

SPORAZUM
V OBLIKI IZMENJAVE PISEM
O OBDAVČEVANJU DOHODKA OD PRIHRANKOV

Pismo Republike Slovenije

Spoštovani!

Sklicujem se na besedilo predlaganega modela "Sporazuma o obdavčevanju dohodka od prihrankov med [Otoki Turks in Caicos)] ter [državo članico EU, ki uporablja avtomatično izmenjavo podatkov]", ki ga je potrdila Skupina na visoki ravni (Obdavčitev prihrankov) Sveta ministrov Evropske unije dne 22. junija 2004.

V zvezi z zgoraj omenjenim besedilom, mi je v čast

- da vam lahko predložim Sporazum o obdavčevanju dohodka od prihrankov v Dodatku 1 tega pisma;
- predlagam, da se navedeni Sporazum začne uporabljati od datuma začetka uporabe Direktive Sveta 2003/48/ES z dne 3. junija 2003 o obdavčevanju dohodka od prihrankov v obliki plačil obresti, ki je odvisen od pogojev, določenih v členu 17(2) Direktive, s tem, da pogodbenici druga drugo obvestita, da so formalnosti, predvidene v njihovih ustavah, za začetek veljavnosti tega Sporazuma zaključene;
- predlagam, da se obe strani zavežeta čimprej opraviti omenjene formalnosti, predvidene v njihovih ustavah, in o zaključku teh formalnosti druga drugo nemudoma uradno obvestita.

V čast mi je, da vam predlagam, če se vaša vlada z navedenim strinja, da to pismo, Dodatek 1 in vaš odgovor nanj, skupaj tvorijo naše obojestransko strinjanje in sprejetje Sporazuma med Republiko Slovenijo ter Otoki Turks in Caicos.

Prosim, sprejmite izraze našega najglobljega spoštovanja.

Za Vlado Republike Slovenije
dr. Dušan Mramor, l.r., minister za finance

Sestavljeno v Ljubljani, dne 29. novembra 2004, v slovenskem in angleškem jeziku, v treh izvornikih.

Odgovor Otokov Turks in Caicos

Spoštovani!

V čast mi je potrditi prejem vašega pisma z dne 29. novembra 2004, v katerem je zapisano:

"Spoštovani!

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Potrdim lahko, da se Vlada Otokov Turks in Caicos strinja z vsebino vašega pisma z dne 29. novembra 2004.

Prosim, sprejmite izraze mojega najglobljega spoštovanja,

Za Vlado Otokov Turks in Caicos
James Poston, l.r.

Sestavljeno v Grand Turku, dne 16. decembra 2004 v slovenskem in angleškem jeziku, v treh izvornikih.

SPORAZUM O OBDAVČEVANJU DOHODKA OD PRIHRANKOV MED OTOKI TURKS
IN CAICOS
TER REPUBLIKO SLOVENIJO

OB UPOŠTEVANJU NASLEDNJEGA:

1. Člen 17 Direktive 2003/48/EGS ("Direktiva") Sveta Evropske unije ("Svet") o obdavčevanju dohodka od prihrankov predvideva, da države članice do 1. januarja 2004 sprejmejo in objavijo zakone in druge predpise, potrebne za uskladitev s to direktivo, katere določbe se uporabljajo od 1. januarja 2005, pod pogojem, da:
 - "(i) Švicarska konfederacija, Kneževina Lihtenštajn, Republika San Marino, Kneževina Monako in Kneževina Andora z istim dnem uporabljajo ukrepe, ki so enakovredni ukrepom iz te direktive, skladno s sporazumi, ki jih te države sklenejo z Evropsko skupnostjo na podlagi soglasne odločitve Sveta;
 - (ii) so v veljavi vsi sporazumi ali drugi dogovori, ki zagotavljajo, da vsa odvisna ali pridružena ozemlja z istim dnem uporabljajo avtomatično izmenjavo podatkov na enak način, kot je določeno v poglavju II te direktive, (ali v prehodnem obdobju, ki ga določa člen 10, uporabljajo davčni odtegljaj pod enakimi pogoji, kot jih vsebujeta člena 11 in 12)".
2. Otoki Turks in Caicos ugotavljajo, da v skladu z odločitvijo Ekonomsko-finančnega sveta z dne 3. junija 2003, med prehodnim obdobjem iz člena 10 direktive, Svet poziva Komisijo, da začne dogovarjanja z drugimi pomembnimi finančnimi centri z namenom zagotoviti, da bi te jurisdikcije sprejele ukrepe, ki so enaki ukrepom v direktivi.
3. Odnose med Otoki Turks in Caicos ter EU ureja del 4 Pogodbe o ustanovitvi Evropske skupnosti. Otoki Turks in Caicos niso del davčnega območja EU.
4. Otoki Turks in Caicos ugotavljajo, da je sicer končni cilj držav članic EU omogočiti učinkovito obdavčevanje plačil obresti v državi članici, katere rezident je upravičeni lastnik

za davčne namene, z izmenjavo podatkov o plačilih obresti med državami članicami, da pa trem državam članicam, in sicer Avstriji, Belgiji in Luksemburgu, v prehodnem obdobju ni treba uporabljati izmenjave podatkov, temveč morajo uvesti davčni odtegljaj za dohodek od prihrankov, zajet v Direktivi.

5. "Davčni odtegljaj " iz Direktive bo v domači zakonodaji Otokov Turks in Caicos označen kot "retencijski davek". Za namene tega sporazuma se zato oba termina pišeta skupaj kot "davčni odtegljaj /retencijski davek" in imata enak pomen.
6. Otoki Turks in Caicos so privolili v uporabo retencijskega davka, skladno s sporazumi, sklenjenimi z državami članicami, z učinkom od 1. januarja 2005, pod pogojem, da države članice sprejmejo zakone in druge predpise, potrebne za uskladitev z Direktivo, in pod pogojem, da so na splošno izpolnjene zahteve člena 17 Direktive.
7. Otoki Turks in Caicos so privolili v uporabo avtomatične izmenjave podatkov, skladno s sporazumi, sklenjenimi z državami članicami, na enak način, kot je predviden v poglavju II Direktive, od konca prehodnega obdobja, določenega v členu 10(2) Direktive.
8. Otoki Turks in Caicos razpolagajo z zakonodajo o kolektivnih naložbenih podjetjih, za katero se šteje, da ima enak učinek kakor zakonodaja ES iz členov 2 in 6 Direktive.

Otoki Turks in Caicos ter Republika Slovenija, v nadaljevanju "pogodbenica" ali "pogodbenici", razen če sobesedilo ne zahteva drugače,

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

- a) avtomatično izmenjavo podatkov pristojnega organa Republike Slovenije pristojnemu organu Otokov Turks in Caicos na enak način kot pristojnemu organu države članice;
- b) uporabo retencijskega davka s strani Otokov Turks in Caicos v prehodnem obdobju, določenem v členu 10 Direktive, od enakega datuma in pod enakimi pogoji, kot so določeni v členih 11 in 12 te Direktive;
- c) avtomatično izmenjavo podatkov pristojnega organa Otokov Turks in Caicos pristojnemu organu Republike Slovenije v skladu s členom 13 Direktive;
- d) prenos 75 % prihodka od retencijskega davka s strani pristojnega organa Otokov Turks

in Caicos pristojnemu organu Republike Slovenije;

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

Za namene tega sporazuma pomeni izraz 'pristojni organ', kadar se uporablja za pogodbenici, Ministrstvo za finance Republike Slovenije ali pooblaščenega predstavnika tega ministrstva, ko gre za Republiko Slovenijo, in Komisijo za finančne storitve, ko gre za Otoke Turks in Caicos.

Člen 1 Zadržanje davka s strani plačilnih zastopnikov

Plačila obresti v smislu člena 8 tega sporazuma, ki jih opravijo plačilni zastopniki, ustanovljeni na Otokih Turks in Caicos, upravičenim lastnikom v smislu člena 5 tega sporazuma, ki so rezidenti Republike Slovenije, so ob upoštevanju člena 3 tega sporazuma predmet retencijskega davka od zneska plačila obresti v prehodnem obdobju iz člena 14 tega sporazuma od datuma, predvidenega v členu 15 tega sporazuma. Stopnja retencijskega davka v prvih treh letih prehodnega obdobja znaša 15 %, v naslednjih treh letih 20 % in nato 35 %.

Člen 2 Podatki, ki jih poročajo plačilni zastopniki

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

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

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

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

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

Člen 3 Izjeme pri postopku retencije davka

- (1) Otoki Turks in Caicos, ki pobirajo retencijski davek v skladu s členom 1 tega sporazuma, predpišejo enega ali oba izmed naslednjih postopkov, po katerih lahko upravičeni lastnik zahteva, da se davek ne odtegne:
 - (a) postopek, ki omogoča, da se upravičeni lastnik, kot ga opredeljuje člen 5 tega sporazuma, izogne retencijskemu davku v skladu s členom 1 tega sporazuma z izrecnim pooblastilom plačilnemu zastopniku za poročanje plačil obresti pristojnemu organu pogodbenice, v kateri je plačilni zastopnik ustanovljen. Tako pooblastilo zajema vsa plačila obresti, ki jih upravičenemu lastniku opravi ta plačilni zastopnik;
 - (b) postopek, ki zagotavlja, da se retencijski davek ne odtegne, če upravičeni lastnik plačilnemu zastopniku predloži potrdilo, ki se glasi na njegovo ime in ga je izdal pristojni organ pogodbenice, katere rezident je upravičeni lastnik za davčne namene, v skladu z odstavkom 2 tega člena.
- (2) Na zahtevo upravičenega lastnika pristojni organ pogodbenice, katere rezident je za davčne namene, izda potrdilo, ki vsebuje:
 - (i) ime, naslov in davčno ali drugo identifikacijsko številko ali, če takšna številka ne obstaja, datum in kraj rojstva upravičenega lastnika;
 - (ii) naziv in naslov plačilnega zastopnika;

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

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

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

Člen 4 Osnova za odmero retencijskega davka

- (1) Plačilni zastopnik, ustanovljen na Otokih Turks in Caicos, pobira retencijski davek v skladu s členom 1 tega sporazuma na naslednji način:
 - (a) v primeru plačila obresti v smislu člena 8(1)(a) tega sporazuma: od bruto zneska plačanih ali pripisanih obresti;
 - (b) v primeru plačila obresti v smislu člena 8(1)(b) ali (d) tega sporazuma: od zneska obresti ali dohodka iz točke (b) ali (d) tega pododstavka ali z enakovredno dajatvijo na skupni znesek prihodkov od prodaje, odkupa ali povračila, ki bremeni prejemnika;
 - (c) v primeru plačila obresti v smislu člena 8(1)(c) tega sporazuma: od zneska obresti iz navedenega pododstavka;
 - (d) v primeru plačila obresti v smislu člena 8(4) tega sporazuma: od zneska obresti, pripisanih vsakemu članu subjekta iz člena 7(2) tega sporazuma, ki izpolnjujejo pogoje iz členov 5(1) tega sporazuma;
 - (e) če Otoki Turks in Caicos izkoristijo možnost iz člena 8(5) tega sporazuma: od zneska letno obračunanih obresti.

- (2) Za namene točke (a) in (b) odstavka (1) tega člena se retencijski davek pobira sorazmerno dolžini obdobja, v katerem je upravičeni lastnik imel dolžniško terjatev. Kadar plačilni zastopnik na podlagi podatkov, ki jih ima na voljo, ne more ugotoviti dolžine obdobja, v katerem je upravičeni lastnik imel terjatev, šteje, da je upravičeni lastnik imel terjatev ves čas njenega obstoja, razen če upravičeni lastnik ne predloži dokazila o datumu pridobitve terjatve.
- (3) Obdavčenje z retencijskim davkom na Otokih Turks in Caicos drugi pogodbenici, katere rezident je upravičeni lastnik za davčne namene, ne preprečuje obdavčevanja dohodka v skladu z njeno nacionalno zakonodajo.
- (4) V prehodnem obdobju lahko Otoki Turks in Caicos določijo, da se nosilec gospodarske dejavnosti, ki plača obresti ali zagotovi obresti za subjekt iz člena 7(2) tega sporazuma v drugi pogodbenici, šteje za plačilnega zastopnika namesto subjekta in pobira retencijski davek od teh obresti, razen če se subjekt ni uradno strinjal, da se podatki o njegovem nazivu, naslovu in skupnem znesku plačanih ali zagotovljenih obresti sporočijo v skladu z zadnjim odstavkom člena 7(2) tega sporazuma.

Člen 5 Opredelitev upravičenega lastnika

- (1) V tem sporazumu "upravičeni lastnik" pomeni vsakega posameznika, ki prejme plačilo obresti ali posameznika, za katerega se zagotovi plačilo obresti, razen če predloži dokazilo, da obresti ni prejel v lastno korist ali da niso bile zagotovljene v njegovo korist. Posameznik se ne šteje za upravičenega lastnika, če:
 - (a) deluje kot plačilni zastopnik v smislu člena 7(1) tega sporazuma;
 - (b) deluje v imenu pravne osebe, subjekta, katerega dobiček se obdavčuje po splošni ureditvi za podjetniško obdavčitev, KNPVP, priznanega v skladu z Direktivo 85/611/EGS, ali enakovrednega kolektivnega naložbenega podjetja ustanovljenega na Otokih Turks in Caicos, ali v imenu subjekta iz člena 7(2) tega sporazuma, pri čemer v zadnjem primeru naziv in naslov subjekta razkrije nosilcu gospodarske dejavnosti, ki izvrši plačilo obresti, ta pa te podatke sporoči pristojnemu organu države članice, v kateri je ustanovljen;

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

Člen 6 Identiteta in rezidentstvo upravičenih lastnikov

- (1) Vsaka pogodbenica na svojem ozemlju sprejme in zagotovi uporabo potrebnih postopkov, ki plačilnemu zastopniku omogočajo identificirati upravičene lastnike in njihovo rezidentstvo za namene tega sporazuma. Takšni postopki so v skladu z minimalnimi standardi, določenimi v odstavkih (2) in (3).
- (2) Plačilni zastopnik ugotavlja identiteto upravičenega lastnika na podlagi minimalnih standardov, ki se razlikujejo glede na to, kdaj se vzpostavi razmerje med plačilnim zastopnikom in prejemnikom obresti, na naslednji način:
- (a) pri pogodbenih razmerjih, ki so bila sklenjena pred 1. januarjem 2004, plačilni zastopnik ugotavlja identiteto upravičenega lastnika, ki jo sestavljata njegovo ime in naslov, iz podatkov, ki jih ima na voljo, zlasti v skladu z veljavnimi predpisi države, v kateri je ustanovljen ter v skladu z Direktivo Sveta 91/308/EGS z dne 10. junija 1991 v primeru Republike Slovenije ali v skladu z ustreznimi določbami zakonodaje Otokov Turks in Caicos o preprečevanju uporabe finančnega sistema za pranje denarja v primeru Otokov Turks in Caicos;
 - (b) pri pogodbenih razmerjih, ki so bila sklenjena, ali pri transakcijah, ki so bile opravljene brez pogodbenega razmerja na dan 1. januarja 2004 ali po njem, plačilni zastopnik ugotavlja identiteto upravičenega lastnika, ki jo sestavljajo njegovo ime, naslov in morebitna davčna identifikacijska številka, ki mu jo je dodelila država članica, katere rezident je za davčne namene. Ti podatki se ugotavljajo na podlagi potnega lista ali uradne osebne izkaznice, ki jo predloži upravičeni lastnik. Če v potnem listu ali na

uradni osebni izkaznici ni naslova, se ta ugotavlja na podlagi katerega koli drugega dokazila o identiteti, ki ga predloži upravičeni lastnik. Če na potnem listu, na uradni osebni izkaznici ali na katerem koli drugem dokazilu o identiteti, po možnosti vključno s potrdilom o rezidentstvu za davčne namene, ki ga predloži upravičeni lastnik, davčna identifikacijska številka ni navedena, se identiteta dopolni z datumom in krajem rojstva upravičenega lastnika, ki se ugotovi iz potnega lista ali uradne osebne izkaznice.

- (3) Plačilni zastopnik ugotavlja rezidentstvo upravičenega lastnika na podlagi minimalnih standardov, ki se razlikujejo glede na to, kdaj se vzpostavi razmerje med plačilnim zastopnikom in prejemnikom obresti. Ob upoštevanju spodaj navedenih pogojev se šteje, da je rezidentstvo v državi, v kateri ima upravičeni lastnik stalni naslov:
- (a) pri pogodbenih razmerjih, ki so bila sklenjena pred 1. januarjem 2004, plačilni zastopnik ugotavlja rezidentstvo upravičenega lastnika iz podatkov, ki jih ima na voljo, zlasti v skladu z veljavnimi predpisi države, v kateri je ustanovljen, in z Direktivo 91/308/EGS v primeru Republike Slovenije ali v skladu z ustreznimi določbami zakonodaje Otokov Turks in Caicos o preprečevanju uporabe finančnega sistema za pranje denarja v primeru Otokov Turks in Caicos;
 - (b) pri pogodbenih razmerjih, ki so bila sklenjena, ali pri transakcijah, ki so bile opravljene brez pogodbenega razmerja, na dan 1. januarja 2004 ali po njem, plačilni zastopnik ugotavlja rezidentstvo upravičenega lastnika na podlagi naslova, navedenega v potnem listu, na uradni osebni izkaznici ali, po potrebi, na podlagi drugega dokumentarnega dokazila o identiteti, ki ga predloži upravičeni lastnik, in skladno z naslednjim postopkom: pri posameznikih, ki predložijo potni list ali uradno osebno izkaznico, ki jo je izdala država članica, in ki izjavijo, da so rezidenti tretje države, se rezidentstvo ugotavlja na podlagi potrdila o davčnem rezidentstvu, ki ga izda pristojni organ tretje države, za katero posameznik trdi, da je njen rezident. Če posameznik takšnega potrdila ne predloži, se za državo rezidentstva šteje država članica, ki je izdala potni list ali drug uradni osebni dokument.

Člen 7 Opredelitev plačilnega zastopnika

- (1) V tem sporazumu "plačilni zastopnik" pomeni vsakega nosilca gospodarske dejavnosti, ki

plača ali zagotovi plačilo obresti v neposredno korist upravičenega lastnika, bodisi da je nosilec dolžnik terjatve, za katero se plačajo obresti, ali nosilec, ki po nalogu dolžnika ali upravičenega lastnika plača ali zagotovi plačilo obresti.

- (2) Vsak subjekt, ki je ustanovljen v pogodbenici, kateremu se plačajo obresti ali zagotovi plačilo obresti v korist upravičenega lastnika, se ob takem plačilu ali ob zagotovitvi takega plačila šteje za plačilnega zastopnika. Ta določba se ne uporablja, če nosilec gospodarske dejavnosti na podlagi uradnih dokazil, ki jih ta subjekt predloži, utemeljeno domneva, da:
 - (a) je subjekt pravna oseba, z izjemo pravnih oseb iz odstavka (5) tega člena; ali
 - (b) so dobički subjekta obdavčeni po splošni ureditvi za podjetniško obdavčitev; ali
 - (c) je subjekt KNPVP, priznan v skladu z Direktivo 85/611/EGS Sveta ali enakovreden kolektivni naložbeni podjem, ustanovljen na Otokih Turks in Caicos.

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

- (3) Vendar ima subjekt iz odstavka (2) tega člena možnost, da se ga za namene tega sporazuma obravnava kot KNPVP ali enakovreden podjem iz odstavka (2)(c). To možnost lahko subjekt izkoristi tako, da nosilcu gospodarske dejavnosti predloži potrdilo, ki ga izda pogodbenica, v kateri je subjekt ustanovljen. Pogodbenica določi podrobna pravila glede te možnosti za subjekte, ki so ustanovljeni na njenem ozemlju.
- (4) Kadar sta nosilec gospodarske dejavnosti in subjekt iz odstavka (2) tega člena ustanovljena v isti pogodbenici, ta pogodbenica sprejme potrebne ukrepe, s katerimi zagotovi, da subjekt izpolnjuje vsa določila tega sporazuma, kadar deluje kot plačilni zastopnik.
- (5) Pravne osebe, izvzete iz odstavka (2)(a) tega člena so:
 - (a) na Finskem: avoin yhtiö (Ay) in kommandiittiyhtiö (Ky)/öppet bolag in

kommanditbolag;

- (b) na Švedskem: handelsbolag (HB) in kommanditbolag (KB).

Člen 8 Opredelitev plačila obresti

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

- (a) obresti, ki se plačajo ali pripišejo na račun in se nanašajo na dolžniške terjatve vseh vrst ne glede na to, ali so zavarovane s hipoteko, in ne glede na to, ali imajo pravico do udeležbe v dolžnikovem dobičku, in še posebej dohodek od državnih vrednostnih papirjev ter dohodek iz obveznic ali zadolžnic, vključno s premijami in nagradami od takih vrednostnih papirjev, obveznic ali zadolžnic, pri čemer so izključene obresti od posojil med fizičnimi osebami, ki ne nastopajo v teku svojega poslovanja; kazni zaradi zamude pri plačilu se ne štejejo za plačilo obresti;
- (b) obračunane ali h glavnici pripisane obresti pri prodaji, povračilu ali odkupu dolžniških terjatev iz (a);
- (c) dohodek, ki bodisi neposredno ali posredno preko subjekta iz člena 7(2) tega sporazuma izvira iz plačila obresti in ki ga razdelijo:
 - (i) KNPVP, priznan v skladu z ES Direktivo 85/611/EGS Sveta;
 - (ii) enakovreden kolektivni naložbeni podjem, ustanovljen na Otokih Turks in Caicos;
 - (iii) subjekti, ki izpolnjujejo pogoje za možnost iz člena 7(3) tega sporazuma; ali
 - (iv) kolektivni naložbeni podjem, ustanovljen zunaj ozemlja, na katerega se nanaša Pogodba o ustanovitvi Evropske skupnosti na podlagi člena 229 te pogodbe in zunaj Otokov Turks in Caicos;
- (d) dohodek, dosežen s prodajo, povračilom ali odkupom delnic ali enot v naslednjih podjetjih in subjektih, če ti neposredno ali posredno prek drugih kolektivnih naložbenih

podjemov ali subjektov, ki so navedeni spodaj, naložijo več kot 40 % svojih sredstev v dolžniške terjatve iz (a):

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

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

- (2) Glede odstavkov (1)(c) in (d) tega člena, kadar plačilni zastopnik nima podatkov o deležu dohodka, ki izvira iz plačil obresti, se celoten znesek dohodka šteje za plačilo obresti.
- (3) Glede odstavka (1)(d) tega člena, kadar plačilni zastopnik nima podatkov o odstotku sredstev, ki so bila naložena v dolžniške terjatve ali v delnice ali enote, kot določa navedeni odstavek, se šteje, da ta odstotek presega 40 %. Kadar plačilni zastopnik ne more določiti zneska dohodka upravičenega lastnika, se šteje, da je dohodek enak prihodku od prodaje, povračila ali odkupa delnic ali enot.
- (4) Kadar se obresti, kot jih opredeljuje odstavek (1) tega člena, plačajo ali pripišejo na račun subjekta iz člena 7(2) tega sporazuma, pri čemer ta subjekt ne izpolnjuje pogojev za možnost po členu 7(3) tega sporazuma, se take obresti štejejo za plačilo obresti takega subjekta.
- (5) Glede odstavkov (1)(b) in (d) tega člena ima pogodbenica možnost, da od plačilnih zastopnikov na svojem ozemlju zahteva obračun obresti v obdobju, ki ne sme presegati eno leto, ter da tako obračunane obresti obravnavajo kot plačilo obresti, četudi v tem obdobju ne pride do prodaje, odkupa ali povračila.

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

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

- (7) Od 1. januarja 2011 bo odstotek iz odstavka (1)(d) tega člena in odstavka (3) tega člena znašal 25 %.
- (8) Odstotki iz odstavka (1)(d) tega člena in odstavka (6) tega člena se določajo glede na naložbeno politiko kot jo določajo pravila sklada ali ustanovna listina zadevnih podjetij ali subjektov, ali, če teh ni, glede na dejansko sestavo sredstev zadevnih podjetij ali subjektov.

Člen 9 Delitev prihodkov iz retencijskega davka

- (1) Otoki Turks in Caicos zadržijo 25 % retencijskega davka, odbitega po določilih tega sporazuma, preostalih 75 % prihodkov pa prenesejo na drugo pogodbenico.
- (2) Otoki Turks in Caicos, ki pobirajo retencijski davek v skladu s členom 4(4) tega sporazuma, zadržijo 25 % prihodkov in prenesejo 75 % Republiki Sloveniji, sorazmerno s prenosi, izvedenimi v skladu z odstavkom (1) tega člena.
- (3) Taki prenosi se izvršijo za vsako leto v enem obroku, najkasneje v obdobju šestih mesecev po zaključku davčnega leta, določenega z zakoni Otokov Turks in Caicos.
- (4) Otoki Turks in Caicos pri pobiranju retencijskega davka sprejmejo potrebne ukrepe, s katerimi zagotovijo pravilno delovanje sistema delitve prihodkov.

Člen 10 Odprava dvojnega obdavčevanja

- (1) Pogodbenica, katere rezident je upravičeni lastnik za davčne namene, zagotovi odpravo vsakršnega dvojnega obdavčevanja, ki bi lahko bilo posledica uvedbe retencijskega davka iz tega sporazuma s strani Otokov Turks in Caicos, v skladu z naslednjimi določbami:
 - (i) če je bil od obresti, ki jih je prejel upravičeni lastnik, odtegnjen retencijski davek na Otokih Turks in Caicos, mu druga pogodbenica v skladu s svojo nacionalno zakonodajo prizna davčni odbitek v znesku, enakem višini odtegnjenega davka. Kadar ta znesek presega znesek davčne obveznosti v skladu z njeno nacionalno zakonodajo, druga pogodbenica upravičenemu lastniku povrne presežni znesek odtegnjenega davka;
 - (ii) če je bil od obresti, ki jih je prejel upravičeni lastnik, poleg retencijskega davka iz člena 4 tega sporazuma, odtegnjen kakršen koli drug davčni odtegljaj/retencijski davek, in pogodbenica, v kateri je upravičeni lastnik rezident za davčne namene, v skladu s svojo nacionalno zakonodajo ali konvencijami o dvojnem obdavčevanju zagotavlja davčni odbitek za takšen davčni odtegljaj/retencijski davek, se takšen davčni odtegljaj/retencijski davek odbije pred uporabo postopka iz pododstavka (i) tega člena.
- (2) Pogodbenica, katere rezident je upravičeni lastnik za davčne namene, lahko mehanizem davčnega odbitka iz odstavka (1) tega člena nadomesti z vračilom retencijskega davka iz člena 1 tega sporazuma.

Člen 11 Prehodne določbe o prenosljivih dolžniških vrednostnih papirjih

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

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

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

Kadar je prišlo do nadaljnje izdaje prej omenjenega prenosljivega dolžniškega vrednostnega papirja, ki ga je izdal kateri koli drug izdajatelj, ki ni zajet v drugem pododstavku, na dan 1. marca 2002 ali po njem, se takšna nadaljnja izdaja šteje za dolžniško terjatev v smislu člena 8(1)(a) tega sporazuma.

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

Člen 12 Postopek medsebojnega dogovora

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

Člen 13 Zaupnost

- (1) Vse informacije, ki jih pristojni organi pogodbenice posredujejo in prejmejo, se obravnavajo kot zaupne. Načelo zaupnosti je bistveno za pravilno izvajanje in stalnost tega sporazuma.
- (2) Informacije, ki jih prejmejo pristojni organi pogodbenice, se brez predhodnega pisnega

soglasja druge pogodbenice ne smejo uporabiti za noben drug namen razen neposrednega obdavčevanja.

- (3) Prejete informacije se lahko razkrijejo le osebam ali organom oblasti, ki se ukvarjajo z neposrednim obdavčevanjem; te osebe ali organi oblasti jih lahko uporabijo le v ta namen ali v namen pregleda nad delovanjem, vključno z reševanjem pritožb. V te namene se informacije lahko razkrijejo v sodnih postopkih ali pri sodnih odločitvah.
- (4) Kadar pristojni organ pogodbenice meni, da so informacije, ki jih je prejel od pristojnega organa druge pogodbenice, uporabne za pristojni organ druge države članice, jih temu pristojnemu organu lahko posreduje ob dogovoru s pristojnim organom, ki je informacije priskrbel.

Člen 14 Prehodno obdobje

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

Člen 15 Začetek veljavnosti

- (1) Ta sporazum začne veljati trideset dni po datumu prejema poznejšega od pisnih obvestil, s katerima sta vladi uradno obvestili druga drugo, da so formalnosti, predvidene v njunih ustavah, zaključene, njegove določbe pa se uporabljajo od datuma, ko se prične uporabljati Direktiva skladno z odstavkoma 2 in 3 člena 17 Direktive.
- (2) Člen 2 tega sporazuma ne velja v Republiki Sloveniji, če na Otokih Turks in Caicos ni neposrednega obdavčevanja.

Člen 16 Prenehanje veljavnosti

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

Člen 17 Uporaba in ustavitev uporabe

- (1) Ta sporazum se lahko uporablja pod pogojem, da vse države članice Evropske unije, Združene države Amerike, Švica, Andora, Lihtenštajn, Monako in San Marino in vsa odvisna in pridružena ozemlja držav članic Evropske skupnosti sprejmejo in izvajajo ukrepe, ki so skladni ali enaki ukrepom v Direktivi ali v tem sporazumu in predvidevajo enake datume začetka izvajanja.
- (2) V primeru, da se direktiva začasno ali stalno ne more več uporabljati v skladu s pravom Evropske skupnosti ali v primeru, da država članica ustavi uporabo svojih izvedbenih predpisov, lahko katera koli pogodbenica, ob upoštevanju postopka medsebojnega dogovora iz člena 12 tega sporazuma, z uradnim obvestilom s takojšnjim učinkom drugi pogodbenici ustavi uporabo tega sporazuma ali delov tega sporazuma in v takem uradnem obvestilu opredeli okoliščine, ki so pripeljale do takega obvestila. Sporazum se ponovno uporablja takoj, ko so odpravljene okoliščine, ki so pripeljale do ustavitve njegove uporabe.
- (3) V primeru, da ena od tretjih držav ali ozemelj iz poglavja (1) preneha uporabljati ukrepe iz omenjenega odstavka, lahko katera koli pogodbenica, ob upoštevanju postopka medsebojnega dogovora iz člena 12 tega sporazuma, z uradnim obvestilom drugi pogodbenici odloži uporabo tega sporazuma in v takem uradnem obvestilu opredeli okoliščine, ki so pripeljale do takega obvestila. Odložitev uporabe se ne začne izvajati pred potekom dveh mesecev od takega uradnega obvestila. Uporaba sporazuma se nadaljuje takoj, ko zadevna tretja država ali ozemlje obnovi uporabo ukrepov.

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

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

Za Vlado Otokov Turks in Caicos
James Poston, l.r., CBE, Governor

Za Vlado Republike Slovenije
dr. Dušan Mramor, l.r., minister za finance

Priloga

Seznam povezanih subjektov

Za namene člena 11 se za "povezan subjekt, ki deluje kot organ oblasti ali katerega vlog priznava mednarodna pogodba" štejejo naslednji subjekti:

SUBJEKTI V EVROPSKI UNIJI:

Belgija

- Vlaams Gewest (Flamska regija)
- Région wallonne (Valonska regija)
- Région bruxelloise/Brussels Gewest (Bruseljska regija)
- Communauté française (Francoska skupnost)
- Vlaamse Gemeenschap (Flamska skupnost)
- Deutschsprachige Gemeinschaft (Nemško govoreča skupnost)

Španija

- Xunta de Galicia (Reginalni zakonodajni svet Galicije)
- Junta de Andalucía (Regionalni zakonodajni svet Andaluzije)
- Junta de Extremadura (Regionalni zakonodajni svet Extremadure)
- Junta de Castilla-La Mancha (Regionalni zakonodajni svet Castille-La Mancha)
- Junta de Castilla-León (Regionalni zakonodajni svet Castille-León)
- Gobierno Foral de Navarra (Regionalna vlada Navarre)
- Govern de les Illes Balears (Vlada Balearskih otokov)
- Generalitat de Catalunya (Avtonomna vlada Katalonije)
- Generalitat de Valencia (Avtonomna vlada Valencije)
- Diputación General de Aragón (Regionalni svet Aragona)
- Gobierno de las Islas Canarias (Vlada Kanarskih otokov)
- Gobierno de Murcia (Vlada Murcie)
- Gobierno de Murcia (Vlada Madrida)
- Gobierno de la Comunidad Autónoma del País Vasco/Euzkadi (Vlada avtonomne skupnosti Baskije)
- Diputación Foral de Guipúzcoa (Regionalni svet Guipúzcoe)
- Diputación Foral de Vizcaya/Bizkaia (Regionalni svet Vizcaye)
- Diputación Foral de Alava (Regionalni svet Alave)

- Ayuntamiento de Madrid (Svet mesta Madrid)
- Ayuntamiento de Barcelona (Svet mesta Barcelona)
- Cabildo Insular de Gran Canaria (Otoški svet Gran Canarie)
- Cabildo Insular de Tenerife (Otoški svet Tenerifeja)
- Instituto de Crédito Oficial (Javna kreditna institucija)
- Instituto Catalán de Finanzas (Finančna institucija Katalonije)
- Instituto Valenciano de Finanzas (Finančna institucija Valencije)

Grčija

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

Francija

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

Italija

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

Latvija

- Pašvaldības (lokalne vlade)

Poljska

- gminy (občine)
- powiaty (okraji)
- województwa (vojvodstva)

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

Portugalska

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

Slovaška

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

MEDNARODNI SUBJEKTI:

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

- Karibska razvojna banka

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

SUBJEKTI V TRETJIH DRŽAVAH:

Subjekti, ki izpolnjujejo naslednje pogoje:

- 1) subjekt se po nacionalnih merilih jasno šteje za osebo javnega prava;
- 2) takšna oseba javnega prava je netržni proizvajalec, ki upravlja in financira skupino dejavnosti, predvsem dobavo netržnega blaga in storitev, ki so namenjene v korist skupnosti in ki jih dejansko nadzira država;
- 3) takšna oseba javnega prava je velik in reden izdajatelj dolga;
- 4) zadevna država lahko jamči, da takšna oseba javnega prava v primeru klavzul o obrutenju ne bo izvedla predčasnega odkupa.

AGREEMENT
IN THE FORM OF AN EXCHANGE OF LETTERS
ON THE TAXATION OF SAVINGS INCOME

Letter from the Republic of Slovenia

Sir,

I refer to the text of the proposed model “Agreement on the Taxation of Savings Income between [the Turks and Caicos Islands] and [EU Member State that is to apply automatic exchange of information]” that was approved by the High Level Working Party (Taxation of Savings) of the Council of Ministers of the European Union on 22 June 2004.

In view of the above mentioned text, I have the honour

- to propose to you the Agreement on the taxation of savings income at Appendix 1 to this letter;
- to propose that the said Agreement may come into effect on the date of application of Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments, which date shall be subject to the conditions set out in Article 17(2) of the Directive, subject to the notification to each other that the internal constitutional formalities for the coming into effect of this Agreement are completed;
- to propose our mutual commitment to comply at the earliest date with our said internal constitutional formalities and to notify each other without delay through the formal channels when such formalities are completed.

I have the honour to propose that, if the above is acceptable to your Government, this letter together with its Appendix 1 and your confirmation shall together constitute our mutual acceptance and making of the Agreement between the Republic of Slovenia and the Turks and Caicos Islands.

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

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

Done at Ljubljana, this 29th day of November 2004 in the Slovenian and English languages in three copies.

Reply from the Turks and Caicos Islands

Sir,

I have the honour to acknowledge receipt of your letter of November 29, 2004, which reads as follows:

“Sir,

I refer to the text of the proposed model “Agreement on the Taxation of Savings Income between [the Turks and Caicos Islands] and [EU Member State that is to apply automatic exchange of information]” that was approved by the High Level Working Party (Taxation of Savings) of the Council of Ministers of the European Union on 22 June 2004.

In view of the above mentioned text, I have the honour

- to propose to you the Agreement on the taxation of savings income at Appendix 1 to this letter;
- to propose that the said Agreement may come into effect on the date of application of Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments, which date shall be subject to the conditions set out in Article 17(2) of the Directive, subject to the notification to each other that the internal constitutional formalities for the coming into effect of this Agreement are completed;
- to propose our mutual commitment to comply at the earliest date with our said internal constitutional formalities and to notify each other without delay through the formal channels when such formalities are completed.

I have the honour to propose that, if the above is acceptable to your Government, this letter together with its Appendix 1 and your confirmation shall together constitute our mutual acceptance and making of the Agreement between the Republic of Slovenia and the Turks and Caicos Islands.

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

I am able to confirm that the Government of the Turks and Caicos Islands is in agreement with the contents of your letter dated November 29, 2004.

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

For the Government of Turks and Caicos Islands
James Poston, (s), CBE, Governor

Done at Grand Turk, 16.12.04 in the Slovenian and English languages in three copies.

**AGREEMENT ON THE TAXATION OF SAVINGS INCOME BETWEEN THE TURKS
AND CAICOS ISLANDS
AND THE REPUBLIC OF SLOVENIA**

WHEREAS:

1. Article 17 of Directive 2003/48/EEC (“the Directive”) of the Council of the European Union (“the Council”) on taxation of savings income provides that before 1 January 2004 Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive which provisions shall be applied from 1 January 2005 provided that –
 - “(i) the Swiss Confederation, the Principality of Liechtenstein, the Republic of San Marino, the Principality of Monaco and the Principality of Andorra apply from that same date measures equivalent to those contained in this Directive, in accordance with agreements entered into by them with the European Community, following unanimous decisions of the Council;
 - (ii) all agreements or other arrangements are in place, which provide that all the relevant dependent or associated territories apply from that same date automatic exchange of information in the same manner as is provided for in Chapter II of this Directive, (or, during the transitional period defined in Article 10, apply a retention tax on the same terms as are contained in Articles 11 and 12)”.
2. The Turks and Caicos Islands notes that in accordance with the ECOFIN Council conclusions of 3 June 2003, during the transitional period referred to in Article 10 of the Directive, the Council calls on the Commission to enter into discussions with other important financial centres with a view to providing the adoption by those jurisdictions of measures equivalent to those in the Directive.

3. The relationship of the Turks and Caicos Islands with the EU is determined by part 4 of the Treaty Establishing the European Community. The Turks and Caicos Islands is not within the EU fiscal territory.
4. The Turks and Caicos Islands notes that, while it is the ultimate aim of the EU Member States to bring about effective taxation of interest payments in the beneficial owner's Member State of residence for tax purposes through the exchange of information concerning interest payments between themselves, three Member States, namely Austria, Belgium and Luxembourg, during a transitional period, shall not be required to exchange information but shall apply a withholding tax to the savings income covered by the Directive.
5. The "withholding tax" referred to in the Directive will be referred to as the "retention tax" in the Turks and Caicos Islands' domestic legislation. For the purposes of this Agreement the two terms therefore are to be read coterminously as "withholding/retention tax" and shall have the same meaning.
6. The Turks and Caicos Islands has agreed to apply a retention tax pursuant to agreements entered into with Member States with effect from 1 January 2005 provided the Member States have adopted the laws, regulations, and administrative provisions necessary to comply with the Directive, and the requirements of Article 17 of the Directive have generally been met.
7. The Turks and Caicos Islands has agreed to apply automatic exchange of information pursuant to agreements entered into with Member States in the same manner as is provided for in Chapter II of the Directive from the end of the transitional period as defined in Article 10(2) of the Directive.
8. The Turks and Caicos Islands has legislation relating to undertakings for collective investment that is deemed to be equivalent in its effect to the EC legislation referred to in Articles 2 and 6 of the Directive.

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

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

- (a) the automatic exchange of information by the competent authority of the Republic of Slovenia to the competent authority of the Turks and Caicos Islands in the same manner as to the competent authority of a Member State;
- (b) the application by the Turks and Caicos Islands, during the transitional period defined in Article 10 of the Directive, of a retention tax from the same date and on the same terms as are contained in Articles 11 and 12 of that Directive;
- (c) the automatic exchange of information by the competent authority of the Turks and Caicos Islands to the competent authority of the Republic of Slovenia in accordance with Article 13 of the Directive;
- (d) the transfer by the competent authority of the Turks and Caicos Islands to the competent authority of the Republic of Slovenia of 75% of the revenue of the retention tax.

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

For the purposes of this Agreement the term ‘competent authority’ when applied to the contracting parties means the Ministry of Finance of the Republic of Slovenia or its authorised representative in respect to the Republic of Slovenia and the Financial Services Commission in respect to the Turks and Caicos Islands.

Article 1 Retention of Tax by Paying Agents

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

Article 2 Reporting of Information by Paying Agents

- (1) Where interest payments, as defined in Article 8 of this Agreement, are made by a paying agent established in the Republic of Slovenia to beneficial owners, as defined in Article 5 of this Agreement, who are residents of the Turks and Caicos Islands, or where the provisions of Article 3(1)(a) of this Agreement apply, the paying agent shall report to its competent authority;
 - (a) the identity and residence of the beneficial owner established in accordance with Article 6 of this Agreement;
 - (b) the name and address of the paying agent;
 - (c) the account number of the beneficial owner or, where there is none, identification of the debt claim giving rise to the interests;
 - (d) information concerning the interest payment specified in Article 4(1) of this Agreement. However, each contracting party may restrict the minimum amount of information concerning interest payment to be reported by the paying agent to the total amount of interest or income and to the total amount of the proceeds from sale, redemption or refund.

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

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

Article 3 Exceptions to the Retention Tax Procedure

- (1) The Turks and Caicos Islands when levying a retention tax in accordance with Article 1 of this Agreement shall provide for one or both of the following procedures in order to ensure that the beneficial owners may request that no tax be retained:
 - (a) a procedure which allows the beneficial owner as defined in Article 5 of this Agreement to avoid the retention tax specified in Article 1 of this Agreement by expressly authorising his paying agent to report the interest payments to the competent authority of the contracting party in which the paying agent is established. Such authorisation shall cover all interest payments made to the beneficial owner by that paying agent;
 - (b) a procedure which ensures that retention tax shall not be levied where the beneficial owner presents to his paying agent a certificate drawn up in his name by the competent authority of the contracting party of residence for tax purposes in accordance with paragraph 2 of this Article.
- (2) At the request of the beneficial owner, the competent authority of the contracting party of the country of residence for tax purposes shall issue a certificate indicating:
 - (i) the name, address and tax or other identification number or, failing such, the date and place of birth of the beneficial owner;
 - (ii) the name and address of the paying agent;
 - (iii) the account number of the beneficial owner or, where there is none, the identification of the security.

Such certificate shall be valid for a period not exceeding three years. It shall be issued to any beneficial owner who requests it, within two months following such request.
- (3) Where paragraph (1)(a) of this Article applies, the competent authority of the Turks and Caicos Islands in which the paying agent is established shall communicate the information

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

Article 4 Basis of assessment for retention tax

(1) A paying agent established in the Turks and Caicos Islands shall levy retention tax in accordance with Article 1 of this Agreement as follows -

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

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

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

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

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

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

latter provides evidence of the date of the acquisition.

- (3) The imposition of retention tax by the Turks and Caicos Islands shall not preclude the other contracting party of residence for tax purposes of the beneficial owner from taxing income in accordance with its national law.
- (4) During the transitional period, the Turks and Caicos Islands may provide that an economic operator paying interest to, or securing interest for, an entity referred to in Article 7(2) of this Agreement in the other contracting party shall be considered the paying agent in place of the entity and shall levy the retention tax on that interest, unless the entity has formally agreed to its name, address and the total amount of the interest paid to it or secured for it being communicated in accordance with the last paragraph of Article 7(2) of this Agreement.

Article 5 Definition of beneficial owner

- (1) For the purposes of this Agreement, “beneficial owner” shall mean any individual who receives an interest payment or any individual for whom an interest payment is secured, unless such individual can provide evidence that the interest payment was not received or secured for his own benefit. An individual is not deemed to be the beneficial owner when he:
 - (a) acts as a paying agent within the meaning of Article 7(1) of this Agreement;
 - (b) acts on behalf of a legal person, an entity which is taxed on its profits under the general arrangements for business taxation, an UCITS authorised in accordance with Directive 85/611/EEC or an equivalent undertaking for collective investment established in the Turks and Caicos Islands, or an entity referred to in Article 7(2) of this Agreement and, in the last mentioned case, discloses the name and address of that entity to the economic operator making the interest payment and the latter communicates such information to the competent authority of its contracting party of establishment;
 - (c) acts on behalf of another individual who is the beneficial owner and discloses to the paying agent the identity of that beneficial owner.

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

Article 6 Identity and residence of beneficial owners

- (1) Each party shall, within its territory, adopt and ensure the application of the procedures necessary to allow the paying agent to identify the beneficial owners and their residence for the purposes of this Agreement. Such procedures shall comply with the minimum standards established in paragraphs (2) and (3).
- (2) The paying agent shall establish the identity of the beneficial owner on the basis of minimum standards which vary according to when relations between the paying agent and the recipient of the interest are entered into, as follows:
 - (a) for contractual relations entered into before the 1st January 2004, the paying agent shall establish the identity of the beneficial owner, consisting of his name and address, by using the information at its disposal, in particular pursuant to the regulations in force in its country of establishment and to Council Directive 91/308/EEC of the 10th June, 1991 in the case of the Republic of Slovenia or in the case of the Turks and Caicos Islands pursuant to the relevant provisions of Turks and Caicos Islands' laws and regulations on prevention of the use of the financial system for the purpose of money laundering;
 - (b) for contractual relations entered into, or transactions carried out in the absence of contractual relations, on or after the 1st January, 2004 the paying agent shall establish the identity of the beneficial owner, consisting of the name, address and, if there is one, the tax identification number allocated by the Member State of residence for tax purposes. These details should be established on the basis of the passport or of the official identity card presented by the beneficial owner. If it does not appear on that passport or official identity card, the address shall be established on the basis of any other documentary proof of identity presented by the beneficial owner. If the tax identification number is not mentioned on the passport, on the official identity card or

any other documentary proof of identity, including, possibly the certificate of residence for tax purposes, presented by the beneficial owner, the identity shall be supplemented by a reference to the latter's date and place of birth established on the basis of his passport or official identification card.

- (3) The paying agent shall establish the residence of the beneficial owner on the basis of minimum standards which vary according to when relations between the paying agent and the recipient of the interest are entered into. Subject to the conditions set out below, residence shall be considered to be situated in the country where the beneficial owner has his permanent address:
- (a) for contractual relations entered into before 1st January, 2004 the paying agent shall establish the residence of the beneficial owner by using the information at its disposal, in particular pursuant to the regulations in force in its country of establishment and to Directive 91/308/EEC in the case of the Republic of Slovenia or in the case of the Turks and Caicos Islands pursuant to the relevant provisions of Turks and Caicos Islands' laws and regulations on prevention of the use of the financial system for the purpose of money laundering;
 - (b) for contractual relations entered into, or transactions carried out in the absence of contractual relations, on or after the 1st January, 2004, the paying agents shall establish the residence of the beneficial owner on the basis of the address mentioned on the passport, on the official identity card or, if necessary, on the basis of any documentary proof of identity presented by the beneficial owner and according to the following procedure: for individuals presenting a passport or official identity card issued by a Member State who declare themselves to be resident in a third country, residence shall be established by means of a tax residence certificate issued by the competent authority of the third country in which the individual claims to be resident. Failing the presentation of such a certificate, the Member State which issued the passport or other official identity document shall be considered to be the country of residence.

Article 7 Definition of paying agent

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

- (2) Any entity established in a contracting party to which interest is paid or for which interest is secured for the benefit of the beneficial owner shall also be considered a paying agent upon such payment or securing of such payment. This provision shall not apply if the economic operator has reason to believe, on the basis of official evidence produced by that entity that:
 - (a) it is a legal person with the exception of those legal persons referred to in paragraph 5 of this Article; or

 - (b) its profits are taxed under the general arrangements for business taxation; or

 - (c) it is an UCITS recognised in accordance with Directive 85/611/EEC of the Council or an equivalent undertaking for collective investment established in the Turks and Caicos Islands.

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

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

economic operator by that entity. A contracting party shall lay down the detailed rules for this option for entities established in their territory.

- (4) Where the economic operator and the entity referred to in paragraph (2) of this Article are established in the same contracting party, that contracting party shall take the necessary measures to ensure that the entity complies with the provisions of this Agreement when it acts as a paying agent.
- (5) The legal persons exempted from sub- paragraph (a) of paragraph (2) of this Article are
 - (a) in Finland: avoin yhtiö (Ay) and kommandiittiyhtiö (Ky)/oppet bolag and kommanditbolag;
 - (b) in Sweden: handelsbolag (HB) and kommanditbolag (KB).

Article 8 Definition of interest payment

- (1) For the purposes of this Agreement “interest payment” shall mean:
 - (a) interest paid, or credited to an account, relating to debt claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor’s profits, and, in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, but excluding interest from loans between private individuals not acting in the course of their business. Penalty charges for late payment shall not be regarded as interest payment;
 - (b) interest accrued or capitalised at the sale, refund or redemption of the debt claims referred to in (a);
 - (c) income deriving from interest payments either directly or through an entity referred to in

Article 7(2) of this Agreement, distributed by –

- (i) an UCITS authorised in accordance with EC Directive 85/611/EEC of the Council;
 - (ii) an equivalent undertaking for collective investment established in the Turks and Caicos Islands;
 - (iii) entities which qualify for the option under Article 7(3) of this Agreement; or
 - (iv) undertakings for collective investment established outside the territory to which the Treaty establishing the European Community applies by virtue of Article 299 thereof and outside the Turks and Caicos Islands.
- (d) income realised upon the sale, refund or redemption of shares or units in the following undertakings and entities, if they invest directly or indirectly, via other undertakings for collective investment or entities referred to below, more than 40% of their assets in debt claims as referred to in (a):
- (i) an UCITS authorised in accordance with Directive 85/611/EEC;
 - (ii) an equivalent undertaking for collective investment established in the Turks and Caicos Islands.
 - (iii) entities which qualify for the option under Article 7(3) of this Agreement; or
 - (iv) undertakings for collective investment established outside the territory to which the Treaty establishing the European Community applies by virtue of Article 299 thereof and outside the Turks and Caicos Islands.

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

- (2) As regards paragraphs (1)(c) and (d) of this Article, when a paying agent has no information concerning the proportion of the income which derives from interest payments, the total amount of the income shall be considered an interest payment.
- (3) As regards paragraph (1)(d) of this Article, when a paying agent has no information concerning the percentage of the assets invested in debt claims or in shares or units as defined in that paragraph, that percentage shall be considered to be above 40%. Where he cannot determine the amount of income realised by the beneficial owner, the income shall be deemed to correspond to the proceeds of the sale, refund or redemption of the shares or units.
- (4) When interest, as defined in paragraph (1) of this Article, is paid to or credited to an account held by an entity referred to in Article 7(2) of this Agreement, such entity not having qualified for the option under Article 7(3) of this Agreement, such interest shall be considered an interest payment by such entity.
- (5) As regards paragraphs (1)(b) and (d) of this Article, a contracting party shall have the option of requiring paying agents in its territory to annualise the interest over a period of time which may not exceed one year, and treating such annualised interest as an interest payment even if no sale, redemption or refund occurs during that period.
- (6) By way of derogation from paragraphs (1)(c) and (d) of this Article, a contracting party shall have the option of excluding from the definition of interest payment any income referred to in those provisions from undertakings or entities established within its territory where the investment in debt claims referred to in paragraph (1)(a) of this Article of such entities has not exceeded 15% of their assets. Likewise, by way of derogation from paragraph (4) of this Article, a contracting party shall have the option of excluding from the definition of interest payment in paragraph (1) of this Article interest paid or credited to an account of an entity referred to in Article 7(2) of this Agreement which has not qualified for the option under Article 7(3) of this Agreement and is established within its territory, where the investment of such an entity in debt claims referred to in paragraph (1)(a) of this Article has not exceeded 15% of its assets.

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

- (7) The percentage referred to in paragraph (1)(d) of this Article and paragraph (3) of this Article shall, from 1 January 2011, be 25%.
- (8) The percentages referred to in paragraph (1)(d) of this Article and in paragraph (6) of this Article shall be determined by reference to the investment policy as laid down in the fund rules or instruments of incorporation of the undertakings or entities concerned or, failing which, by reference to the actual composition of the assets of the undertakings or entities concerned.

Article 9 Retention tax Revenue sharing

- (1) The Turks and Caicos Islands shall retain 25% of the retention tax deducted under this Agreement and transfer the remaining 75% of the revenue to the other contracting party.
- (2) The Turks and Caicos Islands levying retention tax in accordance with Article 4(4) of this Agreement shall retain 25% of the revenue and transfer 75% to the Republic of Slovenia proportionate to the transfers carried out pursuant to paragraph (1) of this Article.
- (3) Such transfers shall take place for each year in one instalment at the latest within a period of six months following the end of the tax year established by the laws of the Turks and Caicos Islands.
- (4) The Turks and Caicos Islands levying retention tax shall take the necessary measures to ensure the proper functioning of the revenue sharing system.

Article 10 Elimination of double taxation

- (1) A contracting party in which the beneficial owner is resident for tax purposes shall ensure the elimination of any double taxation which might result from the imposition by the Turks and Caicos Islands of the retention tax to which this Agreement refers in accordance with the following provisions –
 - (i) if interest received by a beneficial owner has been subject to retention tax in the Turks and Caicos Islands, the other contracting party shall grant a tax credit equal to the amount of the tax retained in accordance with its national law. Where this amount

exceeds the amount of tax due in accordance with its national law, the other contracting party shall repay the excess amount of tax retained to the beneficial owner;

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

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

Article 11 Transitional provisions for negotiable debt securities

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

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

If a further issue is made on or after 1 March 2002 of an aforementioned negotiable debt security issued by a Government or a related entity acting as a public authority or whose role

is recognised by an international treaty, as defined in the Annex to this Agreement, the entire issue of such security, consisting of the original issue and any further issue, shall be considered a debt claim within the meaning of Article 8(1)(a) of this Agreement.

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

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

Article 12 Mutual agreement procedure

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

Article 13 Confidentiality

- (1) All information provided and received by the competent authority of a contracting party shall be kept confidential. The principle of confidentiality is essential to the proper implementation and permanence of this Agreement.
- (2) Information provided to the competent authority of a contracting party may not be used for any purpose other than for the purposes of direct taxation without the prior written consent of the other contracting party.
- (3) Information provided shall be disclosed only to persons or authorities concerned with the purposes of direct taxation, and used by such persons or authorities only for such purposes or for oversight purposes, including the determination of any appeal. For these purposes, information may be disclosed in public court proceedings or in judicial proceedings.
- (4) Where a competent authority of a contracting party considers that information which it has

received from the competent authority of the other contracting party is likely to be useful to the competent authority of another Member State, it may transmit it to the latter competent authority with the agreement of the competent authority which supplied the information.

Article 14 Transitional Period

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

Article 15 Entry into force

- (1) This Agreement shall enter into force on the thirtieth day after the latter of the dates on which the respective Governments have notified each other in writing that the formalities constitutionally required have been complied with, and its provisions shall have effect from the date from which the Directive is applicable according to paragraphs 2 and 3 of Article 17 of the Directive.
- (2) Article 2 of this Agreement shall not have effect in the Republic of Slovenia in the absence of direct taxation in the Turks and Caicos Islands.

Article 16 Termination

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

Article 17 Application and suspension of application

- (1) The application of this Agreement shall be conditional on the adoption and implementation by all the Member States of the European Union, by the United States of America, Switzerland, Andorra, Liechtenstein, Monaco and San Marino, and by all the relevant dependent and associated territories of the Member States of the European Community, respectively, of measures which conform with or are equivalent to those contained in the Directive or in this Agreement, and providing for the same dates of implementation.
- (2) Subject to the mutual agreement procedure provided for in Article 12 of this Agreement, the application of this Agreement or parts thereof may be suspended by either contracting party with immediate effect through notification to the other specifying the circumstances leading to such notification should the Directive cease to be applicable either temporarily or permanently in accordance with European Community law or in the event that a Member State should suspend the application of its implementing legislation. Application of the Agreement shall resume as soon as the circumstances leading to the suspension no longer apply.
- (3) Subject to the mutual agreement procedure provided for in Article 12 of this Agreement, either contracting party may suspend the application of this Agreement through notification to the other specifying the circumstances leading to such notification in the event that one of the third countries or territories referred to in paragraph (1) should subsequently cease to apply the measures referred to in that paragraph. Suspension of application shall take place no earlier than two months after notification. Application of the Agreement shall resume as soon as the measures are reinstated by the third country or territory in question.

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

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

For the Government of the Turks and Caicos Islands

James Poston, (s), CBE, Governor

For the Government of the Republic of Slovenia
Dr Dušan Mramor, (s), Minister of finance

Annex

List of related entities

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

ENTITIES WITHIN THE EUROPEAN UNION:

Belgium

- Vlaams Gewest (Flemish Region)
- Région wallonne (Walloon Region)
- Région bruxelloise/Brussels Gewest (Brussels Region)
- Communauté française (French Community)
- Vlaamse Gemeenschap (Flemish Community)
- Deutschsprachige Gemeinschaft (German-speaking Community)

Spain

- Xunta de Galicia (Regional Executive of Galicia)
- Junta de Andalucía (Regional Executive of Andalusia)
- Junta de Extremadura (Regional Executive of Extremadura)
- Junta de Castilla- La Mancha (Regional Executive of Castilla- La Mancha)
- Junta de Castilla- León (Regional Executive of Castilla- León)
- Gobierno Foral de Navarra (Regional Government of Navarra)
- Govern de les Illes Balears (Government of the Balearic Islands)
- Generalitat de Catalunya (Autonomous Government of Catalonia)
- Generalitat de Valencia (Autonomous Government of Valencia)
- Diputación General de Aragón (Regional Council of Aragon)
- Gobierno de las Islas Canarias (Government of the Canary Islands)
- Gobierno de Murcia (Government of Murcia)
- Gobierno de Madrid (Government of Madrid)
- Gobierno de la Comunidad Autónoma del País Vasco/Euzkadi (Government of the Autonomous Community of the Basque Country)

- Diputación Foral de Guipúzcoa (Regional Council of Guipúzcoa)
- Diputación Foral de Vizcaya/Bizkaia (Regional Council of Vizcaya)
- Diputación Foral de Alava (Regional Council of Alava)
- Ayuntamiento de Madrid (City Council of Madrid)
- Ayuntamiento de Barcelona (City Council of Barcelona)
- Cabildo Insular de Gran Canaria (Island Council of Gran Canaria)
- Cabildo Insular de Tenerife (Island Council of Tenerife)
- Instituto de Crédito Oficial (Public Credit Institution)
- Instituto Catalán de Finanzas (Finance Institution of Catalonia)
- Instituto Valenciano de Finanzas (Finance Institution of Valencia)

Greece

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

France

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

Italy

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

Latvia

- Pašvaldības (Local governments)

Poland

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

Portugal

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

Slovakia

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

INTERNATIONAL ENTITIES:

- European Bank for Reconstruction and Development
- European Investment Bank
- Asian Development Bank
- African Development Bank

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

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

ENTITIES IN THIRD COUNTRIES :

The entities that meet the following criteria :

- 1) The entity is clearly considered to be a public entity according to the national criteria.
- 2) Such public entity is a non-market producer which administers and finances a group of activities, principally providing non-market goods and services, intended for the benefit of the community and which are effectively controlled by general government.
- 3) Such public entity is a large and regular issuer of debt.
- 4) The State concerned is able to guarantee that such public entity will not exercise early redemption in the event of gross-up clauses.