

A.L. 431 ta' l-2010

**ATT DWAR IT-TAXXA FUQ L-INCOME
(KAP. 123)**

**Ordni tal-2010 dwar Helsien minn Taxxa Doppja
(Taxxi fuq l-Income)
(Repubblika tas-Serbja)**

BIS-SAHHA tas-setgħat mogħtija bl-artikolu 76 tal-Att dwar it-Taxxa fuq l-Income, il-Ministru tal-Finanzi, l-Ekonomija u Investiment għamel dan l-ordni li ġej:

1. It-titolu ta' dan l-ordni hu Ordni tal-2010 dwar Helsien minn Taxxa Doppja (Taxxi fuq *Income*) (Repubblika tas-Serbja). Titolu.

2. B'dan qiegħed jiġi dikjarat -

Arrangamenti
jkollhom effett.

(a) illi l-arrangamenti speċifikati fil-Ftehim muri fl-Iskeda li tinsab ma' dan l-Ordni saru mar-Repubblika tas-Serbja sabiex jagħtu helsien minn taxxa doppja dwar it-taxxi li ġejjin imposti bil-liġijiet tar-Repubblika tas-Serbja:

- it-taxxa fuq l-*income* korporattiva;
- it-taxxa fuq l-*income* personali;

(b) illi huwa spedjenti li dawk l-arrangamenti għandu jkollhom effett;

(ċ) illi l-Ftehim beda jseħħ fis-16 ta' Ġunju, 2010.

SKEDA
(Artiklu 2)

F T E H I M
BEJN
MALTA
U
R-REPUBBLIKA TAS-SERBJA

GHALL-EVITAR TA' TAXXA DOPPJA DWAR TAXXI FUQ L-INCOME

MALTA
U
IR-REPUBBLIKA TAS-SERBJA

billi jixtiequ jaghmlu ftehim għall-evitar ta' taxxa doppja dwar taxxi fuq *l-income*,

ftehm u kif ġej:

Artiklu 1
PERSUNI KOPERTI

Dan il-Ftehim għandu japplika għal persuni li jkunu residenti fi Stat Kontraenti wiehed jew fit-tnejn li huma.

Artiklu 2
TAXXI KOPERTI

1. Dan il-ftehim għandu japplika għat-taxxi fuq *l-income* imposti f'isem Stat Kontraenti, irrispettivament mill-mod kif dawn jingabru.

2. Għandhom jitqiesu bħala taxxi fuq *l-income* it-taxxi kollha imposti fuq *l-income* totali, jew fuq elementi ta' *income*, inklużi taxxi fuq kull qliegħ mit-trasferiment ta' proprjetà mobbli jew immobbli, u taxxi fuq l-ammonti totali ta' pagi u salarji li jithallsu minn impriži kif ukoll taxxi fuq l-apprezzament kapitali.

3. It-taxxi eżistenti li dwarhom japplika dan il-Ftehim huma:

(1) fi-Serbja:

(1) it-taxxa fuq *l-income* korporattiva;

(2) it-taxxa fuq *l-income* personali

(hawnhekk iżjed 'il quddiem imsejha "**it-taxxa tas-Serbja**");

(2) f'Malta:

it-taxxa fuq l-*income*.

(hawnhekk iżjed 'il quddiem imsejha "**it-taxxa ta' Malta**").

4. Il-Ftehim għandu japplika wkoll għal kull taxxa identika jew sostanzjalment simili li jiġu imposti wara d-data meta jiġi ffirmat dan il-Ftehim b'żjieda ma', jew minflok, it-taxxi eżistenti. L-awtoritajiet kompetenti ta' l-Istati Kontraenti għandhom jgħarrfu lil xulxin b'kull tibdil sinifikanti li jkun sar fil-liġijiet tagħhom dwar it-taxxi.

Artiklu 3 **TIFSIRIET ĠENERALI**

1. Għall-għanijiet ta' dan il-Ftehim:

(1) il-frażijiet "**Stat Kontraenti**" u "**l-Istat Kontraenti l-iehor**" ifissru is-Serbja jew Malta, skond ir-rabta tal-kliem;

(2) il-frazi "**Serbja**" tfisser ir-Repubblika tas-Serbja, u meta tintuża f'sens geografiku tfisser it-territorju tar-Repubblika tas-Serbja;

(3) il-frazi "**Malta**" tfisser ir-Repubblika ta' Malta u, meta tintuża f'sens geografiku, tfisser il-Gżira ta' Malta, il-Gżira ta' Għawdex u l-gzejjer l-oħra ta' l-arċipelagu Malti inklużi l-ibħra territorjali tagħhom, kif ukoll kull area ta' qiegħ il-baħar, is-sottoswol tiegħu u l-kolonna ta' baħar sovrajaċenti li tinsab adjaċenti għall-ibħra territorjali, fejn Malta teżerċita drittijiet sovrani, ġurisdizzjoni, jew kontroll skond id-dritt internazzjonali u d-dritt nazzjonali tagħha, inkluża l-legislazzjoni tagħha għar-rigward ta' l-esplorazzjoni tal-blata kontinentali u l-esplottazzjoni tar-riżorsi naturali tagħha;

(4) il-frazi "**ċittadin**" tfisser:

(1) kull individwu li jkollu ċ-ċittadinanza ta' Stat Kontraenti;

(2) kull persuna ġuridika, soċjetà jew assoċjazzjoni li jiksbu l-istatus tagħhom bħala tali mil-liġijiet li jkunu fis-sehh fi Stat Kontraenti;

(5) il-frazi "**persuna**" tinkludi individwu, kumpannija u kull korp ta' persuni ieħor;

(6) il-frazi "**kumpannija**" tfisser kull korp magħqud jew kull enti li jkun ittrattat bħala korp magħqud għall-iskopijiet ta' taxxa;

(7) il-frażijiet "**impriza ta' Stat Kontraenti**" u "**impriza ta' l-Istat**

Kontraenti l-iehor" ifissru rispettivament impriza ġestita minn residenti ta' Stat Kontraenti u impriza ġestita minn residenti ta' l-Istat Kontraenti l-iehor;

(8) il-frazi "**traffiku internazzjonali**" tfisser kull trasport permezz ta' bastiment jew b'ingenji ta' l-ajru imhaddem minn impriza ta' Stat Kontraenti, hlief meta l-bastiment jew l-ingenji ta' l-ajru jkunu unikament imhaddma bejn postijiet fl-Istat Kontraenti l-iehor;

(9) il-frazi "**awtorità kompetenti**" tfisser:

(1) fis-Serbja, il-Ministru tal-Finanzi jew ir-rappreżentant awtorizzat tiegħu;

(2) f'Malta, il-Ministru responsabbli għall-finanzi jew ir-rappreżentant awtorizzat tiegħu.

2. Għar-rigward ta' l-applikazzjoni tal-Ftehim f'kull żmien minn Stat Kontraenti, kull frazi li ma tkunx imfissra fih għandu jkollha, kemm-il darba r-rabta tal-kliem ma tkunx tehtieg xort'ohra, it-tifsira mogħtija lilha f'dak iż-żmien taħt il-liġi ta' dak l-Istat għall-finijiet tat-taxxi li dwarhom ikun japplika l-Ftehim, hekk li tifsira taħt il-liġijiet tat-taxxa li japplikaw f'dak l-Istat għandha tkun tipprevali fuq tifsira mogħtija lil dik il-frazi taħt liġijiet ohra ta' dak l-Istat.

Artiklu 4 RESIDENTI

1. Għall-finijiet ta' dan il-Ftehim, il-frazi "**residenti ta' Stat Kontraenti**" tfisser kull persuna li, taħt il-liġijiet ta' dak l-Istat, tkun soġġetta għat-taxxa hemmhekk minhabba fid-domicilju tagħha, residenza, post tal-manigġ jew kull kriterju ieħor ta' xorta bħal dawk, u tinkludi wkoll dak l-Istat jew xi sottodivizjoni jew awtorità lokali tiegħu. Din il-frazi, madankollu, ma tinkludix lil xi persuna li tkun soġġetta għat-taxxa f'dak l-Istat għar-rigward biss ta' *income* minn ghejjun f'dak l-Istat.

2. Meta minhabba fid-dispożizzjonijiet tal-paragrafu 1 individwu jkun residenti taż-żewg Stati Kontraenti, allura l-istatus tiegħu għandu jiġi stabbilit kif ġej:

(1) huwa għandu jitqies li jkun residenti biss ta' l-Istat li fih ikollu dar permanenti għad-dispożizzjoni tiegħu; jekk huwa jkollu dar permanenti għad-dispożizzjoni tiegħu fiz-żewg Stati, huwa għandu jitqies li jkun residenti biss ta' l-Istat li miegħu r-relazzjonijiet personali u ekonomiċi tiegħu jkunu l-aktar marbuta (ċentru ta' interessi vitali);

(2) jekk l-Istat li fih huwa jkollu ċ-ċentru ta' interessi vitali ma jkunx jista' jiġi stabbilit, jew jekk huwa ma jkollux għad-dispożizzjoni tiegħu dar permanenti f'xi Stat wieħed jew l-ieħor, huwa għandu jitqies li

jkun residenti ta' l-Istat li fih ikun soltu jirrisjedi;

(3) jekk huwa soltu jirrisjedi fiż-żewg Stati, jew f'ebda wiehed minnhom, huwa għandu jitqies li jkun residenti biss ta' l-Istat li jkun ċittadin tiegħu;

(4) jekk huwa jkun ċittadin taż-żewg Stati jew ta' l-ebda wiehed minnhom, l-awtoritajiet kompetenti ta' l-Istati Kontraenti għandhom jiddeċiedu l-każ bi ftehim bejnithom.

3. Meta minhabba fid-dispożizzjonijiet tal-paragrafu 1 persuna li ma tkunx individwu tkun residenti taż-żewg Stati Kontraenti, allura dak l-individwu għandu jitqies li jkun residenti biss fl-Istat fejn ikun jinsab il-post ta' manigġ effettiv tiegħu.

Artiklu 5

STABBILIMENT PERMANENTI

1. Għall-finijiet ta' dan il-Ftehim, il-frazi "**stabbiliment permanenti**" tfisser post tan-negozju fiss li minnu jitmexxa l-kummerċ ta' dik l-impriża għalkollox jew f'parti minnu.

2. Il-frazi "**stabbiliment permanenti**" b'mod speċjali tinkludi:

(1) post ta' manigġ;

(2) fergħa;

(3) uffiċċju;

(4) fabbrika;

(5) ħanut tax-xogħol; u

(6) minjiera, bir taż-żejt jew tal-gass, barriera jew kull post ieħor ta' estrazzjoni ta' riżorsi naturali.

3. Il-frazi "**stabbiliment permanenti**" bl-istess mod tinkludi:

(1) art li tkun qegħda tinbena, proġett ta' kostruzzjoni, assemblaġġ jew stallazzjoni jew attivitajiet ta' sorveljanza li jkollhom x'jaqsmu ma' dan, imma biss meta dik l-art, dak il-proġett jew dawk l-attivitajiet jibqgħu għaddejin għal perjodu ta' aktar minn disa' xhur;

(2) l-ġhoti ta' servizzi, inklużi servizzi ta' konsulenza, minn impriża permezz ta' impjegati jew persunal ieħor imqabba mill-impriża għal dak l-għan, imma biss meta attivitajiet ta' dik ix-xorta (għall-istess proġett jew wiehed konness) fi hdan Stat Kontraenti jibqgħu għaddejin għal perjodu jew

perjodi li flimkien iġibu jew jeċċedu s-sitt xhur f'xi perjodu ta' tnax il-xahar.

4. Minkejja d-dispożizzjonijiet ta' qabel ta' dan l-Artiklu, il-frazi "**stabiliment permanenti**" għandha titqies li ma tinkludix:

(1) l-użu ta' faċilitajiet bl-iskop uniku ta' hżin, wiri jew tqassim ta' oġġetti jew merkanzija li jkunu jappartjenu lill-impriża;

(2) iż-żamma ta' hażna ta' oġġetti jew ta' merkanzija li tkun tappartjeni lill-impriża unikament għall-fini ta' hżin, wiri jew tqassim;

(3) iż-żamma ta' hażna ta' oġġetti jew ta' merkanzija li tkun tappartjeni lill-impriża unikament għall-fini ta' ipproċessar minn impriża oħra;

(4) iż-żamma ta' post fiss ta' negozju unikament għall-fini ta' xiri ta' oġġetti jew ta' merkanzija jew ta' gbir ta' tagħrif, għall-impriża;

(5) iż-żamma ta' post fiss ta' negozju unikament għall-fini li tiġi ġestita, għall-impriża, kull attività oħra ta' xorta preparatorja jew awżiljarja;

(6) iż-żamma ta' post fiss ta' negozju unikament biex tkun tista' ssir kull kombinazzjoni ta' attivitajiet imsemmija fis-subparagrafi (1) sa (5), sakemm l-attività kollha tal-post tan-negozju fiss li tirriżulta minn din il-kombinazzjoni tkun wahda ta' xorta preparatorja jew awżiljarja.

5. Minkejja l-provvedimenti tal-paragrafi 1 u 2, meta persuna - li ma tkunx aġent bi status indipendenti li għalih japplika l-paragrafu 6 - tkun qegħda taġixxi f'isem xi impriża u jkollha, u tkun abitwalment teżerċita, fi Stat Kontraenti l-awtorità li tagħmel kuntratti f'isem l-impriża, dik l-impriża għandha titqies li jkollha stabiliment permanenti f'dak l-Istat għar-rigward ta' kull attività li dik il-persuna tagħmel għall-impriża, kemm-il darba l-attivitajiet ta' dik il-persuna ma jkunux limitati għal dawk imsemmija fil-paragrafu 4 illi, jekk dawn jiġu eżerċitati minn go post tan-negozju fiss, ma jkunux jirrendu lil dan il-post tan-negozju fiss bħala stabiliment permanenti taht il-provvedimenti ta' dak il-paragrafu.

6. Impriża m'għandhiex titqies li jkollha stabiliment permanenti fi Stat Kontraenti unikament għaliex tkun tiġġestixxi negozju f'dak l-Istat permezz ta' sensal, aġent b'kummissjoni ġenerali jew kull aġent ieħor bi status indipendenti, sakemm dawk il-persuni jkunu qegħdin jaġixxu fil-kors ordinarju tan-negozju tagħhom. Madankollu, meta l-attivitajiet ta' dak l-aġent isiru għalkollox jew kwazi għalkollox f'isem dik l-impriża, u jsiru jew jiġu imposti kundizzjonijiet bejn dik l-impriża u l-aġent fir-relazzjonijiet kummerċjali u finanzjarji tagħhom li jkunu jvarjaw minn dawk li kieku kienu jsiru bejn impriži indipendenti, huwa ma jitqiesx bħala aġent bi status indipendenti fil-kuntest tat-tifsira ta' dan il-paragrafu.

7. Il-fatt li kumpannija li tkun residenti ta' Stat Kontraenti tkun tikkontrolla jew tkun kontrollata minn kumpannija li tkun residenti ta' l-Istat

Kontraenti l-ieħor, jew li tkun tiġġestixxi negozju f'dak l-Istat l-ieħor (sew permezz ta' stabbiliment permanenti sew xort'oħra), m'għandux fih innifsu jikkostitwixxi lil kumpannija wahda jew l-oħra stabbiliment permanenti tal-kumpannija l-oħra.

Artiklu 6

INCOME MINN PROPRJETÀ IMMOBBLI

1. *Income* li jinkiseb minn residenti ta' Stat Kontraenti minn proprjetà immobbli (inkluż *income* mill-agrikoltura jew hidma fil-boskijiet) li tkun tinsab fl-Istat Kontraenti l-ieħor jista' jiġi intaxxat f'dak l-Istat l-ieħor.

2. Il-frazi "**proprjetà immobbli**" għandu jkollha t-tifsira li għandha taħt il-liġi ta' l-Istat Kontraenti fejn tkun tinsab il-proprjetà involuta. Il-frazi għandha f'kull każ tkun tinkludi proprjetà aċċessorja għal proprjetà immobbli, bhejjem f'razzett u tagħmir li jintuza fl-agrikoltura u fil-hidma fil-boskijiet, drittijiet li għalihom japplikaw il-provvedimenti tal-liġi generali dwar il-proprjetà ta' l-art, l-użufrutt tal-proprjetà immobbli u drittijiet dwar hlasijiet varjabbli jew fissi bħala korrispettiv għal hidma fi, jew id-dritt li jinhadmu, depożiti minerali, għejjun u riżorsi oħra naturali; bastimenti, dgħajjes u inġenji ta' l-ajru m'għandhomx jitqiesu bħala proprjetà immobbli.

3. Il-provvedimenti tal-paragrafu 1 għandhom ikunu japplikaw għal *income* li jinkiseb mill-użu dirett, mill-kiri, jew mill-użu b'kull mod ieħor ta' proprjetà immobbli.

4. Il-provvedimenti tal-paragrafi 1 u 3 għandhom japplikaw ukoll għal *income* minn proprjetà immobbli ta' impriża u għal *income* minn proprjetà immobbli użata għall-għemil ta' servizzi personali indipendenti.

Artiklu 7

PROFITTI MINN NEGOZJU

1. Il-profitti ta' impriża ta' Stat Kontraenti għandhom jiġu intaxxati biss f'dak l-Istat kemm-il darba l-impriża ma tkunx tmexxi negozju fl-Istat Kontraenti l-ieħor permezz ta' stabbiliment permanenti li jkun jinsab hemmhekk. Jekk l-impriża tkun qegħda tmexxi negozju kif hawn aktar qabel imsemmi, il-profitti ta' l-impriża jistgħu jiġu intaxxati fl-Istat l-ieħor imma biss għal dik il-parti minnhom daqskemm tkun attribwibbli lil dak l-istabbiliment permanenti.

2. Bla ħsara għall-provvedimenti tal-paragrafu 3, meta impriża ta' Stat Kontraenti tkun tmexxi negozju fl-Istat Kontraenti l-ieħor permezz ta' stabbiliment permanenti li jkun qiegħed hemmhekk, għandhom f'kull Stat Kontraenti jiġu attribwiti lil dak l-istabbiliment permanenti il-profitti li kien ikun mistenni jagħmel kieku kien impriża distinta u separata li taħdem fl-istess attivitajiet jew oħrajn bħalhom taħt l-istess kundizzjonijiet jew oħrajn bħalhom u li taħdem għalkollox indipendentement mill-impriża li tkun stabbiliment permanenti tagħha.

3. Sabiex jiġu stabbiliti l-profitti ta' stabbiliment permanenti, għandhom ikunu permessi bhala tnaqqis dawk l-ispejjeż li jsiru għall-għanijiet ta' l-istabbiliment permanenti, inklużi l-ispejjeż eżekuttivi u amministrattivi generali li jkunu hekk saru, sew fl-Istat li fih ikun jinsab l-istabbiliment permanenti sew band'ohra.

4. Sakemm tkun il-konswetudni fi Stat Kontraenti li jstabbilixxi l-profitti li għandhom jiġu attribwiti lil stabbiliment permanenti minhabba fi tqassim tal-profitti totali ta' l-impriza lill-partijiet diversi tagħha, ebda haġa fil-paragrafu 2 m'għandha tipprekludi lil dak l-Istat Kontraenti milli jstabbilixxi l-profitti li għandhom jiġu intaxxati b'dak it-tqassim skond ma jista' jkun konswetudinarju; il-metodu ta' tqassim li jiġi adottat għandu, madankollu, isir b'tali mod li r-riżultat ikun skond il-prinċipji li jinsabu f'dan l-Artiklu.

5. Ebda profitti m'għandhom jiġu attribwiti lil stabbiliment permanenti minhabba biss f'li jsir ix-xiri minn dak l-istabbiliment permanenti ta' oġġetti jew merkanzija għall-impriza.

6. Għall-għanijiet tal-paragrafi preċedenti, il-profitti li għandhom jiġu attribwiti lill-istabbiliment permanenti għandhom jiġu stabbiliti bl-istess metodu għal kull sena kemm-il darba ma jkunx hemm raguni tajba u suffiċjenti għaliex dan m'għandux isir.

7. Meta l-profitti jkunu jinkludu oġġetti ta' *income* li jkunu qegħdin jiġu trattati separatament f'Artikli ohra ta' dan il-Ftehim, għaldaqshekk il-provvedimenti ta' dawk l-Artikli m'għandhomx jintlaqtu bil-provvedimenti ta' dan l-Artiklu.

Artiklu 8

TRAFFIKU INTERNAZZJONALI

1. Il-profitti li jinkisbu minn impriza ta' Stat Kontraenti mit-tħaddim ta' bastimenti jew inġenji ta' l-ajru fi traffiku internazzjonali għandhom jiġu intaxxati biss f'dak l-Istat.

2. Il-provvedimenti tal-paragrafu 1 għandhom ukoll japplikaw għal profitti miksubin mill-parteciċipazzjoni f'*pool*, negozju bi shab jew agenzija b'operat internazzjonali.

Artiklu 9

IMPRIZI ASSOĊJATI

1. Meta

(1) impriza ta' Stat Kontraenti tipparteċipa sew direttament sew indirettament fit-tmexxija, kontroll jew kapital ta' impriza ta' l-Istat Kontraenti l-iehor, jew

(2) L-istess persuni jipparteċipaw sew direttament sew indirettament fit-tmexxija, kontroll jew kapital ta' impriża ta' Stat Kontraenti u ta' impriża ta' l-Istat Kontraenti l-ieħor,

u f'kull każ isiru jew jiġu imposti kondizzjonijiet bejn iż-żewġ impriži fir-relazzjonijiet kummerċjali jew finanzjarji tagħhom li ma jkunux jaqblu ma' dawk li kieku kienu jsiru bejn impriži indipendenti, f'dak il-każ il-profitti li, kieku ma kienux għal dawk il-kondizzjonijiet, kienu jakkumulaw favur xi wahda mill-impriži, imma, minhabba dawk il-kondizzjonijiet, ma jkunux hekk akkumulaw, jistgħu jiġu inklużi fil-profitti ta' dik l-impriża u intaxxati skond hekk.

2. Meta Stat Kontraenti ikun jinkludi fil-profitti ta' impriża ta' dak l-Istat - u skond hekk jintaxxa - profitti li fuqhom impriża ta' l-Istat Kontraenti l-ieħor tkun giet intaxxata f'dak l-Istat l-ieħor u l-profitti li jiġu hekk inklużi jkunu profitti li kienu jinqalgħu mill-impriża ta' l-ewwel Stat imsemmi li kieku l-kondizzjonijiet magħmulin bejn iż-żewġ impriži kienu dawk li kienu kieku jsiru bejn żewġ impriži indipendenti, għaldaqshekk dak l-Istat l-ieħor jista' jagħmel l-aġġustament li jmiss fl-ammont tat-taxxa hemmhekk imposta fuq dawk il-profitti. Biex jiġi stabbilit dak l-aġġustament, għandhom jitqiesu kif dovut il-provvedimenti l-oħra ta' dan il-Ftehim u l-awtoritajiet kompetenti ta' l-Istati Kontraenti għandhom jekk ikun hekk meħtieġ jikkonsultaw lil xulxin.

Artiklu 10 DIVIDENDI

1. Id-dividendi mħallsa minn kumpannija li tkun residenti ta' Stat Kontraenti lil residenti ta' l-Istat Kontraenti l-ieħor jistgħu jiġu intaxxati f'dak l-Istat l-ieħor.

2. Madankollu, dawk id-dividendi jistgħu jiġu intaxxati wkoll fl-Istat Kontraenti li l-kumpannija li tkun tħallas id-dividendi tkun residenti fih u skond il-liġijiet ta' dak l-Istat, imma:

(1) meta d-dividendi jithallsu minn kumpannija li tkun residenti fis-Serbja lil residenti f'Malta li jkun is-sid benefiċjarju tad-dividendi, it-taxxa li hekk tintalab mis-Serbja m'għandhiex tkun iżjed minn:

(i) 5 fil-mija ta' l-ammont kollu u shiħ tad-dividendi jekk is-sid benefiċjarju jkun kumpannija li jkollha direttament mill-inqas 25 fil-mija mill-kapital tal-kumpannija li tkun qegħda tħallas id-dividendi;

(ii) 10 fil-mija ta' l-ammont kollu u shiħ tad-dividendi fil-każijiet l-oħra kollha;

(2) meta d-dividendi jithallsu minn kumpannija li tkun residenti ta' Malta lil residenti tas-Serbja li jkun is-sid benefiċjarju tad-dividendi, it-taxxa ta' Malta fuq l-ammont kollu u shiħ tad-dividendi m'għandhiex tkun iżjed

minn dik li tithallas fuq il-profitti li minnhom jithallsu d-dividendi.

Dan il-paragrafu ma jolqotx l-intaxxar tal- kumpannija għar-rigward tal-profitti li minnhom jithallsu d-dividendi.

3. Il-frazi "**dividendi**" skond ma tintuza f'dan l-Artiklu tfisser *income* minn ishma jew drittijiet oħra, li ma jkunux pretensjonijiet ta' debitu, il-partecipazzjoni fi profitti, kif ukoll *income* minn drittijiet korporattivi oħra li jingħata l-istess trattament ta' taxxa bħallikieku kien *income* minn ishma skond il-liġijiet ta' l-Istat fejn tkun residenti l-kumpannija li tkun qegħda tagħmel it-tqassim.

4. Il-provvedimenti tal-paragrafi 1 u 2 m'għandhomx japplikaw jekk is-sid benefiċjarju tad-dividendi, li jkun residenti ta' Stat Kontraenti, ikun imexxi negozju fl-Istat Kontraenti l-ieħor li fih tkun residenti l-kumpannija li tħallas id-dividendi, permezz ta' stabbiliment permanenti li jkun sitwat hemmhekk, jew li jkun jaqsmel f'dak l-Istat l-ieħor servizzi personali indipendenti minn bażi stabbilita sitwata hemmhekk, u l-*holding* li dwarhom jkunu mħallsa d-dividendi jkollu effettivament x'jaqsm ma' dak l-istabbiliment permanenti jew bażi stabbilita. F'dak il-każ għandhom japplikaw il-provvedimenti ta' l-Artiklu 7 jew ta' l-Artiklu 14, skond il-każ.

5. Meta kumpannija li tkun residenti ta' Stat Kontraenti tikseb profitti jew *income* mill-Istat Kontraenti l-ieħor, dak l-Istat l-ieħor ma jista' jimponi ebda taxxa fuq id-dividendi mħallsa mill-kumpannija, hlief sakemm daww id-dividendi jithallsu lil residenti ta' dak l-Istat l-ieħor jew sakemm il-*holding* li dwaru jithallsu d-dividendi jkun effettivament konness ma' stabbiliment permanenti jew ma' bażi stabbilita sitwati f'dak l-Istat l-ieħor, lanqas ma jista' jassoggetta l-profitti mhux imqassma tal-kumpannija għal taxxa fuq il-profitti mhux imqassma tal-kumpannija, ukoll jekk id-dividendi mħallsa jew il-profitti mhux imqassma jkunu kollha kemm huma jew f'parti minnhom jikkonsistu fi profitti jew *income* li jinjalghu f'dak l-Istat l-ieħor.

Artiklu 11

MGHAX

1. Mghax li jinjala' fi Stat Kontraenti u jithallas lil residenti ta' l-Istat Kontraenti l-ieħor jista' jiġi intaxxat f'dak l-Istat l-ieħor.

2. Madankollu, dak l-imghax jista' wkoll jiġi intaxxat fl-Istat Kontraenti fejn dan jinjala' u skond il-liġijiet ta' dak l-Istat, imma jekk is-sid benefiċjarju ta' dak l-imghax ikun residenti tal-Istat Kontraenti l-ieħor, it-taxxa hekk mitluba m'għandhiex teċċedi 10 fil-mija ta' l-ammont kollu u sħiħ ta' l-imghax.

3. Minkejja l-provvedimenti tal-paragrafu 2, mghax jiġi eżentat mit-taxxa fl-Istat Kontraenti fejn dan jinjala' jekk dan jinkiseb u jkollu bħala sid benefiċjarju tiegħu lill-Gvern tal-Istat Kontraenti l-ieħor, inkluża kull sottodivizjoni politika

jew awtorità lokali tiegħu, il-Bank Ċentrali jew xi istituzzjoni finanzjarja li dak il-Gvern ikollu bi proprjetà assoluta.

4. Il-frazi "**mgħax**" kif tintuża f'dan l-Artiklu tfisser *income* minn pretensjonijiet ta' debitu ta' kull xorta, sew jekk assikurati b'ipoteka sew jekk le, u sew jekk ikollhomx dritt li jipparteċipaw fil-profitti tad-debitur sew jekk le, u b'mod partikolari, *income* minn titoli tal-Gvern u *income* minn *bonds* jew *debentures*, inklużi *premiums* u premjijiet relatati ma dawk it-titoli, *bonds* jew *debentures*. Hlasijiet ta' penali għal hlas tardiv ma jitqiesux bhala mgħax għall-finijiet ta' dan l-Artiklu.

5. Il-provvedimenti tal-paragrafi 1, 2 u 3 m'għandhomx japplikaw jekk is-sid benefiċjarju ta' l-imgħax, li jkun residenti ta' Stat Kontraenti, ikun qed imexxi negozju fl-Istat Kontraenti l-ieħor li fih jinqala' l-imgħax, permezz ta' stabbiliment permanenti sitwat hemmhekk, jew jagħmel servizzi personali indipendenti f'dak Istat l-ieħor minn bażi stabbilita sitwata hemmhekk, u l-pretensjoni ta' debitu li dwarha jithallas l-imgħax tkun effettivament konnessa ma' dak l-istabbiliment permanenti jew bażi stabbilita. F'każ bħal dak għandhom japplikaw il-provvedimenti ta' l-Artiklu 7 jew ta' l-Artiklu 14, skond il-każ.

6. Għandu jitqies li jinqala' mgħax fi Stat Kontraenti meta min ihallas ikun residenti ta' dak l-Istat. Meta, madankollu, l-persuna li tkun qed thallas l-imgħax, sew jekk tkun residenti ta' Stat Kontraenti sew jekk le, ikollha fi Stat Kontraenti stabbiliment permanenti jew bażi stabbilita li f'konnessjoni magħhom tkun inkisbet il-qagħda ta' debitu li fuqu jithallas l-imgħax, u dak l-imgħax jingarr minn dak l-istabbiliment permanenti jew minn dik il-baży stabbilita, allura dak l-imgħax għandu jitqies bhala li jinqala' fl-Istat fejn ikunu jinsabu l-istabbiliment permanenti jew il-baży stabbilita.

7. Meta, minhabba f'relazżjoni speċjali bejn min ihallas u s-sid benefiċjarju jew bejn it-tnejn li huma u xi persuna oħra, l-ammont ta' l-imgħax, wara li titqies xi tkun il-pretensjoni ta' debitu li dwarha jithallas, ikun iżjed mill-ammont li kien ikun miftiehem bejn min ihallas u s-sid benefiċjarju fin-nuqqas ta' dik ir-relażżjoni, il-provvedimenti ta' dan l-Artiklu għandhom ikunu japplikaw biss għall-ammont l-ahhar imsemmi. F'każ bħal dak, il-parti żejda tal-hlasijiet tibqa' taxxabli skond il-liġijiet ta' kull Stat Kontraenti, fil-qjies tal-provvedimenti l-oħra ta' dan il-Ftehim.

Artiklu 12 **ROYALTIES**

1. *Royalties* li jinqalgħu fi Stat Kontraenti u li jithallsu lil residenti ta' l-Istat Kontraenti l-ieħor jistgħu jiġu intaxxati f'dak Istat l-ieħor.

2. Madankollu, dawk ir-*royalties* jistgħu jiġu intaxxati wkoll fl-Istat Kontraenti fejn jinqalgħu u skond il-liġijiet ta' dak l-Istat, imma jekk ir-riċevitur ikun is-sid benefiċjarju tar-*royalties*, it-taxxa hekk imposta m'għandhiex tkun iżjed

minn:

(1) 5 fil-mija ta' l-ammont kollu u shih ta' *royalties* fil-kuntest tat-tifsir tas-subparagrafu 1) tal-paragrafu 3 ta' dan l-Artiklu;

(2) 10 fil-mija ta' l-ammont kollu u shih ta' *royalties* fil-kuntest tat-tifsir tas-subparagrafu 2) tal-paragrafu 3 ta' dan l-Artiklu.

3. Il-frazi "*royalties*", skond ma tintuza f' dan l-Artiklu, tfisser hlasijiet ta' kull xorta li jsiru b'korrispettiv:

(1) għall-użu ta', jew għall-jedd ta' l-użu, ta' kull dritt ta' l-awtur ta' xogħol letterarju, artistiku jew xjentifiku inklużi films ċinematografiċi u films jew *tapes* għal xandir bir-radju jew bit-telewizjoni; u

(2) hall-użu ta', jew għall-jedd ta' l-użu, ta' kull privattiva, *trade mark*, disinn jew mudell, pjan, formula jew proċess sigrieti, jew għall-użu ta', jew id-dritt li jintuza, tagħmir industrijali, kummerċjali jew xjentifiku, jew għal informazzjoni dwar konozzenza industrijali, kummerċjali jew xjentifika.

4. Il-provvedimenti tal-paragrafi 1 u 2 m'għandhomx japplikaw jekk is-sid benefiċjarju tar-*royalties*, li jkun residenti ta' Stat Kontraenti, ikun qed imexxi negozju fl-Istat Kontraenti l-ieħor fejn jinqalgħu r-*royalties*, permezz ta' stabbiliment permanenti sitwat hemmhekk, jew ikun qiegħed jagħmel f'dak Istat l-ieħor servizzi personali indipendenti minn bażi stabbilita li tkun tinsab hemmhekk, u d-dritt jew il-proprjetà li dwarhom jithallsu r-*royalties* ikunu effettivament konnessi ma' dak l-istabbiliment permanenti jew bażi stabbilita. F'dak il-każ għandhom japplikaw il-provvedimenti ta' l-Artiklu 7 jew ta' l-Artiklu 14, skond il-każ.

5. Ir-*royalties* għandhom jitqiesu li jinqalgħu fi Stat Kontraenti meta min iħallashom ikun residenti ta' dak l-Istat. Meta, madankollu, il-persuna li tħallas ir-*royalties*, sew jekk tkun residenti ta' Stat Kontraenti sew jekk ma tkunx, ikollha fi Stat Kontraenti stabbiliment permanenti jew bażi stabbilita li dwarhom ikun ittieħed l-obbligju li jithallsu r-*royalties*, u daww ir-*royalties* ikunu r-responsabbiltà ta' dak l-istabbiliment permanenti jew bażi stabbilita, allura daww ir-*royalties* għandhom jitqiesu li jinqalgħu fl-Istat li fih ikun jinsab l-istabbiliment permanenti jew il-baży stabbilita.

6. Meta, minħabba fir-relazzjoni speċjali bejn min iħallas u s-sid benefiċjarju jew bejnithom it-tnejn u xi persuna oħra, l-ammont tar-*royalties*, fil-qies ta' x'ikun l-użu, id-dritt jew l-informazzjoni li jithallsu dwarhom, ikun iżjed mill-ammont li kien ikun miftiehem bejn min iħallas u s-sid benefiċjarju fin-nuqqas ta' dik ir-relazzjoni, il-provvedimenti ta' dan l-Artiklu għandhom ikunu japplikaw biss għall-ammont l-aħhar imsemmi. F'dak il-każ, il-parti żejda tal-hlasijiet għandha tibqa' taxxabli skond il-liġijiet ta' kull Stat Kontraenti, wara li

jitqiesu l-provvedimenti l-oħra ta' dan il-Ftehim.

Artiklu 13

QLIGH MINN PROPRJETÀ

1. Kull qligh li jinkiseb minn residenti ta' Stat Kontraenti mit-trasferiment ta' proprjeta' immobbli imsemmi fl-Artiklu 6 u li tkun tinsab fl-Istat Kontraenti l-ieħor jista' jiġi intaxxat f'dak l-Istat l-ieħor.

2. Qligh mit-trasferiment ta' proprjeta' mobbli li tagħmel parti mill-proprjeta' tan-negozju ta' stabbiliment permanenti li impriza ta' Stat Kontraenti jkollha fl-Istat Kontraenti l-ieħor jew ta' proprjeta' mobbli li tkun tappartjeni għal bażi stabbilita li tkun disponibbli għal residenti ta' Stat Kontraenti fl-Istat Kontraenti l-ieħor bil-għan li jitwettqu servizzi personali indipendenti, inkluż dak il-qligh mit-trasferiment ta' dak l-istabbiliment permanenti (wahdu jew flimkien ma' l-impriza kollha) jew ta' dik il-baży stabbilita, jista' jiġi intaxxat f'dak l-Istat l-ieħor.

3. Qligh li jinkiseb minn impriza ta' Stat Kontraenti mit-trasferiment ta' bastimenti jew inġenji ta' l-ajru li jkunu qegħdin jithaddmu fi traffiku internazzjonali, jew minn proprjeta' mobbli li tkun tappartjeni għat-tħaddim ta' dawk il-bastimenti jew inġenji ta' l-ajru, għandhom jiġu intaxxati biss f'dak l-Istat.

4. Kull qligh li jinkiseb minn residenti ta' Stat Kontraenti mit-trasferiment ta' ishma jew interessi li jixxiebhu f'kumpannija li jkollha l-assi tagħha direttament jew indirettament prinċipalment jikkonsistu fi proprjeta' immobbli li tkun tinsab fi Stat Kontraenti jista' jiġi intaxxat f'dak l-Istat.

5. Qligh mit-trasferiment ta' proprjeta' li ma tkunx dik imsemmija fil-paragrafi 1, 2, 3 u 4 għandu jiġi intaxxat biss fl-Istat Kontraenti li min jittrasferixxi jkun residenti fih.

Artiklu 14

SERVIZZI PERSONALI INDIPENDENTI

1. *Income* li jinkiseb minn residenti ta' Stat Kontraenti għal servizzi professjonali jew attivitajiet oħra ta' xorta indipendenti għandu jiġi intaxxat biss f'dak l-Istat hlief f'dawn iċ-ċirkostanzi li ġejjin, meta dak l-*income* jista' jiġi intaxxat fl-Istat l-ieħor:

(1) jekk l-individwu jkollu baży stabbilita li tkun regolarment disponibbli għalih fl-Istat Kontraenti l-ieħor bil-għan li jwettaq l-attivitajiet tiegħu; f'dak il-każ, ikun biss daqstant mill-*income* daqskemm jista' jkun attribwibbli għal dik il-baży stabbilita li tkun tista' titħallas taxxa fuqu f'dak l-Istat Kontraenti l-ieħor; jew

(2) jekk l-individwu jkun joqgħod fl-Istat Kontraenti l-ieħor għal perjodu jew għal perjodi li jkunu jgħoddu jew b'kollox jeċċedu aktar minn 183 gurnata

f'perjodu ta' tna-x-il xahar li jibda għaddej jew itemm fis-sena fiskali in kwistjoni; f'dak il-każ, biss daqstant mill-*income* daqskemm jista' jinkiseb mill-attivitajiet tiegħu mwettqa f'dak l-Istat Kontraenti l-ieħor ikun jista' jiġi intaxxat f'dak l-Istat l-ieħor.

2. Il-frazi "**servizzi professjonali**" tinkludi b'mod speċjali attivitajiet xjentifiċi, letterarji, artistiki, edukattivi jew ta' taġġim indipendenti kif ukoll l-attivitajiet indipendenti ta' tobbja, avukati, inginjera, periti, dentisti u *accountants*.

Artiklu 15

SERVIZZI PERSONALI DIPENDENTI

1. Bla hsara għall-provvedimenti ta' l-Artiklu 16, 18 u 19, is-salarji, il-pagi u kull kumpens ieħor bħal dak li jinkisbu minn residenti ta' Stat Kontraenti dwar xi impjieg għandhom jiġu intaxxati biss f'dak l-Istat kemm-il darba l-impjieg ma jiġix eżerċitat fl-Istat Kontraenti l-ieħor. Jekk l-impjieg jiġi hekk eżerċitat, dak il-kumpens li jinkiseb minnu jista' jiġi intaxxat f'dak l-Istat l-ieħor.

2. Minkejja l-provvedimenti tal-paragrafu 1, il-kumpens li jinkiseb minn residenti ta' Stat Kontraenti dwar xi impjieg li jkun eżerċitat fl-Istat Kontraenti l-ieħor għandu jiġi intaxxat biss fl-Istat l-ewwel imsemmi jekk:

(1) min jirċevih ikun joqgħod fl-Istat l-ieħor għal perjodu jew perjodi li b'kolloxx ma jgħoddux aktar minn 183 gurnata f'perjodu ta' tna-x-il xahar li jibda għaddej jew itemm fis-sena kalendarja involuta, u

(2) il-kumpens jithallas minn, jew f'isem, prinċipal li ma jkunx residenti fl-Istat l-ieħor; u

(3) il-kumpens ma jkunx ta' piż fuq l-istabbiliment permanenti jew il-baži stabbilita li l-prinċipal ikollu fl-Istat l-ieħor.

3. Minkejja l-provvedimenti preċedenti ta' dan l-Artiklu, il-kumpens li jinkiseb dwar impjieg eżerċitat abbord bastiment jew ingenji ta' l-ajru operati fi traffiku internazzjonali minn impriża ta' Stat Kontraenti, jista' jiġi intaxxat f'dak l-Istat.

Artiklu 16

DRITTIJIET TAD-DIRETTURI

Id-drittijiet tad-diretturi u hlasijiet simili oħra li jinkisbu minn residenti ta' Stat Kontraenti fil-kapaċità tiegħu ta' membru tal-bord ta' diretturi ta' kumpannija li tkun residenti fl-Istat Kontraenti l-ieħor jistgħu jiġu intaxxati f'dak l-Istat l-ieħor.

Artiklu 17

ARTISTI U SPORTIVI

1. Minkejja l-provvedimenti ta' l-Artikli 14 u 15, *income* li jinkiseb minn residenti ta' Stat Kontraenti bhala persuna li jaghti spettaklu, bhala artist tat-teatru, tal-films ċinematografiċi, tar-radju jew tat-televizjoni, jew bhala mużiċista, jew bhala sportiv, mill-attivitajiet personali tiegħu bhala tali li jiġu eżerċitati fl-Istat Kontraenti l-iehor, jista' jiġi intaxxat f'dak l-Istat l-iehor.

2. Meta *income* dwar attivitajiet personali eżerċitati minn persuna li tagħti spettaklu jew minn sportiv fil-kapaċità tiegħu bhala tali ma jingabarx favur il-persuna li tagħti spettaklu jew l-isportiv innifsu imma favur persuna oħra, dak l-*income* jista', minkejja l-provvedimenti ta' l-Artikli 7, 14 u 15, jiġi intaxxat fl-Istat Kontraenti fejn jiġu eżerċitati l-attivitajiet tal-persuna li tagħti spettaklu jew ta' l-isportiv.

3. Minkejja l-provvedimenti tal-paragrafi 1 u 2 ta' dan l-Artiklu, *income* imsemmi f'dan l-Artiklu jkun eżenti mit-taxxa fl-Istat Kontraenti fejn tiġi eżerċitata l-attività ta' min jagħti spettaklu jew tal-isportiv sakemm din l-attività tkun sostanzjalment sostnuta minn fondi pubbliċi ta' l-Istat jew sottodivizjoni politika jew awtorità lokali tiegħu, jew jekk l-attività tkun eżerċitata taħt ftehim kulturali jew sportiv jew arrangament bejn l-Istati Kontraenti.

Artiklu 18

PENSJONIJIET

1. Bla ħsara għall-provvedimenti tal-paragrafu 2 ta' l-Artiklu 19, il-pensjonijiet u kumpens ieħor bhala dawk li jithallsu lil residenti ta' Stat Kontraenti minhabba f'xi impjeg imghoddi għandhom jiġu intaxxati biss f'dak l-Istat.

2. Minkejja l-provvedimenti tal-paragrafu 1, il-pensjonijiet u kumpens ieħor bhala dawk li jinqalgħu fi Stat Kontraenti u li jithallsu lil residenti tal-Istat Kontraenti l-iehor minhabba f'impjeg tal-imghoddi jistgħu jiġu intaxxati fl-Istat l-ewwel imsemmi daqstant li dawk il-pensjonijiet u kull rimunerazzjoni oħra bħalhom ma jkunux soġġetti għat-taxxa f'dak l-Istat l-iehor.

3. Minkejja l-provvedimenti tal-paragrafu 1, pensjonijiet imhallsa u ħlasijiet oħra li jsiru taħt il-liġijiet tas-sigurtà soċjali ta' Stat Kontraenti għandhom jiġu intaxxati biss f'dak l-Istat.

Artiklu 19

SERVIZZ TAL-GVERN

1. (1) Salarji, pagi u kull rimunerazzjoni oħra bhala dawk, minbarra pensjoni, mhallsa minn Stat Kontraenti jew minn sottodivizjoni politika jew awtorità lokali tiegħu lil xi individwu għar-rigward ta' servizzi mogħtijin lil dak l-Istat jew sottodivizjoni jew awtorità għandhom jiġu intaxxati biss f'dak l-Istat.

(2) Madankollu, kull salarju, paga u rimunerazzjoni oħra bhala dawk għandhom jiġu intaxxati biss f'dak l-Istat Kontraenti l-iehor jekk is-servizzi

jingħataw f' dak l-Istat u l-individwu jkun residenti f' dak l-Istat u:

(1) ikun ċittadin ta' dak l-Istat; jew

(2) ma jkunx sar residenti ta' dak l-Istat unikament biex jaqdi dawk is-servizzi.

2. (1) Pensjoni mħallsa minn, jew li tohrog minn fond mahluq minn, Stat Kontraenti jew sottodivizjoni politika jew awtorità lokali tiegħu lil individwu għar-rigward ta' servizzi mogħtija lil dak l-Istat jew sottodivizjoni jew awtorità għandhom jiġu intaxxati biss f' dak l-Istat.

(2) Madankollu, dik il-pensjoni għandha tiġi intaxxata biss fl-Istat Kontraenti l-ieħor jekk l-individwu jkun residenti ta', u ċittadin ta', dak l-Istat.

3. Il-provvedimenti ta' l-Artikli 15, 16, 17 u 18 għandhom japplikaw għal salarji, pagi u kull rimunerazzjoni oħra bħal dawk, u għal pensjonijiet, għar-rigward ta' servizzi mogħtija f' dak li għandu x'jaqsam ma' kummerċ ġestit minn Stat Kontraenti jew sottodivizjoni politika jew awtorità lokali tiegħu.

Artiklu 20

STUDENTI

Il-ħlasijiet li student jew apprendist kummerċjali li jkun jew kien minnufih qabel ma jżur Stat Kontraenti residenti fl-Istat Kontraenti l-ieħor u li jkun joqgħod fl-Istat Kontraenti l-ewwel imsemmi unikament għall-finijiet ta' l-edukazzjoni jew it-taħriġ tiegħu jirċievi għall-finijiet tal-manteniment, l-edukazzjoni jew it-taħriġ tiegħu m'għandhomx jiġu intaxxati f' dak l-Istat, sakemm dawk il-ħlasijiet ikunu ġejjin minn ghejjun oħra li ma jkunux dak l-Istat.

Artiklu 21

INCOME IEHOR

1. Elementi ta' *income* ta' residenti ta' Stat Kontraenti, jinqalghu minn fejn jinqalghu, li ma jkunux ittrattati fl-Artikli ta' hawn aktar qabel ta' dan il-Ftehim għandhom jiġu intaxxati biss f' dak l-Istat.

2. Il-provvedimenti tal-paragrafu 1 m'għandhomx japplikaw għal *income*, li ma jkunx *income* minn proprjetà immobbli kif imfisser fil-paragrafu 2 ta' l-Artiklu 6, jekk min jirċievi dak l-*income*, għax ikun residenti ta' Stat Kontraenti, jiġġestixxi negozju fl-Istat Kontraenti l-ieħor permezz ta' stabbiliment permanenti li jkun jinsab f' dak l-Istat, jew iwettaq f' dak l-Istat l-ieħor servizzi personali indipendenti minn bażi stabbilita li tkun tinsab hemmhekk, u d-dritt jew il-proprjetà li dwarhom jiħallas l-*income* ikunu effettivament konnessi ma' dak l-istabbiliment permanenti jew bażi stabbilita. F' dak il-każ għandhom japplikaw il-provvedimenti ta' l-Artiklu 7 jew l-Artiklu 14, skond il-każ.

Artiklu 22

ELIMINAZZJONI TA' TAXXA DOPPJA

1. Meta residenti ta' Stat Kontraenti jikseb *income* li, skond il-provvedimenti ta' dan il-Ftehim, jista' jkun intaxxat fl-Istat Kontraenti l-ieħor, l-Istat l-ewwel imsemmi għandu jippermetti bħala tnaqqis mit-taxxa fuq *l-income* ta' dak ir-residenti, ammont daqsinsaw it-taxxa fuq *l-income* li tithallas f'dak l-Istat l-ieħor. Dak it-tnaqqis, madankollu, m'għandux jeċċedi dik il-parti tat-taxxa fuq *l-income*, kif din tkun giet mahduma qabel ma jinghata t-tnaqqis, li tkun attribwibbli għall-*income* li jista' jiġi intaxxat f'dak l-Istat l-ieħor.

2. Meta skond xi provvediment tal-Ftehim *income* li jinkiseb minn residenti ta' Stat Kontraenti jkun eżenti mit-taxxa f'dak l-Istat, dak l-Istat jista' madankollu, meta jiġi biex jikkalkula l-ammont ta' taxxa fuq *l-income* li jifdal ta' dak ir-residenti, jiehu kont ta' *l-income* li jkun gie eżentat.

Artiklu 23

EBDA DISKRIMINAZZJONI

1. Iċ-ċittadini ta' Stat Kontraenti m'għandhom jiġu assoġġettati fl-Istat Kontraenti l-ieħor għal ebda tassazzjoni jew ebda htieġa konnessi ma' dan, li tkun diversa jew ta' iktar piż mit-tassazzjoni u htieġiet konnessi li għalihom ċittadini ta' dak l-Istat l-ieħor fl-istess ċirkostanzi, b'mod partikolari għar-rigward ta' residenza, ikunu jew jistgħu jkunu assoġġettati. Dawn il-provvedimenti għandhom, minkejja l-provvedimenti ta' l-Artiklu 1, ikunu japplikaw ukoll għal persuni li ma jkunux residenti ta' xi wiehed jew iż-żewġ Stati Kontraenti.

2. L-intaxxar fuq stabbiliment permanenti li impriza ta' Stat Kontraenti jkollha fl-Istat Kontraenti l-ieħor m'għandux jingabar b'mod inqas favorevoli f'dak l-Istat l-ieħor mit-tassazzjoni migbura fuq imprizi ta' dak l-Istat l-ieħor li jkun qiegħed iwettaq l-istess attivitajiet. Dan il-provvediment m'għandux jiftiehem bħala li jobbliga lil Stat Kontraenti li jikkonċedi lil residenti ta' l-Istat Kontraenti l-ieħor xi *allowances*, helsien u tnaqqis personali għall-għanijiet ta' taxxa minhabba fl-istatus ċivili jew responsabbiltajiet familjari li jikkonċedi lir-residenti tiegħu.

3. Hlief meta jkunu japplikaw il-provvedimenti tal-paragrafu 1 ta' l-Artiklu 9, tal-paragrafu 7 ta' l-Artiklu 11, jew tal-paragrafi 6 ta' l-Artiklu 12, mgħax, *royalties* u hlasijiet oħra li jsiru minn impriza ta' Stat Kontraenti lil residenti ta' l-Istat Kontraenti l-ieħor għandhom, għall-fini li jiġu stabbilit x'ikunu l-profitti taxxabli ta' dik l-impriza, jiġu mnaqqsa taħt l-istess kondizzjonijiet bħallikieku dawn kienu mħallsa lil residenti ta' l-Istat l-ewwel imsemmi.

4. Imprizi ta' Stat Kontraenti, li l-kapital tagħhom ikun għalkollox jew f'parti minnu proprjetà jew taħt il-kontroll, sew dirett sew mhux dirett, ta' residenti wiehed jew iktar ta' l-Istat Kontraenti l-ieħor, ma jkunu assoġġettati fl-Istat l-ewwel imsemmi għal ebda taxxa jewgħal ebda htieġa konnessa ma' dan li

tkun xort'ohra jew ta' iktar piż mit-taxxa u htigiet konnessi li għalihom ikunu jew jistgħu jkunu assoġġettati l-imprizi ohra bħal dawk ta' l- Istat l-ewwel imsemmi.

Artiklu 24

PROĊEDURA TA' FTEHIM REĊIPROKU

1. Meta persuna jidhrilha li l-azzjonijiet ta' xi wiehed jew iż-żewg Stati Kontraenti jirriżultawlu jew jistgħu jirriżultawlu f'taxxa li ma tkunx skond il-provvedimenti ta' dan il-Ftehim, tista', irrispettivament mir-rimedji provduti mill-liġi domestika ta' dawk l-Istati, tippreżenta l-każ tagħha quddiem l-awtorità kompetenti ta' l-Istat Kontraenti fejn tkun residenti jew, jekk il-każ tagħha jkun jaqa' taħt il-paragrafu 1 ta' l-Artiklu 23, quddiem dik ta' l- Stat Kontraenti li tkun ċittadin tiegħu. Il-każ għandu jiġi ippreżentat fi żmien tliet snin minn meta ssir l-ewwel avviz ta' l-azzjoni li tirriżulta f'taxxa li ma tkunx skond il-provvedimenti tal-Ftehim.

2. L-awtorità kompetenti għandha ttipprova, jekk l-oġġezzjoni tkun tidhrilha bħala waħda ġustifikata u jekk hi nnifisha ma tkunx tista' tasal għal soluzzjoni sodisfaċenti, tirisolvi l-każ bi ftehim reċiproku ma' l-awtorità kompetenti ta' l-Istat Kontraenti l-ieħor, bil-għan li tiġi evitata taxxa li ma tkunx skond il-Ftehim. Meta jintlahaq ftehim, dan għandu jiġi implimentat minkejja kull termini fil-liġi domestika ta' l- Stati Kontraenti.

3. L-awtoritajiet kompetenti ta' l-Istati Kontraenti għandhom permezz ta' ftehim reċiproku jippruvaw jirrisolvu kull diffikultà jew dubbju li jista' jirriżulta dwar l-interpretazzjoni jew l-applikazzjoni tal-Ftehim. Dawn jistgħu wkoll jikkonsultaw flimkien dwar l-eliminazzjoni ta' tassazzjoni doppja f'dawk il-każijiet li m'hemm xejn dwarhom fil-Ftehim.

4. L-awtoritajiet kompetenti ta' l-Istati Kontraenti jistgħu jikkomunikaw ma' xulxin direttament, ukoll permezz ta' kummissjoni kongunta magħmula minnhom stess jew mir-rappreżentanti tagħhom, bl-iskop li jilhqu ftehim fis-sens tal-paragrafi preċedenti.

Artiklu 25

SKAMBJU TA' INFORMAZZJONI

1. L-awtoritajiet kompetenti ta' l-Istati Kontraenti għandhom jiskambjaw dik l-informazzjoni li tista' tkun meħtieġa biex jitwettqu l-provvedimenti ta' dan il-Ftehim jew tal-liġijiet domestiċi ta' l-Istati Kontraenti għar-rigward ta' taxxi koperti bil-Ftehim sakemm l-intaxxar li jsir taħthom ma jkunx kuntrarju għall-Ftehim, partikolarment dwar il-prevenzjoni ta' frodi jew l-evażjoni ta' dawk it-taxxi. L-iskambju ta' informazzjoni mhuwiex ristrett bl-Artiklu 1. Kull informazzjoni li tiġi riċevuta mill-Istat Kontraenti għandha tiġi ittrattata bħala waħda sigrieta bl-istess mod bħall-informazzjoni miksuba taħt il-liġijiet domestiċi ta' dak l-Istat u għandha tiġi żvelata biss lil persuni jew lil awtoritajiet (inklużi grati u korpi amministrattivi) li jkollhom x'jaqsmu ma' l-istima jew fil-ġbir ta', l-

infurzar jew prosekuzzjoni dwar, jew id-deċizzjoni ta' appelli dwar, it-taxxi koperti bil-Ftehim. Dawk il-persuni jew awtoritajiet għandhom jużaw dik l-informazzjoni biss għal dawk l-għanijiet. Huma jistgħu jiżvelaw l-informazzjoni fi proċeduri tal-qorti bil-miftuh jew f' deċiżjonijiet gudizzjarji.

2. F'ebda każ m'għandhom il-provvedimenti tal-paragrafu 1 jiftiehm bħala li jimponu fuq Stat Kontraenti l-obbligu:

(1) li jwettaq miżuri amministrattivi li ma jkunux jaqblu mal-liġijiet u mal-prattika amministrattiva ta' dak l-Istat Kontraenti jew ta' l-Istat Kontraenti l-ieħor;

(2) li jagħti informazzjoni li ma tkunx tista' tinkiseb taħt il-liġijiet jew fil-kors normali ta' l-amministrazzjoni ta' dak jew ta' l-Istat Kontraenti l-ieħor;

(3) li jagħti informazzjoni li tikxef xi sigriet ta' sengħa, negozju, industrija, kummerċ jew professjoni jew proċess ta' kummerċ, jew informazzjoni, li meta tiġi żvelata din tkun tmur kontra l-ordni pubbliku (*ordre public*).

Artiklu 26

MEMBRI TA' MISSJONIJIET DIPLOMATIĊI U KARIGI KONSULARI

Ebda haga f'dan il-Ftehim m'għandha tolqot il-privileġġi fiskali tal-membri ta' missjonijiet diplomatiċi jew ta' kariġi konsulari taħt ir-regoli ġenerali tad-dritt internazzjonali jew taħt il-provvedimenti ta' kull ftehim speċjali.

Artiklu 27

BIDU FIS-SEHH

1. L-Istati Kontraenti għandhom javżaw lil xulxin, permezz tal-kanali diplomatiċi, li l-proċeduri meħtieġa bil-liġijiet domestiċi tagħhom għall-bidu fis-seħh ta' dan il-Ftehim ikunu ġew imħarsa.

2. Dan il-Ftehim għandu għandu jidhol fis-seħh fid-data li tiġi l-iktar tard minn dawn l-avviżi u l-provvedimenti tiegħu għandu jkollhom effett:

(1) fis-Serbja: għar-rigward ta' taxxi fuq *income* miksub f'kull sena fiskali li tibda fl-ewwel jum ta' Jannar jew wara tas-sena kalendarja li taħbat minnufih wara s-sena li fiha jibda jseħh il-Ftehim;

(2) f'Malta: għar-rigward ta' taxxi fuq *income* miksub matul xi sena kalendarja jew perjodu ta' kontijiet, skond il-każ, li jibda fl-ewwel jum ta' Jannar jew wara li jkun jaħbat minnufih wara d-data li fiha jibda jseħh il-Ftehim.

Artiklu 28
TERMINAZZJONI

Dan il-Ftehim għandu jibqa' jsehh sakemm jiġi terminat minn xi Stat Kontraenti. Kull wiehed mill-Istati Kontraenti jista' jtemm il-Ftehim, permezz ta' kanali diplomatiċi, billi jagħti avviż tat-terminazzjoni mill-inqas sitt xhur qabel it-tmiem ta' xi sena kalendarja li tibda għaddejja wara l-iskadenza ta' perjodu ta' hames snin minn meta jidhol fis-sehh il-Ftehim. F'dak il-każ, dan il-Ftehim m'għandux jibqa' fis-sehh:

(1) fis-Serbja: għar-rigward ta' taxxi fuq *income* miksub f'kull sena fiskali li tibda fl-ewwel jum ta' Jannar jew wara tas-sena kalendarja li taħbat minnufih wara s-sena li fiha jingħata l- avviż tat-terminazzjoni;

(2) f'Malta: għar-rigward ta' taxxi fuq *income* miksub matul xi sena kalendarja jew perjodu ta' kontijiet, skond il-każ, li jibda fl-ewwel jum ta' Jannar jew wara li jkun jaħbat minnufih wara d-data li fiha jingħata l-avviż.

B'XIEHDA TA' DAN is-sottoskritti, awtorizzati kif imiss biex jagħmlu dan, iffirraw dan il-Ftehim.

MAGHMUL fil-Belt Valletta, illum 9 ta' Settembru, 2009 f'żewġ oriġinali, fl-ilsien Serb u fl-ilsien Inġliż, kull wiehed miż-żewġ testi oriġinali awtentiċi ndaqs.

TONIO FENECH
Għal Malta

VUK JEREMIC
Għar-Repubblika tas-Serbja

L.N. 431 of 2010

**INCOME TAX ACT
(CAP. 123)**

**DOUBLE TAXATION RELIEF (TAXES ON INCOME) (THE
REPUBLIC OF SERBIA) ORDER, 2010**

IN exercise of the powers conferred by article 76 of the Income Tax Act, the Minister of Finance, the Economy and Investment has made the following order:-

1. The title of this order is the Double Taxation Relief (Taxes on Income) (The Republic of Serbia) Order, 2010. Citation.

2. It is hereby declared:-

Arrangements to
have effect.

(a) that the arrangements specified in the Agreement set out in the Schedule to this Order have been made with the Republic of Serbia with a view to affording relief from double taxation in relation to the following taxes imposed by the laws of the Republic of Serbia:

- the corporate income tax;
- personal income tax;

(b) that it is expedient that those arrangements should have effect;

(c) that the Convention has entered into force on the 16th June, 2010.

**SCHEDULE
(Article 2)**

C O N V E N T I O N

BETWEEN

MALTA

AND

THE REPUBLIC OF SERBIA

**FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO
TAXES ON INCOME**

MALTA

AND

THE REPUBLIC OF SERBIA

desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income,

have agreed as follows:

**Article 1
PERSONS COVERED**

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 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 all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

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

(1) in Serbia:

- (1) the corporate income tax;
- (2) personal income tax

(hereinafter referred to as "**Serbian tax**");

(2) in Malta:

the income tax.

(hereinafter referred to as "**Malta tax**").

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

Article 3 **GENERAL DEFINITIONS**

1. For the purposes of this Convention:

(1) the terms "**a Contracting State**" and "**the other Contracting State**" mean Serbia or Malta, as the context requires;

(2) the term "**Serbia**" means the Republic of Serbia, and when used in a geographical sense it means the territory of the Republic of Serbia;

(3) the term "**Malta**" means the Republic of Malta and, when used in a geographical sense, means the Island of Malta, the Island of Gozo and the other islands of the Maltese archipelago including the territorial waters thereof, as well as any area of the seabed, its subsoil and the superjacent water column adjacent to the territorial waters, wherein Malta exercises sovereign rights, jurisdiction, or control in accordance with international law and its national law, including its legislation relating to the exploration of the continental shelf and exploitation of its natural resources;

(4) the term "**national**" means:

- (1) any individual possessing the nationality of a Contracting State;
- (2) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State.

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

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

(7) 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;

(8) 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;

(9) the term "**competent authority**" means:

(1) in Serbia, the Ministry of Finance or its authorized representative;

(2) in Malta, the Minister responsible for finance or his authorized representative.

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

Article 4 RESIDENT

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

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:

(1) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State

with which his personal and economic relations are closer (centre of vital interests);

(2) 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;

(3) 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;

(4) 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:

(1) a place of management;

(2) a branch;

(3) an office;

(4) a factory;

(5) a workshop, and

(6) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. The term "**permanent establishment**" likewise encompasses:

(1) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than nine months;

(2) the furnishing of services, including consultancy services, by an

enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within a Contracting State for a period or periods aggregating more than six months within any twelve month period.

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

(1) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

(2) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

(3) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(4) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

(5) 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;

(6) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs 1) to 5), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

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

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

from those which would have been made between independent enterprises, he will not be considered an agent of an independent status within the meaning of this paragraph.

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

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 which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8 **INTERNATIONAL TRAFFIC**

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

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

Article 9 **ASSOCIATED ENTERPRISES**

1. Where

(1) 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

(2) 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 of which the company paying the dividends is a resident and according to the laws of that State, but:

(1) where the dividends are paid by a company which is a resident of Serbia to a resident of Malta who is the beneficial owner thereof, the tax so charged by Serbia shall not exceed:

(i) 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;

(ii) 10 per cent of the gross amount of the dividends in all other cases;

(2) where the dividends are paid by a company which is a resident of Malta to a resident of Serbia who is the beneficial owner thereof, Malta tax on the gross amount of the dividends shall not exceed that chargeable on the profits out of which the dividends are paid.

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

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

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, 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.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment 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 beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest shall be exempted from tax in the Contracting State in which it arises if it is derived and beneficially owned by the Government of the other Contracting State, including any political subdivision or local authority thereof, the Central Bank or any financial institution wholly owned by that Government.

4. The term "**interest**" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not

carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, 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 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 beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed:

(1) 5 per cent of the gross amount of the royalties within the meaning of subparagraph (1) of paragraph 3 of this Article;

(2) 10 per cent of the gross amount of the royalties within the meaning of subparagraph (2) of paragraph 3 of this Article.

3. The term "**royalties**" as used in this Article means payments of any kind received as a consideration:

(1) for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films or films or tapes used for radio or television broadcasting; and

(2) for the use of, or the right to use, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, 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 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 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. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a

Contracting State has in the other Contracting State 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.

3. 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.

4. Gains derived by a resident of a Contracting State from the alienation of shares or comparable interests in a company the property of which consists directly or indirectly principally of immovable property situated in a Contracting State may be taxed in that State.

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

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 except in the following circumstances, where such income may also be taxed in the other Contracting State:

(1) if he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or

(2) if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned; in that case, only so much of the income as is derived from his activities performed in that other Contracting State may be taxed in that other State.

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 and 19, 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:

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

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

(3) 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 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. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, income mentioned in this Article shall be exempt from tax in the Contracting State in which the activity of the entertainer or sportsman is exercised provided that this activity is supported in a considerable part out of public funds of the State or a political subdivision or a local authority thereof or of the other State or a political subdivision or a local authority thereof, or the activity is exercised under a cultural or sports agreement or arrangement between the Contracting States.

Article 18

PENSIONS

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 shall be taxable only in that State.

2. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration arising in a Contracting State and paid to a resident of the other Contracting State in consideration of past employment may be taxed in the first-mentioned State to the extent that such pensions and other similar remuneration are not subject to tax in that other State.

3. Notwithstanding the provisions of paragraph 1, pensions paid and other payments made under the social security legislation of a Contracting State shall be taxable only in that State.

Article 19

GOVERNMENT SERVICE

1. (1) 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.

(2) 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:

(1) is a national of that State; or

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

2. (1) 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.

(2) 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 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 21 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 22 ELIMINATION OF DOUBLE TAXATION

1. Where a resident of a Contracting State derives income which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in that other State. Such deduction, however, shall not exceed that part of the income tax, as

computed before the deduction is given, which is attributable to the income which may be taxed in that other State.

2. Where in accordance with any provision of the 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.

Article 23 **NON-DISCRIMINATION**

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

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

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

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 to the taxes referred to in Article 2.

Article 24
MUTUAL AGREEMENT PROCEDURE

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

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this 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, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 25
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, in particular for the prevention of fraud or evasion of such taxes. 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) concerned with 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:

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

(2) 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;

(3) 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 26

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

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

Article 27

ENTRY INTO FORCE

1. The Contracting States shall notify each other in writing, through diplomatic channels, that the procedures required by their domestic laws for entry into force of this Convention have been complied with.

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

(1) in Serbia: in respect of the taxes on income derived in each fiscal 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;

(2) in Malta: in respect of taxes on income derived during any calendar year or accounting period, as the case may be, beginning on or after the first day of January immediately following the date on which the Convention enters into force.

Article 28

TERMINATION

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving written notice of termination at least six months before the end of any calendar year beginning after the expiration of a period of five years from the date of its entry into force. In such event, this Convention shall cease to have

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effect:

(1) in Serbia: in respect of the taxes on income derived in each fiscal year beginning on or after the first day of January in the calendar year next following the year in which the notice of termination has been given;

(2) in Malta: in respect of taxes on income derived during any calendar year or accounting period, as the case may be, beginning on or after the first day of January immediately following the date on which the notice is given.

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

DONE at Valletta this 9th day of September 2009 in two originals, in the Serbian and English languages, both originals being equally authentic.

TONIO FENECH

VUK JEREMIC

FOR MALTA

FOR THE REPUBLIC OF
SERBIA

