spremenljivih ali stalnih plačil kot odškodnino za izkoriščanje ali pravico do izkoriščanja nahajališč rude, virov ter drugega naravnega bogastva; ladje, čolni in letala se ne štejejo za nepremičnine.
3. Določbe prvega odstavka se uporabljajo za dohodek, ki se ustvari z neposredno uporabo, dajanjem v najem ali katero koli drugo obliko uporabe nepremičnine.
4. Določbe prvega in tretjega odstavka se uporabljajo tudi za dohodek iz nepremičnin podjetja in za dohodek iz nepremičnin, ki se uporabljajo za opravljanje samostojnih osebnih storitev.

#### 7. člen

##### POSLOVNI DOBIČEK

1. Dobiček podjetja države pogodbenice se obdavči samo v tej državi, razen če podjetje posluje v drugi državi pogodbenici prek stalne poslovne enote v njej. Če podjetje posluje, kot je prej omenjeno, se lahko dobiček podjetja obdavči v drugi državi, vendar samo toliko dobička, kot se pripíše tej stalni poslovni enoti.
2. Ob upoštevanju določb tretjega odstavka, kadar podjetje države pogodbenice posluje v drugi državi pogodbenici prek stalne poslovne enote v njej, se v vsaki državi pogodbenici tej stalni poslovni enoti pripíše dobiček, za katerega bi se lahko pričakovalo, da bi ga imela, če bi bila različno in ločeno podjetje, ki opravlja enake ali podobne dejavnosti pod istimi ali podobnimi pogoji ter povsem neodvisno posluje s podjetjem, katerega stalna poslovna enota je.
3. Pri določanju dobička stalne poslovne enote je dovoljeno odšteti stroške, ki nastanejo za namene stalne poslovne enote, vključno s poslovnimi in splošnimi upravnimi stroški, ki so tako nastali bodisi v državi, v kateri je stalna poslovna enota, ali drugje.
4. Če se v državi pogodbenici dobiček, ki se pripíše stalni poslovni enoti, običajno določi na podlagi porazdelitve vsega dobička podjetja na njegove dele, nič v drugem odstavku tej državi pogodbenici ne preprečuje določiti obdavčljivega dobička z običajno porazdelitvijo, sprejeta metoda porazdelitve pa more biti taka, da je rezultat v skladu z načeli tega člena.
5. Stalni poslovni enoti se ne pripíše dobiček samo zato, ker nakupuje dobrine ali blago za podjetje.
6. Za namene prejšnjih odstavkov se dobiček, ki se pripíše stalni poslovni enoti, vsako leto določi po isti metodi, razen če je upravičen in zadosten razlog za nasprotno.
7. Kadar dobiček vključuje dohodkovne postavke ali dobiček iz kapitala, ki je posebej obravnavan v drugih členih te konvencije, določbe tega člena ne vplivajo na določbe tistih členov.

#### 8. člen

##### LADIJSKI IN LETALSKI PREGOZ

1. Dobiček, ki ga podjetje države pogodbenice doseže iz opravljanja ladijskih ali letalskih prevozov v mednarodnem prometu, se obdavči samo v tej državi.
2. Če je sedež dejanske uprave ladjarskega podjetja na ladji, se šteje, da je v državi pogodbenici, v kateri ima ladja matično pristanišče, ali če nima takega matičnega pristanišča, v državi pogodbenici, katere rezident je ladijski prevoznik.
3. Določbe prvega odstavka se uporabljajo tudi za dobiček iz udeležbe v interesnem združenju (pool), mešanem podjetju ali mednarodni prevozni agenciji.

#### 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 pogodbenicein v obeh primerih obstajajo ali se uvedejo med podjetjema v njunih komercialnih ali finančnih odnosih pogoji, drugačni od tistih, ki bi obstajali med neodvisnimi podjetji, se kakršen koli dobiček, ki bi prirastel enemu od podjetij, če takih pogojev ne bi bilo, vendar prav zaradi takih pogojev ni prirastel, lahko vključi v dobiček tega podjetja in ustrezno obdavči.
2. Kadar država pogodbenica v dobiček podjetja te države vključuje in ustrezno obdavči dobiček, za katerega je bilo že obdavčeno podjetje druge države pogodbenice v tej drugi državi, in je tako vključeni dobiček dobiček, ki bi prirastel podjetju prve omenjene države, če bi bili pogoji, ki obstajajo med podjetjema, taki, kot bi obstajali med neodvisnimi podjetji, ta druga država ustrezno prilagodi znesek davka, ki se v tej državi zaračuna od tega dobička. Pri določanju take prilagoditve je treba upoštevati druge določbe te konvencije, pristojna organa držav pogodbenic pa se po potrebi med seboj posvetujeta.
3. Določbe prvega odstavka se uporabljajo tudi za dobiček iz udeležbe v interesnem združenju (pool), mešanem podjetju ali mednarodni prevozni agenciji.



**10. člen**

**DIVIDENDE**

1. Dividende, ki jih družba, ki je rezident države pogodbenice, plača rezidentu druge države pogodbenice, se lahko obdavčijo v tej drugi državi.
2. Take dividende pa se lahko obdavčijo tudi v državi pogodbenici, katere rezident je družba, ki dividende plačuje, in v skladu z zakonodajo te države, če pa je prejemnik upravičeni lastnik dividend, tako obračunani davek ne presega:
  - a) 5 odstotkov bruto zneska dividend, če je upravičeni lastnik družba, ki ima neposredno v lasti najmanj 25 odstotkov kapitala družbe, ki plačuje dividende;
  - b) 15 odstotkov bruto zneska dividend v vseh drugih primerih.Pristojna organa držav pogodbenic se sporazumno dogovorita o načinu uporabe teh omejitev. Ta odstavek ne vpliva na obdavčenje družbe v zvezi z dobičkom, iz katerega se plačajo dividende.
3. Izraz "dividende", kot je uporabljen v tem členu, pomeni dohodek iz delnic ali drugih pravic do udeležbe v dobičku, ki niso terjatve, in tudi kakršen koli dohodek ali delež dobička, ki se davčno obravnava enako kot dohodek iz delnic po zakonodaji države pogodbenice, katere rezident je družba, ki plačuje dividende ali dohodek ali deli dobiček.
4. Ne glede na tretji odstavek izraz "dividende" ne vključuje obresti, ki se zaradi dejstva, da so bile izplačane nerezidenčni družbi, po notranji zakonodaji države pogodbenice obravnavajo kot dividende, če takšne obresti ne presegajo zneska, ki bi bil izplačan med neodvisnimi osebam, ki so med seboj nepovezane.
5. Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik dividend, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, katere rezident je družba, ki dividende plačuje, prek stalne poslovne enote v njej ali opravlja v tej drugi državi samostojne osebne storitve iz stalne baze v njej ter je delež, v zvezi s katerim se dividende plačajo, dejansko povezan s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.
6. Kadar dobiček ali dohodek družbe, ki je rezident države pogodbenice, izhaja iz druge države pogodbenice, ta druga država ne sme uvesti nobenega davka na dividende, ki jih plača družba, razen če se te dividende plačajo rezidentu te druge države ali če je delež, v zvezi s katerim se take dividende plačajo, dejansko povezan s stalno poslovno enoto ali stalno bazo v tej drugi državi, niti ne sme uvesti davka od nerazdeljenega dobička na nerazdeljeni dobiček družbe, tudi če so plačane dividende ali nerazdeljeni dobiček v celoti ali delno sestavljeni iz dobička ali dohodka, ki nastane v taki drugi državi.

**11. člen**

**OBRESTI**

1. Obresti, ki nastanejo v državi pogodbenici in se izplačajo rezidentu druge države pogodbenice, se lahko obdavčijo v tej drugi državi.
2. Take obresti pa se lahko obdavčijo tudi v državi pogodbenici, v kateri nastanejo, in v skladu z zakonodajo te države, če pa je prejemnik upravičeni lastnik obresti, tako zaračunani davek ne presega 5 odstotkov bruto zneska obresti. Pristojna organa držav pogodbenic se sporazumno dogovorita o načinu uporabe te omejitve.
3. Ne glede na določbe drugega odstavka so obresti, ki nastanejo v državi pogodbenici in jih prejme in je njihov upravičeni lastnik vlada druge države pogodbenice, vključno z njenimi političnimi enotami ali lokalnimi oblastmi, ali njena centralna banka ali katera koli ustanova, za katero se vsakokrat dogovorita državi pogodbenici, oproščene davka v prvi omenjeni državi.
4. Izraz "obresti", kot je uporabljen v tem členu, pomeni dohodek iz vseh vrst terjatev ne glede na to, ali so zavarovane s hipoteko, in ne glede na to, ali imajo pravico do udeležbe v dolžnikovem dobičku, in še posebej dohodek iz državnih vrednostnih papirjev ter dohodek iz obveznic ali zadolžnic, vključno s premijami in nagradami, ki pripadajo takim vrednostnim papirjem, obveznicam ali zadolžnicam, kakor tudi vsak dohodek, ki se po zakonodaji države pogodbenice, v kateri takšen dohodek nastane, obravnava kot dohodek od denarnih posojil, ne vključuje pa dohodka, ki se v skladu s 10. členom obravnava kot dividende. Kazni zaradi zamude pri plačilu se za namen tega člena ne štejejo za obresti.
5. Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik obresti, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, v kateri obresti nastanejo, prek stalne poslovne enote v njej ali opravlja v tej drugi državi samostojne osebne storitve iz stalne baze v njej ter je terjatev, v zvezi s katero se obresti plačajo, dejansko povezana s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.
6. Šteje se, da obresti nastanejo v državi pogodbenici, kadar je plačnik ta država, politična enota, lokalna oblast ali rezident te države. Kadar pa ima oseba, ki plačuje obresti, ne glede na to, ali je rezident države pogodbenice, v državi pogodbenici stalno poslovno enoto ali stalno bazo, v zvezi s katero je nastala zadolžitev, za katero se plačajo obresti ter take obresti krije taka stalna poslovna enota ali stalna baza, se šteje, da take obresti nastanejo v državi, v kateri je stalna poslovna enota ali stalna baza.
7. Kadar zaradi posebnega odnosa med plačnikom in upravičeni lastnikom ali med njima in drugo osebo znesek obresti glede na terjatev, za katero se plačajo, presega znesek, za katerega bi se sporazumela plačnik in upravičeni lastnik, če takega odnosa ne bi bilo, se določbe tega člena uporabljajo samo za zadnji omenjeni znesek. V takem primeru se presežni del plačil še naprej obdavčuje v skladu z zakonodajo vsake države pogodbenice, pri čemer je treba upoštevati druge določbe te konvencije.

**12. člen**

**LICENČNINE IN AVTORSKI HONORARJI**

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

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

3. Izraz "licenčnine in avtorski honorarji", kot je uporabljen v tem členu, pomeni plačila vsake vrste, prejeta kot povračilo za uporabo ali pravico do uporabe kakršnih koli avtorskih pravic za literarno, umetniško ali znanstveno delo (vključno s kinematografskimi filmi ter filmi, posnetki na trakovih ali drugih medijih za televizijsko in radijsko predvajanje ali drugimi sredstvi za reprodukcijo ali prenos), 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 upravičen lastnik licenčnih in avtorskih honorarjev, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, v kateri licenčnine in avtorski honorarji nastanejo, prek stalne poslovne enote v njej ali opravlja v tej drugi državi samostojne osebne storitve iz stalne baze v njej ter je pravica ali premoženje, v zvezi s katerim se licenčnine in avtorski honorarji plačajo, dejansko povezano s tako stalno poslovno enoto ali stalno bazo. V takem primeru se uporabljajo določbe 7. ali 14. člena, odvisno od primera.

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

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

### 13. člen

#### DOBIČEK IZ KAPITALA

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

2. Za namene prvega odstavka dobiček iz odtujitve nepremičnin, ki so v drugi državi pogodbenici, vključuje dobiček iz deležev (vključno z delnicami in kakršnimi koli vrednostnimi papirji), razen delnic, ki kotirajo na borzi, katerih večji del vrednosti izhaja neposredno ali posredno iz nepremičnin v tej drugi državi.

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

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

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

6. Določbe petega odstavka ne vplivajo na pravico države pogodbenice, da v skladu s svojo zakonodajo obdavči dobiček iz odtujitve kakršnega koli premoženja, ki ga doseže posameznik, ki je rezident druge države pogodbenice in je bil rezident prve omenjene države kadar koli v treh letih neposredno pred odtujitvijo premoženja, če je posameznik imel premoženje, preden je postal rezident te druge države.

### 14. člen

#### SAMOSTOJNE OSEBNE STORITVE

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

2. Izraz "poklicne storitve" vključuje še posebej samostojne znanstvene, literarne, umetniške, izobraževalne ali pedagoške dejavnosti kot tudi samostojne dejavnosti zdravnikov, odvetnikov, inženirjev, arhitektov, zobozdravnikov in računovodij.

### 15. člen

#### ODVISNE OSEBNE STORITVE

1. V skladu z določbami 16., 18., 19. in 20. člena se plače, mezde in drugi podobni prejemki, ki jih dobi rezident države pogodbenice iz zaposlitve, obdavčijo samo v tej državi, razen če se zaposlitev izvaja v drugi državi pogodbenici. Če se zaposlitev izvaja tako, se lahko tako dobljeni prejemki obdavčijo v tej drugi državi.

2. Ne glede na določbe prvega odstavka se prejemek, ki ga dobi rezident države pogodbenice iz zaposlitve, ki se izvaja v drugi

- državi pogodbenici, obdavči samo v prvi omenjeni državi, če:
- a) je prejemnik navzoč v drugi državi v obdobju ali obdobjih, ki ne presegajo skupno 183 dni v zadevnem davčnem letu te druge države, in
  - b) prejemek plača delodajalec, ki ni rezident druge države, ali se plača v njegovem imenu in
  - c) prejemka ne krije stalna poslovna enota ali stalna baza, ki jo ima delodajalec v drugi državi.
3. Ne glede na prejšnje določbe tega člena se prejemek, ki izhaja iz zaposlitve na ladji ali letalu, s katerim podjetje države pogodbenice opravlja prevoze v mednarodnem prometu, lahko obdavči v tej državi pogodbenici.

#### 16. člen

##### PLAČILA DIREKTORJEM

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

#### 17. člen

##### UMETNIKI IN ŠPORTNIKI

1. Ne glede na določbe 14. in 15. člena se dohodek, ki ga dobi rezident države pogodbenice kot nastopajoči izvajalec, kot je gledališki, filmski, radijski ali televizijski umetnik ali glasbenik, ali kot športnik iz takšnih osebnih dejavnosti, ki jih izvaja v drugi državi pogodbenici, lahko obdavči v tej drugi državi.
2. Kadar se dohodek iz osebnih dejavnosti, ki jih izvaja nastopajoči izvajalec ali športnik kot tak, ne pripíše samemu nastopajočemu izvajalcu ali športniku osebno, temveč drugi osebi, se ta dohodek kljub določbam 7., 14. in 15. člena lahko obdavči v državi pogodbenici, v kateri se izvajajo dejavnosti nastopajočega izvajalca ali športnika.
3. Določbe prvega in drugega odstavka se ne uporabljajo za dohodek, dosežen z dejavnostmi nastopajočega izvajalca ali športnika v državi pogodbenici, če se obisk v tej državi v celoti ali pretežno financira z javnimi sredstvi ene ali obeh držav pogodbenic ali njihovih političnih entot ali lokalnih oblasti. V takem primeru se dohodek obdavči samo v državi pogodbenici, katere rezident je nastopajoči izvajalec ali športnik.

#### 18. člen

##### POKOJNINE IN ANUITETE

1. V skladu z določbami drugega odstavka 19. člena se pokojnine in drugi podobni prejemki, ki se izplačujejo rezidentu države pogodbenice za preteklo zaposlitev, in kakršne koli anuitete, ki se izplačujejo takemu rezidentu za preteklo zaposlitev, obdavčijo samo v tej državi.
2. Izraz "anuiteta" pomeni določen znesek, ki se redno plačuje ob določenem času vse življenje ali v določenem ali ugotovljivem časovnem obdobju, z obveznostjo izvršitve plačila za primerno in celotno nadomestilo v denarju ali denarni vrednosti.

#### 19. člen

##### DRŽAVNA SLUŽBA

1. a) Plače, mezde in drugi podobni prejemki razen pokojnin, ki jih plačuje država pogodbenica ali njena politična enota ali lokalna oblast posamezniku za storitve, ki jih opravi za to državo ali enoto ali oblast, se obdavčijo samo v tej državi.  
b) Take plače, mezde in drugi podobni prejemki pa se obdavčijo samo v drugi državi pogodbenici, če se storitve opravljajo v tej državi in je posameznik rezident te države, ki:
  - i) je državljan te države ali
  - ii) ni postal rezident te države samo za namen opravljanja storitev.
2. a) Vsaka pokojnina, plačana iz skladov države pogodbenice ali njene politične enote ali lokalne oblasti posamezniku za storitve, opravljene za to državo ali enoto ali oblast, se obdavči samo v tej državi.  
b) Taka pokojnina pa se obdavči samo v drugi državi pogodbenici, če je posameznik rezident in državljan te države.
3. Določbe 15., 16., 17. in 18. člena se uporabljajo za plače, mezde in druge podobne prejemke ter za pokojnine za storitve, opravljene v zvezi s posli države pogodbenice ali njene politične enote ali lokalne oblasti.

#### 20. člen

**PROFESORJI IN UČITELJI**

1. Profesor ali učitelj, ki obišče eno od držav pogodbenic za obdobje, ki ne presega dveh let, samo z namenom poučevanja ali izpolnjevanja (vključno z raziskovanjem) na univerzi, višji oziroma visoki šoli ali drugi priznani raziskovalni ustanovi ali drugi visokošolski ustanovi v tej državi pogodbenici in ki je bil tik pred tem obiskom rezident druge države pogodbenice, je v prvi omenjeni državi pogodbenici v obdobju, ki ne presega dveh let od datuma prvega obiska te države pogodbenice v ta namen, oproščen davka na kakršne koli prejemke za tako poučevanje ali raziskovanje. Posameznik ima pravico do ugodnosti iz tega člena samo enkrat.
2. Prejšnje določbe tega člena se ne uporabljajo za prejemke, ki jih profesor ali učitelj prejme za raziskave, če se raziskave izvajajo predvsem v zasebno korist določene osebe ali oseb.

**21. člen****ŠTUDENTI**

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

**22. člen****DRUGI DOHODKI**

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

**23. člen****METODE ZA ODPRAVO DVOJNEGA OBDAVČEVANJA**

1. Kadar rezident Slovenije dobi dohodek, ki se v skladu z določbami te konvencije lahko obdavči na Irskem, Slovenija dovolí kot odbitek od davka od dohodka tega rezidenta znesek, ki je enak davku od dohodka, plačanemu na Irskem. Tak odbitek pa ne sme presegati tistega dela davka od dohodka, ki je bil izračunan pred odbitkom, pripisanim dohodku, ki se lahko obdavči na Irskem.
2. V skladu z določbami irske zakonodaje o znižanju irskega davka za davek, ki se plača zunaj ozemlja Irske (kar ne vpliva na splošno načelo):
  - a) se slovenski davek, ki se po slovenski zakonodaji in v skladu s to konvencijo plača bodisi neposredno ali kot odbitek od dobička, dohodka ali dobička iz kapitala iz virov v Sloveniji (razen davka na dividende, ki se plača od dobička, iz katerega se plačajo dividende), dovolí kot znižanje kakršnega koli irskega davka, izračunanega za isti dobiček, dohodek ali dobiček iz kapitala, za katerega je bil izračunan slovenski davek;
  - b) kadar dividende plača družba, ki je rezident Slovenije, družbi, ki je rezident Irske in neposredno ali posredno nadzira najmanj 10 odstotkov glasovalnih pravic v družbi, ki dividende plačuje, se za znižanje upošteva slovenski davek, ki ga družba plača od dobička, iz katerega se plačajo dividende (poleg kakršnega koli slovenskega davka, ki se odbije v skladu z določbami pododstavka a)).
3. Za namene prvega in drugega odstavka se šteje, da so bili dobiček, dohodek in dobiček iz kapitala v lasti rezidenta države pogodbenice, ki se v skladu s to konvencijo lahko obdavčijo v drugi državi pogodbenici, doseženi iz virov v tej drugi državi pogodbenici.
4. Kadar je v skladu s katero koli določbo te konvencije dohodek, ki ga dobi rezident države pogodbenice, oproščen davka v tej državi, lahko ta država pri izračunu davka od preostalega dohodka takega rezidenta vseeno upošteva oproščeni dohodek.
5. Kadar je v skladu s katero koli določbo te konvencije dohodek ali dobiček iz kapitala v celoti ali delno oproščen davka v državi pogodbenici in po veljavni zakonodaji druge države pogodbenice, se v zvezi s tem dohodkom ali dobičkom iz kapitala posameznik lahko obdavči za znesek, ki je bil nakazan ali prejet v tej drugi državi, in ne za celotni znesek; olajšava, ki je po tej konvenciji dovoljena v prvi omenjeni državi, velja samo za takšen znesek dohodka ali dobička iz kapitala, kot je bil nakazan ali prejet v tej drugi državi.

**24. člen**

**ENAKO OBRAVNAVANJE**

1. Državljeni države pogodbenice ne smejo biti v drugi državi pogodbenici zavezani kakršnemu koli obdavčevanju ali kakršni koli zahtevi v zvezi s tem, ki je drugačna ali bolj obremenjujoča, kot so ali so lahko obdavčevanje in s tem povezane zahteve za državljane te druge države v enakih okoliščinah, še zlasti glede rezidentstva. Ta določba se ne glede na določbe 1. člena uporablja tudi za osebe, ki niso rezidenti ene ali obeh držav pogodbenic.
2. Obdavčevanje stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, ne sme biti manj ugodno v tej drugi državi, kot je obdavčevanje podjetij te druge države, ki opravljajo enake dejavnosti. Ta določba se ne razlaga, kot da zavezuje državo pogodbenico, da prizna rezidentom druge države pogodbenice kakršne koli osebne olajšave, druge olajšave in znižanja za davčne namene zaradi osebnega stanja ali družinskih obveznosti, ki jih priznava svojim rezidentom.
3. Razen kadar se uporabljajo določbe prvega odstavka 9. člena, sedmega odstavka 11. člena ali šestega odstavka 12. člena, se obresti, licenčnine in avtorski honorarji ter druga izplačila, ki jih plača podjetje države pogodbenice rezidentu druge države pogodbenice, pri določanju obdavčljivega dobička takega podjetja odbijejo pod istimi pogoji, kot če bi bili plačani rezidentu prve omenjene države.
4. Podjetja države pogodbenice, katerih kapital je v celoti ali delno, neposredno ali posredno v lasti ali pod nadzorom enega ali več rezidentov druge države pogodbenice, ne smejo biti v prvi omenjeni državi zavezana kakršnemu koli obdavčevanju ali kakršni koli zahtevi v zvezi s tem, ki je drugačna ali bolj obremenjujoča, kot so ali so lahko obdavčevanje in s tem povezane zahteve do drugih podobnih podjetij prve omenjene države.
5. Določbe tega člena se uporabljajo samo za davke iz te konvencije.

**25. člen****POSTOPEK SKUPNEGA DOGOVORA**

1. Kadar oseba meni, da imajo ali bodo imela dejanja ene ali obeh držav pogodbenic zanjo za posledico obdavčevanje, ki ni v skladu z določbami te konvencije, lahko ne glede na sredstva, ki ji jih omogoča domača zakonodaja teh držav, predloži zadevo pristojnemu organu države pogodbenice, katere rezident je, ali če se njen primer nanaša na prvi odstavek 24. člena, tiste države pogodbenice, katere državljan je. Zadeva mora biti predložena v treh letih od prvega uradnega obvestila o dejanju, ki je imelo za posledico obdavčevanje, ki ni v skladu z določbami konvencije.
2. Pristojni organ si, če se mu zdi pritožba upravičena in če sam ne more priti do zadovoljive rešitve, prizadeva rešiti primer s skupnim dogovorom s pristojnim organom druge države pogodbenice z namenom izogniti se obdavčevanju, ki ni v skladu s konvencijo. Vsak dosežen dogovor se izvaja ne glede na roke v domači zakonodaji držav pogodbenic.
3. Pristojna organa držav pogodbenic si prizadevata s skupnim dogovorom razrešiti kakršne koli težave ali dvome, ki nastanejo pri razlagi ali uporabi konvencije. Prav tako se lahko med seboj posvetujeta o odpravi dvojnega obdavčevanja v primerih, ki jih konvencija ne predvideva.
4. Pristojna organa držav pogodbenic lahko neposredno komunicirata med seboj, da bi dosegla dogovor v smislu prejšnjih odstavkov.

**26. člen****IZMENJAVA INFORMACIJ**

1. Pristojna organa držav pogodbenic si izmenjavata take informacije, ki so potrebne za izvajanje določb te konvencije ali notranje zakonodaje držav pogodbenic glede davkov, za katere se uporablja ta konvencija, kolikor obdavčevanje na njihovi podlagi ni v nasprotju s konvencijo. Izmenjava informacij ni omejena s 1. členom. Vsaka informacija, ki jo prejme država pogodbenice, se obravnava kot tajnost na isti način kot informacije, pridobljene po notranji zakonodaji te države, in se razkrije samo osebam ali organom (vključno s sodišči in upravnimi organi), udeleženim pri odmeri ali pobiranju, izterjavi ali pregonu ali pri odločanju o pritožbah glede davkov, za katere se uporablja konvencija. Te osebe ali organi uporabljajo informacije samo v te namene. Informacije lahko razkrijejo na sodnih obravnavah ali pri sodnih odločitvah.
2. V nobenem primeru se določbe prvega odstavka ne razlagajo, kot da nalagajo državi pogodbenici obveznost:
  - a) da izvajajo upravne ukrepe, ki niso v skladu z zakonodajo in upravno prakso te ali druge države pogodbenice,
  - b) da priskrbi informacije, ki jih ni mogoče dobiti po zakonski ali običajni upravni poti te ali druge države pogodbenice,
  - c) da priskrbi informacije, ki bi razkrile kakršno koli trgovinsko, poslovno, industrijsko, komercialno ali poklicno skrivnost ali trgovinske postopke, ali informacije, katerih razkritje bi bilo v nasprotju z javnim redom.

**27. člen****ČLANI DIPLOMATSKIH PREDSTAVNIŠTEV IN KONZULATOV**

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

## 28. člen

## ZAČETEK VELJAVNOSTI

1. Vsaka država pogodbenica druga pisno obvesti, da je končan postopek, ki je po njeni zakonodaji potreben za začetek veljavnosti te konvencije.
2. Ta konvencija začne veljati na datum prejema kasnejšega od uradnih obvestil in se nato uporablja:
  - a) v Sloveniji:
    - i) v zvezi z davki, zadržanimi pri viru, za zneske, plačane ali pripisane prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem začne veljati konvencija;
    - ii) v zvezi z drugimi davki od dohodka in dobička iz kapitala za katero koli davčno leto z začetkom prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem začne veljati konvencija;
  - b) na Irskem:
    - i) v zvezi z davki od dohodka in dobička iz kapitala za katero koli leto odmere z začetkom prvi dan januarja ali po njem v letu, ki sledi letu, v katerem začne veljati konvencija;
    - ii) v zvezi z davkom od dobička pravnih oseb za katero koli poslovno leto z začetkom prvi dan januarja ali po njem v letu, ki sledi letu, v katerem začne veljati konvencija.

## 29. člen

## PRENEHANJE VELJAVNOSTI

- Ta konvencija velja, dokler je država pogodbenica ne odpove. Vsaka država pogodbenica lahko konvencijo odpove kadar koli po petih letih od datuma začetka veljavnosti konvencije pod pogojem, da najmanj šest mesecev pred tem po diplomatski poti da obvestilo o odpovedi.
- V takem primeru se ta konvencija preneha uporabljati:
- a) v Sloveniji:
    - i) v zvezi z davki, zadržanimi pri viru, za zneske, plačane ali pripisane prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem potече rok, določen v obvestilu o odpovedi;
    - ii) v zvezi z davki od dohodka in dobička iz kapitala za katero koli davčno leto z začetkom prvi dan januarja ali po njem v koledarskem letu, ki sledi letu, v katerem potече rok, določen v obvestilu o odpovedi;
  - b) na Irskem:
    - i) v zvezi z davki od dohodka in dobička iz kapitala za katero koli leto odmere z začetkom prvi dan januarja ali po njem v letu, ki sledi letu, v katerem potече rok, določen v obvestilu o odpovedi;
    - ii) v zvezi z davkom od dobička pravnih oseb za katero koli poslovno leto z začetkom prvi dan januarja ali po njem v letu, ki sledi letu, v katerem potече rok, določen v obvestilu o odpovedi.
- V DOKAZ NAVEDENEGA sta podpisana, ki sta bila za to pravilno pooblašena, podpisala to konvencijo.
- Sestavljeni v dveh izvirkih v Ljubljani dne 12. 3. 2002 v slovenskem in angleškem jeziku, pri čemer sta besedili enako vrednotrojni.

Za Vlado Republike Slovenije  
 Darjo Kožančič  
 Za Vlado Irske  
 Cianó Anóndu I. O.

## 3. člen

Za izvajanje konvencije skrbi Ministrstvo za finance.

## 4. člen

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

Št. 432-01/02-24/1

Ljubljana, dne 25. oktobra 2002

Predsednik  
 Državnega zbora  
 Republike Slovenije  
 Borut Pahor l. r.