

13 March 2026

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OIA 30726

Tyler

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Tēnā koe Tyler

Thank you for your email of 14 February 2026, in which you request the following under the Official Information Act 1982 (OIA):

- 1) *a copy of the signed New Zealand-Slovenia Double Taxation Agreement 2024, including all language texts in which the Agreement has been signed; and*
- 2) *Copies of the "full powers" from New Zealand and Slovenia (if any) for the signature of the Agreement.*

For the purposes of responding to your request, part two of your request has been separated into;

- 2A) *Copies of the "full powers" from New Zealand (if any) for the signature of the Agreement.*
- 2B) *Copies of the "full powers" from Slovenia (if any) for the signature of the Agreement.*

The following documents are in scope of parts one and two (A) of your request and are attached:

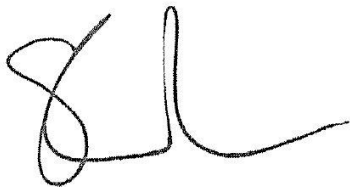
1. Agreement between New Zealand and the Republic of Slovenia for the Elimination of Double Taxation with Respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance, dated 3 December 2024
2. Rectification of the Agreement between New Zealand and the Republic of Slovenia for the Elimination of Double Taxation with Respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance
3. New Zealand's Instrument of Full Powers – Slovenia Double Taxation Agreement, dated 24 November 2024

Part 2B of your request is refused under section 18(g)(i) of the OIA, that the information requested is not held by the Ministry of Foreign Affairs and Trade and the person dealing with the request has no grounds for believing that the information is held by another department or interdepartmental venture or Minister of the Crown, or organisation, or by a local authority. The Ministry does not hold a copy of Slovenia's Instrument of Full Powers.

Please note that it is our policy to proactively release our responses to official information requests where possible. Therefore, our response to your request (with your personal information removed) may be published on the Ministry website: [www.mfat.govt.nz/en/about-us/contact-us/official-information-act-responses/](http://www.mfat.govt.nz/en/about-us/contact-us/official-information-act-responses/)

If you have any questions about this decision, you can contact us by email at: [DM-ESD@mfat.govt.nz](mailto:DM-ESD@mfat.govt.nz). You have the right to seek an investigation and review by the Ombudsman of this decision by contacting [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or freephone 0800 802 602.

Nāku noa, nā

A handwritten signature in black ink, appearing to be 'SC', written in a cursive style.

Sarah Corbett  
for Secretary of Foreign Affairs and Trade

**Attachment 1** – Agreement between New Zealand and the Republic of Slovenia for the Elimination of Double Taxation with Respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance, dated 3 December 2024.



New  
Zealand-Slovenia D1

**Attachment 2** – Rectification of the Agreement between New Zealand and the Republic of Slovenia for the Elimination of Double Taxation with Respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance.



Enclosure.pdf

**Attachment 3** – New Zealand’s Instrument of Full Powers – Slovenia Double Taxation Agreement, dated 24 November 2024.



241125 - Slovenia  
DTA IOFP Signed.pdf

**Agreement  
between  
New Zealand  
and  
The Republic of Slovenia  
for the  
Elimination of Double Taxation with Respect to Taxes on Income and  
the Prevention of Tax Evasion and Avoidance**

New Zealand and the Republic of Slovenia,

Desiring to further develop their economic relationship and to enhance their cooperation in tax matters,

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

Have agreed as follows:

**Article 1**  
**PERSONS COVERED**

1. This Agreement shall apply to persons who are residents of one or both of the Contracting States.
  
2. For the purposes of this Agreement, income derived by or through an entity or arrangement that is treated as wholly or partly fiscally transparent under the tax law of either Contracting State shall be considered to be income of a resident of a Contracting State but only to the extent that the income is treated, for purposes of taxation by that State, as the income of a resident of that State.

**Article 2**  
**TAXES COVERED**

1. This Agreement 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 Agreement shall apply are in particular:
  - (a) In New Zealand:

the income tax  
(hereinafter referred to as "New Zealand tax");
  - (b) In Slovenia:
    - (i) the tax on income of legal persons; and
    - (ii) the tax on income of individuals  
(hereinafter referred to as "Slovenian tax").
4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement 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 Agreement, unless the context otherwise requires:
  - (a) the term "New Zealand" means the territory of New Zealand but does not include Tokelau; it also includes any area beyond the territorial sea designated under New Zealand legislation and in accordance with international law as an area in which New Zealand may exercise sovereign rights with respect to natural resources;
  - (b) the term "Slovenia" means the Republic of Slovenia and, when used in a geographical sense, means the territory of Slovenia as well as those maritime areas over which Slovenia may exercise sovereign or jurisdictional rights in accordance with its internal legislation and international law;
  - (c) the terms "a Contracting State" and "the other Contracting State" mean New Zealand or Slovenia as the context requires;
  - (d) the term "person" includes an individual, a company and any other body of persons;
  - (e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
  - (f) the term "enterprise" applies to the carrying on of any business;
  - (g) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

- (h) the term “international traffic” means any transport by a ship or aircraft except when the ship or aircraft is operated solely between places in a Contracting State and the enterprise that operates the ship or aircraft is not an enterprise of that State;
- (i) the term “competent authority” means:
  - (i) in the case of New Zealand, the Commissioner of Inland Revenue or an authorised representative; and
  - (ii) in the case of Slovenia, the Ministry of Finance of the Republic of Slovenia or its authorised representative;
- (j) the term “national”, in relation to a Contracting State, means:
  - (i) any individual possessing the citizenship of that Contracting State; and
  - (ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State;
- (k) the term “business” includes the performance of professional services and of other activities of an independent character;
- (l) the term “recognised pension fund” of a State means an entity or arrangement established in that State that is treated as a separate person under the taxation laws of that State and:
  - (i) that is established and operated exclusively or almost exclusively to administer or provide retirement benefits and ancillary or incidental benefits to individuals and that is regulated as such by that State or one of its political subdivisions or local authorities; or

- (ii) that is established and operated exclusively or almost exclusively to invest funds for the benefit of entities or arrangements referred to in subdivision (i).

Where an arrangement established in a Contracting State would constitute a recognised pension fund under subdivision (i) or (ii) if it were treated as a separate person under the taxation law of that State, it shall be considered, for the purposes of this Agreement, as a separate person treated as such under the taxation laws of that State and all the assets and income to which the arrangement applies shall be treated as assets held and income derived by that separate person and not by another person.

2. As regards the application of the Agreement 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 Agreement 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 Agreement, 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 that person’s 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 as well as a recognised pension fund of that State. 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 the individual’s status shall be determined as follows:
  - (a) the individual shall be deemed to be a resident only of the State in which a permanent home is available to the individual; if a permanent home is available to the individual in both States, the individual shall be deemed to be a resident only of the State with which the individual’s personal and economic relations are closer (centre of vital interests);
  
  - (b) if the State in which the individual has their centre of vital interests cannot be determined, or if a permanent home is not available to the individual in either State, the individual shall be deemed to be a resident only of the State in which the individual has an habitual abode;
  
  - (c) if the individual has an habitual abode in both States or in neither of them, the individual shall be deemed to be a resident only of the State of which the individual is a national;

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

**Article 5**  
**PERMANENT ESTABLISHMENT**

1. For the purposes of this Agreement, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term “permanent establishment” includes especially:
  - (a) a place of management;
  - (b) a branch;
  - (c) an office;
  - (d) a factory;
  - (e) a workshop, and
  - (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
3. The term “permanent establishment” also encompasses:
  - (a) a building site, or a construction, installation or assembly project, or supervisory activity in connection with that building site or construction, installation or assembly project, if it lasts more than 12 months;
  - (b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only if activities of that nature continue within a Contracting State for a period or periods aggregating more than 183 days in any 12 month period commencing or ending in the taxable year concerned.
4. An enterprise shall be deemed to have a permanent establishment in a Contracting State and to carry on business through that

permanent establishment if for more than 183 days in any 12 month period:

- (b) it carries on activities in that State which consist of, or which are connected with, the exploration for or exploitation of natural resources, including standing timber, situated in that State; or
- (c) it operates substantial equipment in that State.

5. For the sole purpose of determining whether the time period referred to in paragraph 3 and 4 has been exceeded,

- (a) where an enterprise of a Contracting State carries on activities referred to in paragraph 3 or 4 in the other Contracting State for a period of more than 30 days and these activities are carried on during periods of time that do not last more than the period stipulated in those paragraphs, and
- (b) connected activities are carried on in that other Contracting State during different periods of time, each exceeding 30 days, by one or more enterprises closely related to the first-mentioned enterprise,

these different periods of time shall be added to the period of time during which the first-mentioned enterprise has carried on the activities referred to in paragraph 3 or 4.

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

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

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

provided that such activity, or in the case of subparagraph (f), the overall activity of the fixed place of business, is of a preparatory or auxiliary character.

7. Paragraph 6 shall not apply to a fixed place of business that is used or maintained by an enterprise if the same enterprise or a closely related enterprise carries on business activities at the same place or at another place in the same Contracting State and
  - (a) that place or other place constitutes a permanent establishment for the enterprise or the closely related enterprise under the provisions of this Article, or
  - (b) the overall activity resulting from the combination of the activities carried on by the two enterprises at the same place,

or by the same enterprise or closely related enterprises at the two places, is not of a preparatory or auxiliary character,

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

8. Notwithstanding the provisions of paragraphs 1 and 2 but subject to the provisions of paragraph 9, where a person is acting in a Contracting State on behalf of an enterprise and, in doing so,

(a) habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the enterprise, and these contracts are

(i) in the name of the enterprise, or

(ii) for the transfer of the ownership of, or for the granting of the right to use, property owned by that enterprise or that the enterprise has the right to use, or

(iii) for the provision of services by that enterprise; or

(b) manufactures or processes in a Contracting State for a closely related enterprise goods or merchandise belonging to that 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 6 which, if exercised through a fixed place of business (other than a fixed place of business to which paragraph 7

would apply), would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

9. Paragraph 8 shall not apply where the person acting in a Contracting State on behalf of an enterprise of the other Contracting State carries on business in the first-mentioned State as an independent agent and acts for the enterprise in the ordinary course of that business. Where, however, a person acts exclusively or almost exclusively on behalf of one or more enterprises to which it is closely related, that person shall not be considered to be an independent agent within the meaning of this paragraph with respect to any such enterprise.
10. 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.
11. For the purposes of this Article, a person or enterprise is closely related to an enterprise if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same persons or enterprises. In any case, a person or enterprise shall be considered to be closely related to an enterprise if one possesses directly or indirectly more than 50 per cent of the beneficial interest in the other (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) or if another person or enterprise possesses directly or indirectly more than 50 per cent of the beneficial interest (or, in the case of a company, more than 50 per cent of the aggregate vote and value of

the company's shares or of the beneficial equity interest in the company) in the person and the enterprise or in the two enterprises.

## **Article 6**

### **INCOME FROM IMMOVABLE PROPERTY**

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture, forestry, or fishing) 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 any natural resources, 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, rights to explore for or exploit natural resources or standing timber, and rights to variable or fixed payments either as consideration for or in respect of the exploitation of, or the right to explore for or exploit, natural resources or standing timber; ships 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.

**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 of the enterprise, being expenses which are incurred for the purposes of the permanent establishment (including executive and general administrative expenses so incurred) and which would be deductible if the permanent establishment were an independent entity which paid those expenses, whether incurred in the Contracting State in which the permanent establishment is situated or elsewhere.
4. 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.

5. 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.
6. Where:
  - (a) a resident of a Contracting State beneficially owns (whether as a direct beneficiary of a trust or through one or more interposed trusts) a share of the profits of a business of an enterprise carried on in the other Contracting State by the trustee of a trust other than a trust which is treated as a company for tax purposes; and
  - (b) in relation to that enterprise, that trustee has or would have, if such trustee were a resident of the first-mentioned State, a permanent establishment in the other State,then the business of the enterprise carried on by the trustee through such permanent establishment shall be deemed to be a business carried on in the other State by that resident through a permanent establishment situated in that other State and the resident's share of profits may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.
8. Nothing in this Article shall affect any provisions of the laws of either Contracting State at any time in force as they affect the taxation of any income from any form of insurance.

**Article 8**  
**SHIPPING AND AIR TRANSPORT**

1. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.
2. Notwithstanding the provisions of paragraph 1, profits of an enterprise of a Contracting State derived from carriage by ship or aircraft of passengers, livestock, mail, goods or merchandise which are shipped or embarked in the other Contracting State and are discharged at a place in that other State, or from leasing on a full basis of a ship or aircraft for purposes of such carriage, may be taxed in that other State.
3. The provisions of paragraphs 1 and 2 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

**Article 9**  
**ASSOCIATED ENTERPRISES**

1. Where

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

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

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

and the competent authorities of the Contracting States shall if necessary consult each other.

**Article 10**  
**DIVIDENDS**

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, dividends paid by a company which is a resident of a Contracting State may also be taxed in that State according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:
  - (a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which, in the case of New Zealand, holds directly at least 10 per cent of the voting power in the company resident of New Zealand paying the dividends, or in the case of Slovenia, holds directly at least 10 per cent of the capital of the company resident of Slovenia paying the dividends, throughout a 365 day period that includes the day of the payment of the dividend (for the purpose of computing that period, no account shall be taken of changes of ownership that would directly result from a corporate reorganisation, such as a merger or divisive reorganisation, of the company that holds the shares or that pays the dividend); and
  - (b) 15 percent of the gross amount of the dividends in all other cases.

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

3. The term "dividends" as used in this Article means income from shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income which is subjected to the same taxation treatment as income from shares by the tax laws of the Contracting State of which the company making the distribution is a resident.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

**Article 11**  
**INTEREST**

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, interest arising in a Contracting State may also be taxed in that State according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2 of this Article, interest arising in a Contracting State and derived and beneficially owned by a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State provided the beneficial owner of the interest is dealing wholly independently with the payer and is:
  - (a) in the case of New Zealand:
    - (i) the Government of New Zealand;
    - (ii) any local authority;
    - (iii) the Reserve Bank of New Zealand;
    - (iv) a resident of New Zealand deriving interest in respect of a loan made, approved, guaranteed or insured by the New Zealand Export Credit Office.
  - (b) In the case of Slovenia:
    - (i) the Government of the Republic of Slovenia'

- (ii) any political subdivision and local authority;
  - (iii) the Bank of Slovenia (Banka Slovenije);
  - (iv) a resident of Slovenia deriving interest in respect of a loan made, approved, guaranteed or insured by the SID Bank (SID - Slovenska izvozna in razvojna banka).
4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, as well as well as income which is subjected to the same taxation treatment as income from money lent by the tax laws of the Contracting State in which the income arises. However, the term "interest" does not include income dealt within Article 10.
5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
6. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether the person is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by, or

deductible in determining the profits attributable to, such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated.

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

**Article 12**  
**ROYALTIES**

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, royalties arising in a Contracting State may also be taxed in that State according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.
3. The term "royalties" as used in this Article means payments of any kind received as a consideration for:
  - (a) the use of, or the right to use, any copyright, patent, trademark, design or model, plan, secret formula or process, or other like property or right;
  - (b) the use of, or the right to use:
    - (i) motion picture films;
    - (ii) films or audio or video tapes or disks, or any other means of image or sound reproduction or transmission for use in connection with television, radio, or other broadcasting;
  - (c) knowledge or information concerning industrial, technical, commercial or scientific experience;
  - (d) any assistance that is ancillary and subsidiary to, and is furnished as a means of enabling the application or enjoyment of, any such property or right as is mentioned in subparagraph

- (a) or any such knowledge or information as is mentioned in subparagraph (c);
- (e) total or partial forbearance in respect of the use or supply of any property or right referred to in this paragraph.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether the person is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by, or deductible in determining the profits attributable to, such permanent establishment, then such royalties shall be deemed to arise in the State in which the permanent establishment is situated.
6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to

the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

### Article 13

#### INCOME OR GAINS FROM THE ALIENATION OF PROPERTY

1. Income or 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. Income or gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such income or gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.
3. Income or gains that an enterprise of a Contracting State that operates ships or aircraft in international traffic derives from the alienation of such ships or aircraft, or of movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.
4. Income or gains derived by a resident of a Contracting State from the alienation of shares or comparable interests, such as interests in a partnership or trust, may be taxed in the other Contracting State if, at any time during the 365 days preceding the alienation, these shares or comparable interests derived more than 50 per cent of their value directly or indirectly from immovable property, as defined in Article 6, situated in that other State.
5. Income or 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**  
**INCOME FROM EMPLOYMENT**

1. Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
  - (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any 12 month period commencing or ending in the taxable year concerned, and
  - (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
  - (c) the remuneration is not borne by, or not deductible in determining the profits attributable to, a permanent establishment which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article, remuneration derived by a resident of a Contracting State in respect of an employment, as a member of the regular complement of a ship or aircraft, that is exercised aboard a ship or aircraft operated

in international traffic, other than aboard a ship or aircraft operated solely within the other Contracting State, shall be taxable only in the first-mentioned State.

**Article 15**  
**DIRECTORS' FEES**

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

## Article 16

### ENTERTAINERS AND SPORTSPERSONS

1. Notwithstanding the provisions of Article 14, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from that resident's personal activities as such exercised in the other Contracting State, may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer or a sportsperson acting as such accrues not to the entertainer or sportsperson but to another person, that income may, notwithstanding the provisions of Article 14, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.
3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities performed in a Contracting State by entertainers or sportspersons if the visit to that State is wholly or mainly supported by public funds of one or both of the Contracting States or political subdivision or local authority thereof. In such a case, the income shall be taxable only in the Contracting State in which the entertainer or sportsperson is a resident.

**Article 17**  
**PENSIONS**

Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration paid to a resident of a Contracting State shall be taxable only in that State.

**Article 18**  
**GOVERNMENT SERVICE**

1. (a) Salaries, wages and other similar remuneration paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.  
(b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
  - (i) is a national of that State; or
  - (ii) did not become a resident of that State solely for the purpose of rendering the services.
  
2. (a) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.  
(b) However, such pensions and other similar remuneration 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 14, 15, 16 and 17 shall apply to salaries, wages, pensions, and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

**Article 19**  
**STUDENTS**

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 their education or training receives for the purpose of their maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

**Article 20**  
**OTHER INCOME**

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

## Article 21

### ELIMINATION OF DOUBLE TAXATION

1. Subject to the provisions of the laws of New Zealand which relate to the allowance of a credit against New Zealand tax of tax paid in a country outside New Zealand (which shall not affect the general principle of this Article), Slovenian tax paid under the laws of Slovenia and consistent with this Agreement, in respect of income derived by a resident of New Zealand from sources in Slovenia (excluding, in the case of a dividend, tax paid in respect of the profits out of which the dividend is paid) shall (except to the extent that the provisions of this Agreement allow taxation by Slovenia solely because the income is also income derived by a resident of Slovenia) be allowed as a credit against New Zealand tax payable in respect of that income.
2. In Slovenia:
  - (a) Where a resident of Slovenia derives income which may be taxed in New Zealand in accordance with the provisions of this Agreement (except to the extent that the provisions of this Agreement allow taxation by New Zealand solely because the income is also income derived by a resident of New Zealand), Slovenia shall allow as deduction from the tax on the income of that resident, an amount equal to the income tax paid in New Zealand. Such deduction shall not, however, 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 New Zealand.
  - (b) Where in accordance with any provision of the Agreement income derived by a resident of Slovenia is exempt from tax in

Slovenia, Slovenia may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

**Article 22**  
**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. Stateless persons who are residents of a Contracting State shall not be subjected in either 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 the State concerned in the same circumstances, in particular with respect to residence, are or may be subjected.
3. 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 in similar circumstances. 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.
4. 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.

5. 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 in similar circumstances are or may be subjected.
6. The provisions of this Article shall apply only to the taxes covered by Article 2.

## Article 23

### MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for that person in taxation not in accordance with the provisions of this Agreement, that person may, irrespective of the remedies provided by the domestic law of those States, present a case to the competent authority of the Contracting State of which the person is a resident or, if that person's case comes under paragraph 1 of Article 22, to that of the Contracting State of which that person 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 Agreement.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Agreement. 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 Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.
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.

5. Where,

- (a) under paragraph 1, a person has presented a case to the competent authority of a Contracting State on the basis that the actions of one or both of the Contracting States have resulted for that person in taxation not in accordance with the provisions of this Agreement, and
- (b) the competent authorities are unable to reach an agreement to resolve that case pursuant to paragraph 2 within three years from the date when all the information required by the competent authorities in order to address the case has been provided to both competent authorities,

any unresolved issues arising from the case shall be submitted to arbitration if the person so requests in writing. These unresolved issues shall not, however, be submitted to arbitration if a decision on these issues has already been rendered by a court or administrative tribunal of either State. Unless the competent authorities agree on a different solution within six months after the decision has been communicated to them or a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision, that decision shall be binding on both Contracting States and shall be implemented notwithstanding any time limits in the domestic laws of these States. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this paragraph.

## Article 24

### EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.
  
2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.
  
3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

- (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
  - (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
  - (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).
4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.
5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

## Article 25

### ASSISTANCE IN THE COLLECTION OF TAXES

1. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article.
2. The term "revenue claim" as used in this Article means an amount owed in respect of taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Agreement or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount.
3. When a revenue claim of a Contracting State is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of collection by the competent authority of the other Contracting State. That revenue claim shall be collected by that other State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other State.
4. When a revenue claim of a Contracting State is a claim in respect of which that State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that State, be

accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other State even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned State or is owed by a person who has a right to prevent its collection.

5. Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by a Contracting State for purposes of paragraph 3 or 4 shall not, in that State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that State by reason of its nature as such. In addition, a revenue claim accepted by a Contracting State for the purposes of paragraph 3 or 4 shall not, in that State, have any priority applicable to that revenue claim under the laws of the other Contracting State.
6. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall not be brought before the courts or administrative bodies of the other Contracting State.
7. Where, at any time after a request has been made by a Contracting State under paragraph 3 or 4 and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned State, the relevant revenue claim ceases to be
  - (a) in the case of a request under paragraph 3, a revenue claim of the first-mentioned State that is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, or

- (b) in the case of a request under paragraph 4, a revenue claim of the first-mentioned State in respect of which that State may, under its laws, take measures of conservancy with a view to ensure its collection

the competent authority of the first-mentioned State shall promptly notify the competent authority of the other State of that fact and, at the option of the other State, the first-mentioned State shall either suspend or withdraw its request.

8. In no case shall the provisions of this Article be construed so as to impose on a Contracting State the obligation:
  - (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
  - (b) to carry out measures which would be contrary to public policy (ordre public);
  - (c) to provide assistance if the other Contracting State has not pursued all reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice;
  - (d) to provide assistance in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the other Contracting State.

**Article 26**

**MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS**

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

**Article 27**  
**LIMITATION ON BENEFITS**

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

2. (a) Where

- (i) an enterprise of a Contracting State derives income from the other Contracting State and the first-mentioned State treats such income as attributable to a permanent establishment of the enterprise situated in a third jurisdiction, and
- (ii) the profits attributable to that permanent establishment are exempt from tax in the first-mentioned State,

the benefits of this Agreement shall not apply to any item of income on which the tax in the third jurisdiction is less than the lower of the two amounts: 15 per cent of the amount of that item of income and 60 per cent of the tax that would be imposed in the first-mentioned State on that item of income if that permanent establishment were situated in the first-mentioned State. In such a case any income to which the provisions of this paragraph apply shall remain taxable

according to the domestic law of the other State, notwithstanding any other provisions of the Agreement.

- (b) The preceding provisions of this paragraph shall not apply if the income derived from the other State emanates from, or is incidental to, the active conduct of a business carried on through the permanent establishment (other than the business of making, managing or simply holding investments for the enterprise's own account, unless these activities are banking, insurance or securities activities carried on by a bank, insurance enterprise or registered securities dealer, respectively).
- (c) If benefits under this Agreement are denied pursuant to the preceding provisions of this paragraph with respect to an item of income derived by a resident of a Contracting State, the competent authority of the other Contracting State may, nevertheless, grant these benefits with respect to that item of income if, in response to a request by such resident, such competent authority determines that granting such benefits is justified in light of the reasons such resident did not satisfy the requirements of this paragraph (such as the existence of losses). The competent authority of the Contracting State to which a request has been made under the preceding sentence shall consult with the competent authority of the other Contracting State before either granting or denying the request.

**Article 28**  
**ENTRY INTO FORCE**

Each of the Contracting States shall notify the other in writing through diplomatic channels of the completion of the procedures required by its law for the entry into force of this Agreement. The Agreement shall enter into force on the date of receipt of the last notification and its provisions shall have effect:

- (a) In New Zealand:
  - (i) in respect of withholding tax on income, profits or gains derived by a non-resident, for amounts paid or credited on or after the first day of the third month next following the date on which the Agreement enters into force;
  - (ii) in respect of other New Zealand tax, for any income year beginning on or after 1 April of the calendar year next following the year in which the Agreement enters into force.
  
- (b) In Slovenia:
  - (i) in respect of taxes withheld at source, to income derived on or after the first day of the third month next following the date on which the Agreement enters into force;
  - (ii) in respect of other taxes on income, to taxes chargeable for any taxable year beginning on or after 1 January of the calendar year next following the year in which the Agreement enters into force.

**Article 29**  
**TERMINATION**

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving written notice of termination on or before 30 June in any calendar year beginning after the expiration of 5 years from the date of its entry into force. In such event, the Agreement shall cease to have effect:

- (a) in New Zealand:
  - (i) in respect of withholding tax on income, profits or gains derived by a non-resident, for amounts paid or credited on or after the first day of the third month next following the date on which the notice of termination is given;
  - (ii) in respect of other New Zealand tax, for any income year beginning on or after 1 April in the calendar year next following that in which the notice of termination is given;
- (b) in Slovenia:
  - (i) in respect of taxes withheld at source, to income derived on or after the first day of the third month next following the date on which the notice of termination is given;
  - (ii) in respect of other taxes on income, to taxes chargeable for any taxable year beginning on or after 1 January of the calendar year next following the year in which the notice is given.

## PROTOCOL

At the time of signing of the Agreement between New Zealand and the Republic of Slovenia for the Elimination of Double Taxation with respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance (hereinafter referred to as "the Agreement"), New Zealand and the Republic of Slovenia have agreed upon the following provisions which shall form an integral part of the Agreement:

1. With reference generally to the application of the Agreement:

In line with the general principle – according to which income tax agreements do not restrict Contracting States' right to tax their own residents except where this is intended – this Agreement shall not affect the taxation, by a Contracting State, of its residents except with respect to the benefits granted under paragraph 2 of Article 9, Articles 18, 19, 21, 22, 23 and 26.

2. With reference to Article 2 of the Agreement:

Notwithstanding the provisions of Article 2, the taxes covered by the Agreement do not include any amount which represents a penalty or interest imposed under the laws of either Contracting State.

3. With reference to paragraph 5 of Article 5 of the Agreement:

It is understood that while paragraph 5 of Article 5 of the Agreement addresses abuse of exceptions in paragraphs 3 and 4 of Article 5, paragraph 1 of Article 27 may also address such abuses.

4. With reference to paragraph 2 of Article 6 of the Agreement:

Any right referred to in paragraph 2 of Article 6 shall be regarded as situated where the property to which it relates is situated or where the exploration or exploitation may take place.

5. With reference to paragraph 3 of Article 10 of the Agreement:

It is understood that the term "dividends" includes, in the case of New Zealand, income in relation to profit-related debentures, substituting debentures and stapled debt securities as defined in sections FA 2 and FA 2B of the Income Tax Act 2007 or any substantially similar provision which is enacted and has effect after the date of signature of the Agreement.

6. With reference to paragraph 4 of Article 11 of the Agreement:

The term "interest" includes penalty charges for late payment of income covered by Article 11.

7. With reference to Articles 10, 11 and 12 of the Agreement:

It is understood that the Commentary to Articles 10, 11 and 12 of the OECD Model Tax Convention on Income and on Capital, as it read on 21 November 2017, on the meaning of the term "beneficial owner" shall apply. In particular, it is understood that where the trustees of a discretionary trust do not distribute dividends, interest or royalties earned during a given period, these trustees, acting in their capacity as such, could constitute the beneficial owners of such income for the purposes of the relevant Article.

8. With reference to subparagraph (e) of paragraph 3 of Article 12 of the Agreement:

It is understood that the term “forbearance in respect of the use or supply of any property or right” applies to cases where the holder of any property or right receives a payment as consideration for not making such property or right available to another person.

9. With reference to Article 22 of the Agreement:

- (a) Article 22 shall not apply to any provision of the laws of a Contracting State which:
  - (i) is designed to prevent the avoidance or evasion of taxes;
  - (ii) does not permit the deferral of tax arising on the transfer of an asset where the subsequent transfer of the asset by the transferee would be beyond the taxing jurisdiction of the Contracting State under its laws;
  - (iii) provides for consolidation of group entities for treatment as a single entity for tax purposes provided that a company, being a resident of that 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, may access such consolidation treatment on the same terms and conditions as other companies that are residents of the first-mentioned State;
  - (iv) provides for the transfer of losses within a group of companies;
  - (v) does not allow tax rebates, credits or an exemption in relation to dividends paid by a company that is a resident of that State for purposes of its tax;

- (vi) is otherwise agreed to be unaffected by this Article in an exchange of diplomatic notes between the Contracting States.
- (b) The provisions of the laws of a Contracting State which are designed to prevent avoidance or evasion of taxes in subdivision (i) of subparagraph (a) of this paragraph of this Protocol include:
  - (i) measures designed to address thin capitalisation and transfer pricing;
  - (ii) controlled foreign company and foreign investment fund rules; and
  - (iii) measures designed to ensure that taxes can be effectively collected and recovered, including conservancy measures.

10. With reference to paragraphs 3 and 5 of Article 22 of the Agreement:

It is understood that the references to “in similar circumstances” reflects the principle expressed in paragraph 37 of the Commentary on Article 24 of the OECD Model Tax Convention on Income and on Capital, as it read on 21 November 2017.

11. With reference to paragraph 5 of Article 23 of the Agreement:

- (a) The Contracting States may release to the arbitration panel, established under the provisions of paragraph 5 of Article 23, such information as is necessary for carrying out the arbitration procedure. The members of the arbitration panel shall be subject to the limitations of disclosure described in paragraph 2 of Article 24 of the Agreement with respect to the information so released. Prior to the beginning of arbitration

proceedings, the competent authorities of the Contracting States shall ensure that each person that presented the case and their advisors agree in writing not to disclose to any other person any information received during the course of the arbitration proceedings from either competent authority or the arbitration panel. The mutual agreement procedure and the arbitration proceedings related to the case shall terminate if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the Contracting States, a person that presented the case or one of that person's advisors materially breaches that agreement.

- (b) It is also understood that the arbitration decision shall not be binding on both Contracting States if a person directly affected by the case pursues litigation on the issues which were resolved in the mutual agreement implementing the arbitration decision in any court or administrative tribunal.
- (c) Where at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision on a case to the competent authorities of the Contracting States:
  - (i) the competent authorities of the Contracting States reach a mutual agreement to resolve the case pursuant to paragraph 2 of Article 23; or
  - (ii) the person who presented the case withdraws the request for arbitration or the request for a mutual agreement procedure,

the mutual agreement procedure and the arbitration proceedings in respect of the case shall

- (d) If, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision on a case to the competent authorities of the Contracting States, a decision concerning the issue is rendered by a court or administrative tribunal of one of the Contracting States, the arbitration process shall terminate.
- (e) Paragraph 5 of Article 23 shall not apply to an unresolved issue in the following cases:
  - (i) in the case of New Zealand:
    - (A) the case that involves the application of New Zealand's general anti-avoidance rule contained in section BG 1 of the Income Tax Act 2007, including any subsequent provisions replacing, amending or updating these anti-avoidance rules. New Zealand shall notify the Republic of Slovenia through diplomatic channels of any such subsequent provisions;
    - (B) the case that involves the application of New Zealand's permanent establishment anti-avoidance rule contained in section GB 54 of the Income Tax Act 2007, including any subsequent provisions replacing, amending or updating these anti-avoidance rules. New Zealand shall notify the Republic of Slovenia through diplomatic channels of any such subsequent provisions;and
  - (ii) in the case of Slovenia:

- (A) cases concerning items of income that are not taxed by a Contracting State because they are not included in the taxable base in that Contracting State or because they are subject to an exemption or zero tax rate provided only under the domestic tax law of that Contracting State and that is specific to such item of income;
- (B) cases involving conduct for which the taxpayer, a person acting on its behalf, or a related person:
  - 1. has been found guilty by a court of a criminal tax offence; or
  - 2. has been subject a serious penalty for tax fraud, evasion or avoidance.

For this purpose, the legislative provisions governing serious penalties for tax fraud, evasion or avoidance are contained in the Tax Procedure Act. Any subsequent provisions replacing, amending or updating these provisions would also be comprehended. The Republic of Slovenia shall notify New Zealand of any such subsequent provisions;

- (C) cases involving the residence of companies and other entities;
- (D) cases involving the application of domestic anti-avoidance provisions. For this purpose, the Republic of Slovenia's domestic anti-avoidance provisions shall include such provisions contained in the tax laws.

The provisions in this subparagraph shall apply reciprocally in a manner to be settled by mutual agreement between the competent authorities of the Contracting States.

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

DONE in duplicate at *Wellington* on this *3<sup>rd</sup>* day of *December* in the English and Slovenian languages, both texts being equally authentic.



Handwritten signature of a representative for New Zealand.


For New Zealand

Handwritten signature of a representative for the Republic of Slovenia.

For the Republic of Slovenia

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

DONE in duplicate at *Wellington* on this *3<sup>rd</sup>* day of *December* in the English and Slovenian languages, both texts being equally authentic.



**For New Zealand**



**For the Republic of Slovenia**

## SPORAZUM

### MED NOVO ZELANDIJO IN REPUBLIKO SLOVENIJO O ODPRAVI DVOJNEGA OBDAVČEVANJA V ZVEZI Z DAVKI OD DOHODKA TER O PREPREČEVANJU DAVČNIH UTAJ IN IZOGIBANJA DAVKOM

Nova Zelandija in Republika Slovenija sta se,

v želji, da še naprej razvijata gospodarske odnose in krepita sodelovanje pri davčnih zadevah,

z namenom, da skleneta sporazum o odpravi dvojnega obdavčevanja v zvezi z davki od dohodka, ne da bi ustvarili možnosti za neobdavčitev ali zmanjšanje obdavčitve z davčnimi utajami ali izogibanjem davkom (vključno z izkoriščanjem ugodnejših mednarodnih sporazumov zaradi pridobitve ugodnosti, ki jih zagotavlja ta sporazum, za posredne koristi rezidentov tretjih držav),

sporazumeli:

## 1. člen

### OSEBE, ZA KATERE SE UPORABLJA SPORAZUM

1. Ta sporazum se uporablja za osebe, ki so rezidenti ene države pogodbenice ali obeh držav pogodbenic.
2. Za namene tega sporazuma se dohodek, ki ga doseže subjekt ali dogovor ali je dosežen prek subjekta ali dogovora, ki se obravnava kot v celoti ali delno davčno transparenten po davčni zakonodaji ene ali druge države pogodbenice, šteje za dohodek rezidenta države pogodbenice, vendar le, če ta država za namene obdavčitve dohodek obravnava kot dohodek rezidenta te države.

## 2. člen

### DAVKI, ZA KATERE SE UPORABLJA SPORAZUM

1. Ta sporazum se uporablja za davke od dohodka, ki se uvedejo v imenu države pogodbenice ali njenih političnih enot ali lokalnih oblasti, ne glede na način njihove uvedbe.
2. Za davke od dohodka se štejejo vsi davki, uvedeni na celotni dohodek ali sestavine dohodka, vključno z davki od dobička iz odtujitve premičnin ali nepremičnin, davki na skupne zneske mezd ali plač, ki jih plačujejo podjetja, in davki na zvišanje vrednosti kapitala.
3. Obstoječi davki, za katere se uporablja ta sporazum, so zlasti:
  - (a) na Novi Zelandiji:
    - davek od dohodka
    - (v nadaljnjem besedilu: novozelandski davek);
  - (b) v Sloveniji:
    - (i) davek od dohodkov pravnih oseb in
    - (ii) dohodnina  - (v nadaljnjem besedilu: slovenski davek).
4. Sporazum se uporablja tudi za enake ali vsebinsko podobne davke, ki se po dnevu podpisa sporazuma uvedejo poleg obstoječih davkov ali namesto njih. Pristojna organa držav pogodbenic drug drugega uradno obvestita o vseh pomembnih spremembah njihovih davčnih zakonodaj.

### 3. člen

#### OPREDELITEV TEMELJNIH IZRAZOV

1. V tem sporazumu, razen če sobesedilo ne zahteva drugače:

- (a) izraz "Nova Zelandija" pomeni ozemlje Nove Zelandije, vendar ne vključuje Tokelava; vključuje tudi vsa območja zunaj teritorialnega morja, ki so v skladu z novozelandsko zakonodajo in mednarodnim pravom opredeljena kot območja, na katerih lahko Nova Zelandija izvaja suverene pravice v zvezi z naravnimi viri;
- (b) izraz "Slovenija" pomeni Republiko Slovenijo, in kadar se uporablja v geografskem pomenu, ozemlje Slovenije ter tista morska območja, na katerih lahko Slovenija izvaja svoje suverene pravice ali jurisdikcijo v skladu s svojo notranjo zakonodajo in mednarodnim pravom;
- (c) izraza "država pogodbenica" in "druga država pogodbenica" pomenita Novo Zelandijo ali Slovenijo, kakor zahteva sobesedilo;
- (d) izraz "oseba" vključuje posameznika, družbo in katero koli drugo telo, ki združuje več oseb;
- (e) izraz "družba" pomeni katero koli korporacijo ali kateri koli subjekt, ki se za davčne namene obravnava kot korporacija;
- (f) izraz "podjetje" se uporablja za kakršno koli poslovanje;
- (g) izraza "podjetje države pogodbenice" in "podjetje druge države pogodbenice" pomenita podjetje, ki ga upravlja

rezident države pogodbenice, oziroma podjetje, ki ga upravlja rezident druge države pogodbenice;

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

(i) izraz "pristojni organ" pomeni:

(i) na Novi Zelandiji: komisarja za javne prihodke (Commissioner of Inland Revenue) ali njegovega pooblaščenega predstavnika in

(ii) v Sloveniji: Ministrstvo za finance Republike Slovenije ali njegovega pooblaščenega predstavnika;

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

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

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

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

(l) izraz "priznani pokojninski sklad" države pomeni subjekt ali dogovor, ki je vzpostavljen v tej državi in se po davčni zakonodaji te države obravnava kot ločena oseba ter:

(i) je vzpostavljen in deluje izključno ali skoraj izključno zaradi upravljanja ali zagotavljanja pokojninskih prejemkov in dopolnilnih ali povezanih prejemkov posameznikom ter ga kot takega ureja ta država ali ena od njenih političnih enot ali lokalnih oblasti ali

(ii) je vzpostavljen in deluje izključno ali skoraj izključno zaradi vlaganja sredstev v korist subjektov ali dogovorov iz točke (i).

Kadar bi se dogovor, vzpostavljen v državi pogodbenici, štel za priznani pokojninski sklad iz točke (i) ali (ii), če bi se po davčni zakonodaji te države obravnaval kot ločena oseba, se za namene tega sporazuma obravnava kot ločena oseba, ki se kot taka obravnava po davčni zakonodaji te države, vsa sredstva in dohodek, za katere se uporablja dogovor, pa se obravnavajo kot sredstva, ki jih ima ta ločena oseba in ne druga oseba, in kot dohodek, ki ga doseže ta ločena oseba in ne druga oseba.

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

#### 4. člen

### REZIDENT

1. V tem sporazumu izraz "rezident države pogodbenice" pomeni osebo, ki mora po zakonodaji te države plačevati davke zaradi svojega stalnega prebivališča, prebivališča, sedeža uprave ali katerega koli drugega podobnega merila, in vključuje tudi to državo in katero koli njeno politično enoto ali lokalno oblast ter priznani pokojninski sklad te države. Ta izraz pa ne vključuje osebe, ki mora plačevati davke v tej državi samo v zvezi z dohodki iz virov v tej državi.
2. Kadar je zaradi določb prvega odstavka posameznik rezident obeh držav pogodbenic, se njegov status določi tako:
  - (a) posameznik se šteje samo za rezidenta države, v kateri ima na voljo stalni dom; če mu je stalni dom na voljo v obeh državah, se posameznik šteje samo za rezidenta države, s katero ima tesnejše osebne in ekonomske stike (središče življenjskih interesov);
  - (b) če ni mogoče opredeliti države, v kateri ima posameznik središče življenjskih interesov, ali če mu v nobeni od držav ni na voljo stalni dom, se posameznik šteje samo za rezidenta države, v kateri ima običajno bivališče;
  - (c) če ima posameznik običajno bivališče v obeh državah ali ga nima v nobeni od njiju, se šteje samo za rezidenta države, katere državljan je;
  - (d) če je posameznik državljan obeh držav ali ni državljan nobene od njiju, si pristojna organa držav pogodbenic prizadevata rešiti vprašanje s skupnim dogovorom.

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

## 5. člen

### STALNA POSLOVNA ENOTA

1. V tem sporazumu izraz "stalna poslovna enota" pomeni stalno mesto poslovanja, prek katerega v celoti ali delno potekajo posli podjetja.
  
2. Izraz "stalna poslovna enota" vključuje zlasti:
  - (a) sedež uprave;
  - (b) podružnico;
  - (c) pisarno;
  - (d) tovarno;
  - (e) delavnico in
  - (f) rudnik, naftno ali plinsko vrtino, kamnolom ali kateri koli drug kraj pridobivanja naravnih virov.
  
3. Izraz "stalna poslovna enota" vključuje tudi:
  - (a) gradbišče ali projekt gradnje, namestitve ali montaže ali nadzorno dejavnost v zvezi s tem gradbiščem ali projektom gradnje, namestitve ali montaže, če traja več kot 12 mesecev;
  - (b) storitve, vključno s svetovalnimi storitvami, ki jih podjetje opravlja z zaposlenimi ali drugim osebjem, ki ga podjetje najame v ta namen, vendar le, če tovrstne dejavnosti v državi pogodbenici potekajo v obdobju ali obdobjih, ki skupaj presegajo 183 dni v katerem koli 12-mesečnem obdobju, ki se začne ali konča v posameznem davčnem letu.

4. Šteje se, da ima podjetje stalno poslovno enoto v državi pogodbenici in da posluje prek te stalne poslovne enote, če več kot 183 dni v katerem koli 12-mesečnem obdobju:

(a) v tej državi opravlja dejavnosti, ki zajemajo raziskovanje ali izkoriščanje naravnih virov, ki so v tej državi, vključno z lesom na panju, ali so z njim povezane, ali

(b) v tej državi upravlja pomembno opremo.

5. Izključno zaradi ugotavljanja, ali je bilo obdobje iz tretjega in četrtega odstavka preseženo, se:

(a) če podjetje države pogodbenice opravlja dejavnosti iz tretjega ali četrtega odstavka v drugi državi pogodbenici v obdobju, ki presega 30 dni, in se te dejavnosti opravljajo v obdobjih, ki ne presegajo obdobja, določenega v teh odstavkih, in

(b) kadar eno podjetje ali več podjetij, ki so s prvim navedenim podjetjem tesno povezana, opravlja povezane dejavnosti v tej drugi državi pogodbenici v različnih obdobjih, pri čemer vsako od njih presega 30 dni,

ta različna obdobja prištejejo k obdobju, v katerem je prvo navedeno podjetje opravljal dejavnosti iz tretjega ali četrtega odstavka.

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

- (a) uporabe prostorov samo za skladiščenje, razstavljanje ali dostavo dobrin ali blaga, ki pripada podjetju;
- (b) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za skladiščenje, razstavljanje ali dostavo;
- (c) vzdrževanja zaloge dobrin ali blaga, ki pripada podjetju, samo za predelavo, ki jo opravi drugo podjetje;
- (d) vzdrževanja stalnega mesta poslovanja samo za nakup dobrin ali blaga za podjetje ali zbiranje informacij za podjetje;
- (e) vzdrževanja stalnega mesta poslovanja samo za opravljanje katere koli druge dejavnosti za podjetje;
- (f) vzdrževanja stalnega mesta poslovanja samo za kakršno koli kombinacijo dejavnosti, navedenih v pododstavkih (a) do (e),

če je taka dejavnost ali v primeru pododstavka (f) celotna dejavnost stalnega mesta poslovanja pripravljalna ali pomožna.

7. Šesti odstavek ne velja za stalno mesto poslovanja, ki ga uporablja ali vzdržuje podjetje, če to podjetje ali tesno povezano podjetje opravlja poslovne dejavnosti na istem ali drugem mestu v isti državi pogodbenici in:

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

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

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

8. Ne glede na določbe prvega in drugega odstavka, vendar pa ob upoštevanju določb devetega odstavka, se, kadar oseba deluje v državi pogodbenici za podjetje in pri tem:

(a) običajno sklepa pogodbe ali običajno odločilno prispeva k sklepanju pogodb, ki se sklepajo rutinsko, ne da bi jih podjetje bistveno spreminjalo, in so te pogodbe:

(i) v imenu podjetja ali

(ii) za prenos lastništva nad premoženjem ali za podelitev pravice do uporabe premoženja, ki ga ima to podjetje v lasti oziroma ga lahko uporablja, ali

(iii) za storitve, ki jih to podjetje opravlja, ali

(b) v državi pogodbenici za tesno povezano podjetje proizvaja ali predeluje dobrine ali blago, ki pripada temu podjetju,

za to podjetje šteje, da ima stalno poslovno enoto v tej državi v zvezi s katerimi koli dejavnostmi, ki jih ta oseba prevzame za podjetje, razen če so dejavnosti te osebe omejene na tiste

iz šestega odstavka, zaradi katerih se, če bi se opravljale prek stalnega mesta poslovanja (ki ni stalno mesto poslovanja, za katero bi se uporabljal sedmi odstavek), to stalno mesto poslovanja po določbah navedenega odstavka ne bi štelo za stalno poslovno enoto.

9. Osmi odstavek se ne uporablja, če oseba, ki deluje v državi pogodbenici za podjetje druge države pogodbenice, posluje v prvi navedeni državi kot neodvisni zastopnik in deluje za podjetje v okviru tega običajnega poslovanja. Če oseba deluje izključno ali skoraj izključno za eno podjetje ali več podjetij, s katerimi je tesno povezana, pa ta oseba v zvezi s katerim koli takim podjetjem ne velja za neodvisnega zastopnika v smislu tega odstavka.
10. Dejstvo, da družba, ki je rezident države pogodbenice, nadzoruje družbo ali je pod nadzorom družbe, ki je rezident druge države pogodbenice, ali posluje v tej drugi državi (prek stalne poslovne enote ali drugače), še ne pomeni, da je ena od družb stalna poslovna enota druge.
11. Za namene tega člena je oseba ali podjetje tesno povezano s podjetjem, če ima na podlagi vseh ustreznih dejstev in okoliščin eno nadzor nad drugim ali pa sta obe pod nadzorom istih oseb ali podjetij. V vsakem primeru se oseba ali podjetje šteje za tesno povezano s podjetjem, če ima eno neposredno ali posredno več kakor 50 odstotkov upravičenega deleža v drugem (ali v primeru družbe več kakor 50 odstotkov seštevka glasov in vrednosti delnic družbe ali upravičenega lastniškega deleža v družbi) ali če ima druga oseba ali podjetje neposredno ali posredno več kakor 50 odstotkov upravičenega deleža (ali v primeru družbe več kakor 50 odstotkov seštevka glasov in vrednosti delnic družbe ali

upravičenega lastniškega deleža v družbi) v osebi in podjetju ali  
teh dveh podjetjih.

## 6. člen

### DOHODEK IZ NEPREMIČNIN

1. Dohodek rezidenta države pogodbenice iz nepremičnin (vključno z dohodkom iz kmetijstva, gozdarstva ali ribištva), ki so v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.
2. Izraz "nepremičnine" pomeni enako kakor po pravu države pogodbenice, v kateri so te nepremičnine. Izraz vedno vključuje vse naravne vire, premoženje, ki je sestavni del nepremičnin, živino in opremo, ki se uporablja v kmetijstvu in gozdarstvu, pravice, za katere se uporabljajo določbe splošnega prava v zvezi z zemljiško lastnino, užitek na nepremičninah, pravice do raziskovanja ali izkoriščanja naravnih virov ali lesa na panju in pravice do spremenljivih ali stalnih plačil kot nadomestilo za izkoriščanje ali v zvezi z njim oziroma pravico do raziskovanja ali izkoriščanja naravnih virov ali lesa na panju; ladje in zrakoplovi se ne štejejo za nepremičnine.
3. Določbe prvega odstavka se uporabljajo za dohodek, ki se ustvari z neposredno uporabo, dajanjem v najem ali katero koli drugo obliko uporabe nepremičnine.
4. Določbe prvega in tretjega odstavka se uporabljajo tudi za dohodek iz nepremičnin podjetja.

## 7. člen POSLOVNI DOBIČEK

1. Dobiček podjetja države pogodbenice se obdavči samo v tej državi, razen če podjetje ne posluje v drugi državi pogodbenici prek stalne poslovne enote v njej. Če podjetje posluje, kakor je prej navedeno, se dobiček podjetja lahko obdavči v drugi državi, vendar samo toliko dobička, kolikor se pripiše tej stalni poslovni enoti.
2. Kadar podjetje države pogodbenice posluje v drugi državi pogodbenici prek stalne poslovne enote v njej, se ob upoštevanju določb tretjega odstavka v vsaki državi pogodbenici tej stalni poslovni enoti pripiše dobiček, za katerega bi se lahko pričakovalo, da bi ga imela, če bi bila samostojno in ločeno podjetje, ki opravlja enake ali podobne dejavnosti pod enakimi ali podobnimi pogoji ter popolnoma neodvisno posluje s podjetjem, katerega stalna poslovna enota je.
3. Pri ugotavljanju dobička stalne poslovne enote je dovoljeno odšteti stroške podjetja, ki so stroški, nastali za namene stalne poslovne enote (vključno s stroški poslovanja in splošnega upravljanja) in ki bi se odšteli, če bi bila stalna poslovna enota neodvisni subjekt, ki bi te stroške plačal, ne glede na to, ali so nastali v državi pogodbenici, v kateri je stalna poslovna enota, ali drugje.
4. Stalni poslovni enoti se ne pripiše dobiček samo zato, ker nakupuje dobrine ali blago za podjetje.
5. Za namene prejšnjih odstavkov se dobiček, ki se pripiše stalni poslovni enoti, vsako leto ugotavlja po enaki metodi, razen če ni upravičenega in zadostnega razloga za nasprotno.

6. Kadar:

(a) ima rezident države pogodbenice v upravičeni lasti (kot neposredni upravičenec skrbniškega sklada ali po enem vmesnem skrbniškem skladu ali več vmesnih skrbniških skladih) delež poslovnih dobičkov podjetja, ki ga v drugi državi pogodbenici upravlja skrbnik skrbniškega sklada, ki ni skrbniški sklad, ki se za davčne namene obravnava kot družba, in

(b) ima ta skrbnik v zvezi s tem podjetjem stalno poslovno enoto v tej drugi državi ali bi jo imel, če bi bil rezident prve navedene države,

se poslovanje podjetja, ki ga upravlja skrbnik prek take stalne poslovne enote, šteje za poslovanje tega rezidenta v drugi državi prek stalne poslovne enote v tej drugi državi in se rezidentov delež dobička lahko obdavči v drugi državi, vendar samo toliko dobička, kolikor se pripiše tej stalni poslovni enoti.

7. Kadar dobiček vključuje dele dohodka, ki so posebej obravnavani v drugih členih tega sporazuma, določbe tega člena ne vplivajo na določbe tistih členov.

8. Nič v tem členu ne vpliva na kadar koli veljavne določbe zakonodaje ene ali druge države pogodbenice, ki se nanašajo na obdavčitev kakršnega koli dohodka iz katere koli vrste zavarovanja.

## 8. člen

### LADIJSKI IN ZRAČNI PREVOZ

1. Dobiček podjetja države pogodbenice iz opravljanja ladijskih ali zračnih prevozov v mednarodnem prometu se obdavči samo v tej državi.
  
2. Ne glede na določbe prvega odstavka se dobiček podjetja države pogodbenice, dosežen s prevozom potnikov, živine, pošte, dobrin ali blaga, ki se odpremijo ali vkrcajo v drugi državi pogodbenici in izkrcajo v kraju v tej drugi državi, z ladjo ali zrakoplovom ali z dajanjem ladje ali zrakoplova v popolni zakup za tak prevoz, lahko obdavči v tej drugi državi.
  
3. Določbe prvega in drugega odstavka se uporabljajo tudi za dobiček iz udeležbe v interesnem združenju, skupnem poslovanju ali mednarodni prevoznici agenciji.

## 9. člen POVEZANA PODJETJA

### 1. Kadar:

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

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

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

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

## 10. člen DIVIDENDE

1. Dividende, ki jih družba, ki je rezident države pogodbenice, plača rezidentu druge države pogodbenice, se lahko obdavčijo v tej drugi državi.
  
2. Dividende, ki jih plača družba, ki je rezident države pogodbenice, pa se lahko obdavčijo tudi v tej državi v skladu z zakonodajo te države, vendar če je upravičeni lastnik dividend rezident druge države pogodbenice, tako obračunani davek ne sme presegati:
  - (a) 5 odstotkov bruto zneska dividend, če je upravičeni lastnik družba, ki ima, v primeru Nove Zelandije, neposredno najmanj 10 odstotkov glasov v družbi, ki je rezident Nove Zelandije in plača dividende, ali, v primeru Slovenije, neposredno najmanj 10 odstotkov kapitala družbe, ki je rezident Slovenije in plača dividende, in sicer ves čas 365-dnevnega obdobja, ki vključuje dan plačila dividend (za namene izračuna tega obdobja se ne upoštevajo spremembe lastništva, ki bi nastale neposredno zaradi korporativne reorganizacije, kot je združitev ali razdružitev družbe, ki ima delnice ali plačuje dividende), in
  
  - (b) 15 odstotkov bruto zneska dividend v vseh drugih primerih.

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

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

4. Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik dividend, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, katere rezident je družba, ki dividende plačuje, prek stalne poslovne enote v njej in je delež, v zvezi s katerim se dividende plačajo, dejansko povezan s tako stalno poslovno enoto. V takem primeru se uporabljajo določbe 7. člena.
  
5. Kadar dobiček ali dohodek družbe, ki je rezident države pogodbenice, izvira iz druge države pogodbenice, ta druga država ne sme uvesti nobenega davka na dividende, ki jih plača družba, razen če se te dividende plačajo rezidentu te druge države ali če je delež, v zvezi s katerim se dividende plačajo, dejansko povezan s stalno poslovno enoto v tej drugi državi, niti ne sme obdavčiti nerazdeljenega dobička družbe z davkom na nerazdeljeni dobiček družbe, tudi če so plačane dividende ali nerazdeljeni dobiček v celoti ali delno sestavljeni iz dobička ali dohodka, ki nastane v tej drugi državi.

## 11. člen

### OBRESTI

1. Obresti, ki nastanejo v državi pogodbenici in se plačajo rezidentu druge države pogodbenice, se lahko obdavčijo v tej drugi državi.
2. Obresti, ki nastanejo v državi pogodbenici, pa se lahko obdavčijo tudi v tej državi v skladu z zakonodajo te države, vendar če je upravičeni lastnik obresti rezident druge države pogodbenice, tako obračunani davek ne sme presegati 10 odstotkov bruto zneska obresti.
3. Ne glede na določbe drugega odstavka tega člena se obresti, ki nastanejo v državi pogodbenici in jih doseže rezident druge države pogodbenice ter so v njegovi upravičeni lasti, oprostitjo davka v prvi navedeni državi pogodbenici, če upravičeni lastnik obresti popolnoma neodvisno posluje s plačnikom in je:
  - (b) v primeru Nove Zelandije:
    - (i) Vlada Nove Zelandije;
    - (ii) katera koli lokalna oblast;
    - (iii) novozelandska centralna banka (Reserve Bank of New Zealand);
    - (iv) rezident Nove Zelandije, ki doseže obresti v zvezi s posojilom, ki ga odobri, zanj jamči ali ga zavaruje Urad za izvozne kredite Nove Zelandije (New Zealand Export Credit Office);
  - (c) v primeru Slovenije:
    - (i) Vlada Republike Slovenije;

(ii) katera koli politična enota ali lokalna oblast;

(iii) Banka Slovenije;

(iv) rezident Slovenije, ki doseže obresti v zvezi s posojilom, ki ga odobri, zanj jamči ali ga zavaruje SID – Slovenska izvozna in razvojna banka.

4. Izraz "obresti", kakor je uporabljen v tem členu, pomeni dohodek iz vseh vrst terjatev ne glede na to, ali so zavarovane s hipoteko, in ne glede na to, ali dajejo pravico do udeležbe pri dolžnikovem dobičku, zlasti pa dohodek iz državnih vrednostnih papirjev in dohodek iz obveznic ali zadolžnic, vključno s premijami in nagradami od takih vrednostnih papirjev, obveznic ali zadolžnic, ter dohodek, ki se davčno obravnava enako kakor dohodek od posojenega denarja po davčni zakonodaji države pogodbenice, v kateri dohodek nastane. Vendar pa izraz "obresti" ne vključuje dohodka, obravnavanega v 10. členu.
5. Določbe prvega, drugega in tretjega odstavka se ne uporabljajo, če upravičeni lastnik obresti, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, v kateri obresti nastanejo, prek stalne poslovne enote v njej in je terjatev, v zvezi s katero se obresti plačajo, dejansko povezana s to stalno poslovno enoto. V takem primeru se uporabljajo določbe 7. člena.
6. Šteje se, da obresti nastanejo v državi pogodbenici, kadar je plačnik rezident te države. Kadar pa ima oseba, ki plačuje obresti, ne glede na to, ali je oseba rezident države pogodbenice, v državi pogodbenici stalno poslovno enoto, v zvezi s katero je nastala zadolženost, za katero se plačajo obresti, in take obresti krije taka stalna poslovna enota ali se odštejejo pri ugotavljanju dobička, ki se pripíše taki stalni

poslovni enoti, se šteje, da take obresti nastanejo v državi, v kateri je stalna poslovna enota.

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

## 12. člen

### LICENČNINE IN AVTORSKI HONORARJI

1. Licenčnine in avtorski honorarji, ki nastanejo v državi pogodbenici in se plačajo rezidentu druge države pogodbenice, se lahko obdavčijo v tej drugi državi.
2. Licenčnine in avtorski honorarji, ki nastanejo v državi pogodbenici, pa se lahko obdavčijo tudi v tej državi v skladu z zakonodajo te države, vendar če je upravičeni lastnik licenčnin in avtorskih honorarjev rezident druge države pogodbenice, tako obračunani davek ne sme presegati 10 odstotkov bruto zneska licenčnin in avtorskih honorarjev.
3. Izraz "licenčnine in avtorski honorarji", kakor je uporabljen v tem členu, pomeni vse vrste plačil, prejetih kot povračilo za:
  - (a) uporabo ali pravico do uporabe katere koli avtorske pravice, patenta, znamke, modela ali vzorca, načrta, skrivne formule ali postopka ali drugega podobnega premoženja ali pravice;
  - (b) uporabo ali pravico do uporabe:
    - (i) kinematografskih filmov;
    - (ii) filmov ali avdio- ali videotrakov ali plošč ali katerih koli drugih sredstev za reprodukcijo ali prenos slike ali zvoka za uporabo v povezavi s televizijskim, radijskim ali drugim oddajanjem;
    - (iii) znanje ali informacije o industrijskih, tehničnih, komercialnih ali znanstvenih izkušnjah;

(iv) kakršno koli pomoč, ki je dopolnilna in pomožna ter je zagotovljena kot sredstvo za omogočanje uporabe ali uživanja katerega koli premoženja ali pravice iz pododstavka (a) ali katerega koli znanja ali informacije iz pododstavka (c);

(v) popolno ali delno opustitev uporabe ali zagotavljanja katerega koli premoženja ali pravice iz tega odstavka.

4. Določbe prvega in drugega odstavka se ne uporabljajo, če upravičeni lastnik licenčnin in avtorskih honorarjev, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici, v kateri licenčnine in avtorski honorarji nastanejo, prek stalne poslovne enote v njej in je pravica ali premoženje, v zvezi s katerim se licenčnine in avtorski honorarji plačajo, dejansko povezano s tako stalno poslovno enoto. V takem primeru se uporabljajo določbe 7. člena.
5. Šteje se, da licenčnine in avtorski honorarji nastanejo v državi pogodbenici, kadar je plačnik rezident te države. Kadar pa ima oseba, ki plačuje licenčnine in avtorske honorarje, ne glede na to, ali je oseba rezident države pogodbenice, v državi pogodbenici stalno poslovno enoto, v zvezi s katero je nastala obveznost za plačilo licenčnin in avtorskih honorarjev, ter take licenčnine in avtorske honorarje krije taka stalna poslovna enota ali se odštejejo pri ugotavljanju dobička, ki se pripiše taki poslovni enoti, se šteje, da so take licenčnine in avtorski honorarji nastali v državi, v kateri je stalna poslovna enota.
6. Kadar zaradi posebnega odnosa med plačnikom in upravičenim lastnikom ali med njima in drugo osebo znesek licenčnin in avtorskih

honorarjev glede na uporabo, pravico ali informacijo, za katero se plačajo, presega znesek, o katerem bi se sporazumela plačnik in upravičeni lastnik, če takega odnosa ne bi bilo, se določbe tega člena uporabljajo samo za zadnji navedeni znesek. V takem primeru se presežni del plačil še naprej obdavčuje v skladu z zakonodajo vsake države pogodbenice, pri čemer je treba upoštevati druge določbe tega sporazuma.

### 13. člen

#### DOHODEK ALI DOBIČEK IZ ODTUJITVE PREMOŽENJA

1. Dohodek ali dobiček, ki ga rezident države pogodbenice doseže z odtujitvijo nepremičnin, ki so navedene v 6. členu in so v drugi državi pogodbenici, se lahko obdavči v tej drugi državi.
2. Dohodek ali dobiček iz odtujitve premičnin, ki so del poslovnega premoženja stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, vključno z dohodkom ali dobičkom iz odtujitve take stalne poslovne enote (same ali s celotnim podjetjem), se lahko obdavči v tej drugi državi.
3. Dohodek ali dobiček, ki ga podjetje države pogodbenice, ki opravlja prevoze z ladjami ali zrakoplovi v mednarodnem prometu, doseže z odtujitvijo teh ladij ali zrakoplovov ali z odtujitvijo premičnin, povezanih z opravljanjem prevozov s temi ladjami ali zrakoplovi, se obdavči samo v tej državi.
4. Dohodek ali dobiček, ki ga rezident države pogodbenice doseže z odtujitvijo delnic ali primerljivih deležev, kot so deleži v partnerstvu ali skrbniškem skladu, se lahko obdavči v drugi državi pogodbenici, če je kadar koli v obdobju 365 dni pred odtujitvijo več kakor 50 odstotkov vrednosti teh delnic ali primerljivih deležev izhajalo neposredno ali posredno iz nepremičnin, opredeljenih v 6. členu, ki so v tej drugi državi.
5. Dohodek ali dobiček iz odtujitve premoženja, ki ni navedeno v prvem, drugem, tretjem in četrtem odstavku, se obdavči samo v državi pogodbenici, katere rezident je oseba, ki odtuji premoženje.

#### 14. člen

### DOHODEK IZ ZAPOSLOTITVE

1. Ob upoštevanju določb 15., 17. in 18. člena se plače, mezde in drugi podobni prejemki, ki jih dobi rezident države pogodbenice iz zaposlitve, obdavčijo samo v tej državi, razen če se zaposlitev ne izvaja v drugi državi pogodbenici. Če se zaposlitev izvaja tako, se tako dobljeni prejemki lahko obdavčijo v tej drugi državi.
  
2. Ne glede na določbe prvega odstavka se prejemek, ki ga dobi rezident države pogodbenice iz zaposlitve, ki se izvaja v drugi državi pogodbenici, obdavči samo v prvi navedeni državi, če:
  - (a) je prejemnik navzoč v drugi državi v obdobju ali obdobjih, ki skupaj ne presegajo 183 dni v katerem koli 12-mesečnem obdobju, ki se začne ali konča v posameznem davčnem letu, in
  - (b) prejemek plača delodajalec, ki ni rezident druge države, ali se plača zanj ter
  - (c) prejemka ne krije stalna poslovna enota ali se ne odšteje pri ugotavljanju dobička, ki se pripiše poslovni enoti, ki jo ima delodajalec v drugi državi.
  
3. Ne glede na prejšnje določbe tega člena se prejemek, ki ga rezident države pogodbenice kot član redne posadke ladje ali zrakoplova dobi iz zaposlitve, ki se izvaja na ladji ali zrakoplovu, s katerim se opravljajo prevozi v mednarodnem prometu, razen na ladji ali zrakoplovu, s katerim se opravljajo prevozi izključno v drugi državi pogodbenici, obdavči samo v prvi navedeni državi.

**15. člen**  
**PREJEMKI DIREKTORJEV**

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

## 16. člen

### NASTOPAJOČI IZVAJALCI IN ŠPORTNIKI

1. Ne glede na določbe 14. člena se dohodek, ki ga rezident države pogodbenice dobi iz osebnih dejavnosti, ki jih opravlja v drugi državi pogodbenici kot nastopajoči izvajalec, kot je gledališki, filmski, radijski ali televizijski umetnik ali glasbenik, ali kot športnik, lahko obdavči v tej drugi državi.
2. Kadar dohodek iz osebnih dejavnosti, ki jih opravlja nastopajoči izvajalec ali športnik kot tak, ne priraste nastopajočemu izvajalcu ali športniku, temveč drugi osebi, se ta dohodek ne glede na določbe 14. člena lahko obdavči v državi pogodbenici, v kateri se opravijo dejavnosti nastopajočega izvajalca ali športnika.
3. Določbe prvega in drugega odstavka se ne uporabljajo za dohodek iz dejavnosti, ki jih nastopajoči izvajalci ali športniki opravljajo v državi pogodbenici, če se gostovanje v tej državi v celoti ali pretežno krije iz javnih sredstev ene države pogodbenice ali obeh držav pogodbenic ali njunih političnih enot ali lokalnih oblasti. V takem primeru se dohodek obdavči samo v državi pogodbenici, katere rezident je nastopajoči izvajalec ali športnik.

**17. člen**  
**POKOJNINE**

Ob upoštevanju določb drugega odstavka 18. člena se pokojnine in drugi podobni prejemki, ki se plačajo rezidentu države pogodbenice, obdavčijo samo v tej državi.

**18. člen**  
**DRŽAVNA SLUŽBA**

1. (a) Plače, mezde in drugi podobni prejemki, ki jih država pogodbenica ali njena politična enota ali lokalna oblast plačuje posamezniku za storitve, ki jih opravi za to državo ali enoto ali oblast, se obdavčijo samo v tej državi.  
  
(b) Take plače, mezde in drugi podobni prejemki pa se obdavčijo samo v drugi državi pogodbenici, če se storitve opravljajo v tej državi in je posameznik rezident te države ter:
  - (i) je državljan te države ali
  - (ii) ni postal rezident te države samo zaradi opravljanja storitev.
  
2. (a) Ne glede na določbe prvega odstavka se pokojnine in drugi podobni prejemki, ki jih plačuje država pogodbenica ali njena politična enota ali lokalna oblast ali ki se plačujejo iz njihovih skladov posamezniku za storitve, opravljene za to državo ali enoto ali oblast, obdavčijo samo v tej državi.  
  
(b) Take pokojnine in drugi podobni prejemki se obdavčijo samo v drugi državi pogodbenici, če je posameznik rezident in državljan te države.
  
3. Za plače, mezde, pokojnine in druge podobne prejemke za storitve, opravljene v zvezi s posli države pogodbenice ali njene politične enote ali lokalne oblasti, se uporabljajo določbe 14., 15., 16. in 17. člena.

## 19. člen ŠTUDENTI

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

**20. člen**  
**DRUGI DOHODKI**

1. Deli dohodka rezidenta države pogodbenice, ki nastanejo kjer koli in niso obravnavani v prejšnjih členih tega sporazuma, se obdavčijo samo v tej državi.
  
2. Določbe prvega odstavka se ne uporabljajo za dohodek, ki ni dohodek od nepremičnin, kakor so opredeljene v drugem odstavku 6. člena, če prejemnik takega dohodka, ki je rezident države pogodbenice, posluje v drugi državi pogodbenici prek stalne poslovne enote v njej in je pravica ali premoženje, v zvezi s katerim se plača dohodek, dejansko povezano s tako stalno poslovno enoto. V takem primeru se uporabljajo določbe 7. člena.
  
3. Ne glede na določbe prvega in drugega odstavka se deli dohodka rezidenta države pogodbenice, ki niso obravnavani v prejšnjih členih tega sporazuma in nastanejo v drugi državi pogodbenici, lahko obdavčijo tudi v tej drugi državi.

## 21. člen

### ODPRAVA DVOJNEGA OBDAVČEVANJA

1. Ob upoštevanju določb novozelandske zakonodaje, ki dovoljujejo odbitek davka, plačanega v državi zunaj Nove Zelandije, od novozelandskega davka (kar ne vpliva na splošno načelo tega člena), se slovenski davek, plačan po slovenski zakonodaji in v skladu s tem sporazumom, v zvezi z dohodkom, ki ga doseže rezident Nove Zelandije iz virov v Sloveniji (kar v primeru dividende izključuje davek, plačan v zvezi z dobičkom, iz katerega je bila plačana dividenda) (razen če določbe tega sporazuma omogočajo, da Slovenija obdavčitev opravi izključno zato, ker je ta dohodek tudi dohodek, ki ga doseže rezident Slovenije), dovoli kot odbitek od novozelandskega davka, ki se plača od tega dohodka.
2. V Sloveniji:
  - (a) Kadar rezident Slovenije doseže dohodek, ki se lahko obdavči na Novi Zelandiji v skladu z določbami tega sporazuma (razen če določbe tega sporazuma omogočajo, da Nova Zelandija obdavčitev opravi izključno zato, ker je ta dohodek tudi dohodek, ki ga doseže rezident Nove Zelandije), Slovenija dovoli kot odbitek od davka od dohodka tega rezidenta znesek, ki je enak davku od dohodka, plačanemu na Novi Zelandiji. Tak odbitek pa ne sme presegati tistega dela pred odbitkom izračunanega davka od dohodka, ki se nanaša na dohodek, ki se lahko obdavči na Novi Zelandiji.
  - (b) Kadar je v skladu s katero koli določbo sporazuma dohodek, ki ga doseže rezident Slovenije, oproščen davka v Sloveniji, lahko Slovenija pri izračunu davka od preostalega dohodka tega rezidenta kljub temu upošteva oproščeni dohodek.

## 22. člen

### ENAKO OBRAVNAVANJE

1. Za državljane države pogodbenice ne sme v drugi državi pogodbenici veljati kakršno koli obdavčevanje ali kakršna koli s tem povezana zahteva, ki sta drugačna ali bolj obremenjujoča, kakor so ali so lahko obdavčevanje in s tem povezane zahteve za državljane te druge države v enakih okoliščinah, še zlasti glede rezidentstva. Ta določba se ne glede na določbe 1. člena uporablja tudi za osebe, ki niso rezidenti ene države pogodbenice ali obeh držav pogodbenic.
2. Za osebe brez državljanstva, ki so rezidenti države pogodbenice, ne sme v nobeni od držav pogodbenic veljati kakršno koli obdavčevanje ali kakršna koli s tem povezana zahteva, ki sta drugačna ali bolj obremenjujoča, kakor so ali so lahko obdavčevanje in s tem povezane zahteve za državljane zadevne države v enakih okoliščinah, še zlasti glede rezidentstva.
3. Obdavčevanje stalne poslovne enote, ki jo ima podjetje države pogodbenice v drugi državi pogodbenici, v tej drugi državi ne sme biti manj ugodno, kakor je obdavčevanje podjetij te druge države, ki opravljajo enake dejavnosti, v podobnih okoliščinah. Ta določba se ne razlaga, kot da zavezuje državo pogodbenico, da prizna rezidentom druge države pogodbenice kakršne koli osebne olajšave, druge olajšave in znižanja za davčne namene zaradi osebnega stanja ali družinskih obveznosti, ki jih priznava svojim rezidentom.
4. Razen kadar se uporabljajo določbe prvega odstavka 9. člena, sedmega odstavka 11. člena ali šestega odstavka 12. člena, se obresti, licenčnine in avtorski honorarji ter druga izplačila, ki jih plača podjetje države pogodbenice rezidentu druge države pogodbenice,

pri ugotavljanju obdavčljivega dobička takega podjetja odštejejo pod enakimi pogoji, kakor če bi bili plačani rezidentu prve navedene države.

5. Za podjetja države pogodbenice, katerih kapital je v celoti ali delno, neposredno ali posredno v lasti ali pod nadzorom enega rezidenta druge države pogodbenice ali več rezidentov druge države pogodbenice, ne sme v prvi navedeni državi veljati kakršno koli obdavčevanje ali kakršna koli s tem povezana zahteva, ki sta drugačna ali bolj obremenjujoča, kakor so ali so lahko obdavčevanje in s tem povezane zahteve za podobna podjetja prve navedene države v podobnih okoliščinah.
6. Določbe tega člena se uporabljajo samo za davke iz 2. člena.

## 23. člen

### POSTOPEK SKUPNEGA DOGOVARJANJA

- 1) Kadar oseba meni, da imajo ali bodo imela dejanja ene države pogodbenice ali obeh držav pogodbenic zanjo za posledico obdavčenje, ki ni v skladu z določbami tega sporazuma, lahko ne glede na pravna sredstva, ki ji jih omogoča domače pravo teh držav, predloži zadevo pristojnemu organu države pogodbenice, katere rezident je, ali če se njena zadeva nanaša na prvi odstavek 22. člena, tiste države pogodbenice, katere državljan je. Zadeva mora biti predložena v treh letih od prvega uradnega obvestila o dejanju, ki je imelo za posledico obdavčenje, ki ni v skladu z določbami sporazuma.
- 2) Če pristojni organ meni, da je pritožba upravičena, in če sam ne more najti zadovoljive rešitve, si prizadeva rešiti zadevo s skupnim dogovorom s pristojnim organom druge države pogodbenice, da bi se izognili obdavčenju, ki ni v skladu s sporazumom. Vsak dosežen dogovor se izvaja ne glede na roke v domačem pravu držav pogodbenic.
- 3) Pristojna organa držav pogodbenic si prizadevata s skupnim dogovorom rešiti kakršne koli težave ali odpraviti dvome, ki nastanejo pri razlagi ali uporabi sporazuma. Poleg tega se lahko posvetujeta o odpravi dvojnega obdavčevanja v primerih, ki jih sporazum ne predvideva.
- 4) Da bi pristojna organa držav pogodbenic dosegla dogovor v skladu s prejšnjimi odstavki, se lahko dogovarjata neposredno, tudi po skupni komisiji, ki jo sestavljata ona sama ali njuni predstavniki.
- 5) Kadar:

- (a) je oseba po prvem odstavku predložila zadevo pristojnemu organu države pogodbenice, ker so imela dejanja ene države pogodbenice ali obeh držav pogodbenic zanjo za posledico obdavčenje, ki ni v skladu z določbami tega sporazuma, in
- (b) se pristojna organa ne moreta dogovoriti o rešitvi zadeve v skladu z drugim odstavkom v treh letih od dne, ko so bile obema pristojnima organoma zagotovljene vse informacije, ki sta jih zahtevala za obravnavo zadeve,

se katera koli nerešena vprašanja, ki izhajajo iz zadeve, predložijo v arbitražo, če oseba tako pisno zahteva. Vendar se ta nerešena vprašanja ne predložijo v arbitražo, če je o njih že odločilo sodišče ali upravno sodišče katere koli od obeh držav. Razen če se pristojna organa v šestih mesecih po tem, ko sta bila obveščena o odločitvi, ne dogovorita o drugačni rešitvi ali če oseba, na katero se zadeva neposredno nanaša, ne sprejme skupnega dogovora, s katerim se izvede arbitražna odločitev, je ta odločitev zavezujoča za obe državi pogodbenici in se izvede ne glede na roke v domači zakonodaji teh držav. Pristojna organa držav pogodbenic s skupnim dogovorom uredita način uporabe tega odstavka.

## 24. člen

### IZMENJAVA INFORMACIJ

1. Pristojna organa držav pogodbenic si izmenjavata informacije, ki so predvidoma pomembne za izvajanje določb tega sporazuma ali za izvajanje ali uveljavljanje domače zakonodaje glede davkov vseh vrst in opisov, ki se uvedejo v imenu držav pogodbenic ali njunih političnih enot ali lokalnih oblasti, če obdavčevanje na njeni podlagi ni v nasprotju s sporazumom. Izmenjava informacij ni omejena s 1. in 2. členom.
2. Vse informacije, ki jih država pogodbenica prejme na podlagi prvega odstavka, se obravnavajo kot tajnost enako kakor informacije, pridobljene po domači zakonodaji te države, in se razkrijejo samo osebam ali organom (vključno s sodišči in upravnimi organi), udeleženi pri odmeri ali pobiranju davkov iz prvega odstavka, pri njihovi izterjavi ali pri pregonu ali odločanju o pritožbah v zvezi z njimi ali pri nadzoru nad navedenim. Te osebe ali organi uporabljajo informacije samo za te namene. Informacije lahko razkrijejo v javnih sodnih postopkih ali sodnih odločbah. Ne glede na to se informacije, ki jih pridobi država pogodbenica, lahko uporabljajo za druge namene, kadar se za take druge namene lahko uporabljajo po zakonodaji obeh držav in če pristojni organ države, ki informacije da, tako uporabo dovoli.
3. Določbe prvega in drugega odstavka se v nobenem primeru ne razlagajo tako, da nalagajo državi pogodbenici obveznost, da:
  - (a) izvaja upravne ukrepe, ki niso v skladu z zakonodajo in upravno prakso te ali druge države pogodbenice;

- (b) predloži informacije, ki jih ni mogoče dobiti na podlagi zakonodaje ali po običajni upravni poti te ali druge države pogodbenice;
- (c) predloži informacije, ki bi razkrile kakršno koli trgovinsko, poslovno, industrijsko, komercialno ali poklicno skrivnost ali trgovinski postopek, ali informacije, katerih razkritje bi bilo v nasprotju z javnim redom.
4. Če država pogodbenica zahteva informacije v skladu s tem členom, druga država pogodbenica sprejme ukrepe za pridobitev zahtevanih informacij, tudi če jih ta druga država morda ne potrebuje za svoje davčne namene. Za obveznost iz prejšnjega stavka veljajo omejitve iz tretjega odstavka, toda v nobenem primeru se take omejitve ne razlagajo tako, da država pogodbenica lahko zavrne predložitev informacij samo zato, ker sama zanje nima interesa.
5. V nobenem primeru se določbe tretjega odstavka ne razlagajo tako, da država pogodbenica lahko zavrne predložitev informacij samo zato, ker jih hrani banka, druga finančna institucija, pooblaščenec ali oseba, ki deluje kot zastopnik ali fiduciar, ali zato, ker so povezane z lastniškimi deleži v neki osebi.

## 25. člen

### POMOČ PRI POBIRANJU DAVKOV

1. Državi pogodbenici si pomagata pri pobiranju davčnih terjatev. Pomoč ni omejena s 1. in 2. členom. Pristojna organa držav pogodbenic lahko s skupnim dogovorom uredita način uporabe tega člena.
2. Izraz "davčna terjatev", kakor je uporabljen v tem členu, pomeni dolgovani znesek v zvezi z davki vseh vrst in opisov, ki se uvedejo v imenu držav pogodbenic ali njihovih političnih enot ali lokalnih oblasti, če tako obdavčenje ni v nasprotju s tem sporazumom ali katerim koli drugim dokumentom, katerega članici sta državi pogodbenici, vključno z obrestmi, upravnimi kaznimi in stroški pobiranja ali zavarovanja v zvezi s tem zneskom.
3. Kadar je davčno terjatev države pogodbenice mogoče uveljaviti po zakonodaji te države, dolžnik pa takrat po zakonodaji te države njenega pobiranja ne more preprečiti, to davčno terjatev na zaprosilo pristojnega organa te države sprejme za namene pobiranja pristojni organ druge države pogodbenice. To davčno terjatev pobere ta druga država v skladu z določbami svoje zakonodaje, ki se uporablja pri uveljavljanju in pobiranju njenih davkov, kakor da bi šlo za davčno terjatev te druge države.
4. Kadar je davčna terjatev države pogodbenice taka, da ta država po svoji zakonodaji lahko izvede ukrepe za zavarovanje, da zagotovi njeno pobiranje, to davčno terjatev na zaprosilo pristojnega organa te države sprejme pristojni organ druge države pogodbenice zaradi izvedbe ukrepov za zavarovanje. Ta druga država izvede ukrepe za zavarovanje te davčne terjatve v skladu z določbami svoje

zakonodaje, kakor če bi bila to njena davčna terjatev, tudi če med izvajanjem teh ukrepov te davčne terjatve ni mogoče uveljaviti v prvi navedeni državi ali če ima dolžnik pravico preprečiti pobiranje.

5. Ne glede na določbe tretjega in četrtega odstavka za davčno terjatev, ki jo država pogodbenica sprejme za namene tretjega ali četrtega odstavka, v tej državi ne veljajo roki ali prednostna obravnava, ki se uporablja za davčno terjatev po zakonodaji te države samo zaradi njene narave. Poleg tega davčna terjatev, ki jo sprejme država pogodbenica za namene tretjega ali četrtega odstavka, v tej državi ni prednostno obravnavana po zakonodaji druge države pogodbenice.
6. Obstoj, veljavnost ali višina davčne terjatve države pogodbenice niso predmet postopkov pred sodišči ali upravnimi organi druge države pogodbenice.
7. Če kadar koli po zaprosilu države pogodbenice v skladu s tretjim in četrtem odstavkom ter preden druga država pogodbenica pobere davčno terjatev in jo nakaže prvi navedeni državi:
  - (a) v primeru zaprosila po tretjem odstavku ta davčna terjatev ni več davčna terjatev prve navedene države, ki jo je mogoče uveljaviti po njeni zakonodaji in jo dolguje oseba, ki takrat po zakonodaji te države njenega pobiranja ne more preprečiti, ali
  - (b) v primeru zaprosila po četrtem odstavku ta davčna terjatev ni več davčna terjatev prve navedene države, za katero ta država po svoji zakonodaji lahko izvede ukrepe za zavarovanje, da zagotovi njeno pobiranje,

pristojni organ prve navedene države o tem takoj uradno obvesti pristojni organ druge države in glede na izbiro druge države prva navedena država zadrži ali umakne svoje zaprosilo.

8. V nobenem primeru se določbe tega člena ne razlagajo tako, da nalagajo državi pogodbenici obveznost, da:

- (a) izvaja upravne ukrepe, ki niso v skladu z zakonodajo in upravno prakso te ali druge države pogodbenice;
- (b) izvaja ukrepe, ki bi bili v nasprotju z javnim redom;
- (c) zagotovi pomoč, če druga država pogodbenica ni izvedla vseh razumnih ukrepov za pobiranje ali zavarovanje, odvisno od primera, ki jih ima na voljo po svoji zakonodaji ali upravni praksi;
- (d) zagotovi pomoč v primerih, ko je upravno breme za to državo očitno nesorazmerno s koristjo, ki bi jo imela druga država pogodbenica.

## 26. člen

### ČLANI DIPLOMATSKIH PREDSTAVNIŠTEV IN KONZULATOV

Nič v tem sporazumu ne vpliva na davčne privilegije članov diplomatskih predstavništav ali konzulatov po splošnih pravilih mednarodnega prava ali določbah posebnih sporazumov.

## 27. člen

### OMEJITEV UGODNOSTI

1. Ne glede na druge določbe tega sporazuma se ugodnost po tem sporazumu v zvezi z delom dohodka ne prizna, če je ob upoštevanju vseh ustreznih dejstev in okoliščin mogoče sklepati, da je bila pridobitev te ugodnosti eden od glavnih namenov katerega koli dogovora ali transakcije, na podlagi katerega oziroma katere je bila neposredno ali posredno pridobljena ta ugodnost, razen če se ne ugotovi, da bi bilo priznavanje take ugodnosti v teh okoliščinah skladno s cilji in nameni ustreznih določb tega sporazuma.
2. (a) Kadar
  - (i) podjetje države pogodbenice doseže dohodek v drugi državi pogodbenici in prva navedena država ta dohodek obravnava kot dohodek, ki se pripíše stalni poslovni enoti tega podjetja v tretji jurisdikciji, in
  - (ii) se dobiček, ki se pripíše tej stalni poslovni enoti, oprosti davka v prvi navedeni državi,

se ugodnosti po tem sporazumu ne uporabljajo za noben del dohodka, ki se v tretji jurisdikciji obdavči z davkom, ki je nižji od manjšega od zneskov: 15 odstotkov zneska tega dela dohodka in 60 odstotkov davka, s katerim bi se ta del dohodka obdavčil v prvi navedeni državi, če bi bila ta stalna poslovna enota v prvi navedeni državi. V takem primeru se vsak dohodek, za katerega se uporabljajo določbe tega odstavka, še naprej obdavčuje v skladu z domačim pravom druge države ne glede na katere koli druge določbe sporazuma.
- (c) Prejšnje določbe tega odstavka se ne uporabljajo, če dohodek, ki je dosežen v drugi državi, izhaja iz dejavnega opravljanja poslovne dejavnosti prek stalne poslovne enote (ki ni poslovna dejavnost izvajanja ali upravljanja naložb ali ni samo imetništvo

naložb za račun podjetja, razen če gre za bančne ali zavarovalniške dejavnosti ali dejavnosti v zvezi z vrednostnimi papirji, ki jih opravlja banka, zavarovalnica oziroma registrirani trgovec z vrednostnimi papirji) ali je povezan z njim.

- (d) Če se v zvezi z delom dohodka, ki ga doseže rezident države pogodbenice, ugodnosti na podlagi tega sporazuma v skladu s prejšnjimi določbami tega odstavka ne priznajo, lahko pristojni organ druge države pogodbenice v zvezi s tem delom dohodka te ugodnosti kljub temu prizna, če na podlagi zahteve, ki jo predloži ta rezident, ugotovi, da je priznanje teh ugodnosti upravičeno glede na razloge, zaradi katerih ta rezident ni izpolnjeval zahtev iz tega odstavka (kot je obstoj izgub). Pristojni organ države pogodbenice, ki mu je bila predložena zahteva v skladu s prejšnjim stavkom, se pred odobritvijo ali zavrnitvijo zahteve posvetuje s pristojnim organom druge države pogodbenice.

## 28. člen

### ZAČETEK VELJAVNOSTI

Vsaka od držav pogodbenic po diplomatski poti pisno obvesti drugo, da so končani postopki, ki so po njeni zakonodaji potrebni za začetek veljavnosti tega sporazuma. Sporazum začne veljati z dnem prejema zadnjega uradnega obvestila, njegove določbe pa se uporabljajo:

(a) na Novi Zelandiji:

- (i) v zvezi z davkom, odtegnjenim pri viru, od dohodka, dobička ali dobička iz premoženja, ki ga doseže nerezident, za zneske, ki se plačajo ali pripišejo prvi dan tretjega meseca po dnevu, ko začne veljati sporazum, ali pozneje;
- (ii) v zvezi z drugimi novozelandskimi davki za vsako dohodkovno leto, ki se začne 1. aprila v koledarskem letu po letu, v katerem začne veljati sporazum, ali pozneje;

(b) v Sloveniji:

- (i) v zvezi z davki, odtegnjenimi pri viru, za dohodek, dosežen prvi dan tretjega meseca po dnevu, ko začne veljati sporazum, ali pozneje;
- (ii) v zvezi z drugimi davki od dohodka za davke, obračunane za katero koli davčno leto, ki se začne 1. januarja v koledarskem letu po letu, v katerem začne veljati sporazum, ali pozneje.

## 29. člen

### PRENEHANJE VELJAVNOSTI

Ta sporazum velja, dokler ga država pogodbenica ne odpove. Vsaka država pogodbenica lahko odpove sporazum po diplomatski poti s pisnim obvestilom o odpovedi do vključno 30. junija v katerem koli koledarskem letu, ki se začne po petih letih od dneva začetka veljavnosti sporazuma. V takem primeru se sporazum preneha uporabljati:

(b) na Novi Zelandiji:

- (i) v zvezi z davkom, odtegnjenim pri viru, od dohodka, dobička ali dobička iz premoženja, ki ga doseže nerezident, za zneske, ki se plačajo ali pripíšejo prvi dan tretjega meseca po dnevu, ko je bilo dano obvestilo o odpovedi, ali pozneje;
- (ii) v zvezi z drugimi novozelandskimi davki za vsako dohodkovno leto, ki se začne 1. aprila v koledarskem letu po letu, v katerem je bilo dano obvestilo o odpovedi, ali pozneje;

(c) v Sloveniji:

- (i) v zvezi z davki, odtegnjenimi pri viru, za dohodek, dosežen prvi dan tretjega meseca po dnevu, ko je bilo dano obvestilo o odpovedi, ali pozneje;
- (ii) v zvezi z drugimi davki od dohodka za davke, obračunane za katero koli davčno leto, ki se začne 1. januarja v koledarskem letu po letu, v katerem je dano obvestilo o odpovedi, ali pozneje.



## PROTOKOL

Nova Zelandija in Republika Slovenija sta se ob podpisu sporazuma med Novo Zelandijo in Republiko Slovenijo o odpravi dvojnega obdavčevanja v zvezi z davki od dohodka ter o preprečevanju davčnih utaj in izogibanja davkom (v nadaljnjem besedilu: sporazum) sporazumeli o teh določbah, ki so sestavni del sporazuma:

### 1. Na splošno v zvezi z uporabo sporazuma:

V skladu s splošnim načelom – po katerem sporazumi v zvezi z davki od dohodka ne omejujejo pravice držav pogodbenic, da obdavčijo svoje rezidente, razen kadar je to namen – ta sporazum ne vpliva na to, kako država pogodbenica obdavči svoje rezidente, razen v zvezi z ugodnostmi, ki se priznajo v skladu z drugim odstavkom 9. člena ter 18., 19., 21., 22., 23. in 26. členom.

### 2. V zvezi z 2. členom sporazuma:

Ne glede na določbe 2. člena davki, za katere se uporablja sporazum, ne vključujejo nobenega zneska, ki pomeni kazen ali obresti, naložene v skladu z zakonodajo ene ali druge države pogodbenice.

### 3. V zvezi s petim odstavkom 5. člena sporazuma:

Razume se, da se zloraba izjem iz tretjega in četrtega odstavka 5. člena, ki se obravnava po petem odstavku 5. člena, lahko obravnava tudi po prvem odstavku 27. člena.

### 4. V zvezi z drugim odstavkom 6. člena sporazuma:

Za vsako pravico iz drugega odstavka 6. člena se šteje, da je tam, kjer je nepremičnina, na katero se nanaša, ali kjer se lahko izvaja raziskovanje ali izkoriščanje.

5. V zvezi s tretjim odstavkom 10. člena sporazuma:

Razume se, da izraz "dividende" v primeru Nove Zelandije vključuje dohodek v zvezi z na dobiček vezanimi zadolžnicami (*profit-related debentures*), nadomeščajočimi zadolžnicami (*substituting debentures*) in pripetimi dolžniškimi vrednostnimi papirji (*stapled debt securities*), kot so opredeljeni v oddelkih FA 2 in FA 2B Zakona o davku od dohodka iz leta 2007 (*Income Tax Act 2007*) ali v kateri koli bistveno podobni določbi, ki je sprejeta in velja po datumu podpisa sporazuma.

6. V zvezi s četrnim odstavkom 11. člena sporazuma:

Izraz "obresti" vključuje kazni zaradi zamude pri plačilu dohodka iz 11. člena.

7. V zvezi z 10., 11. in 12. členom sporazuma:

Razume se, da se uporablja komentar k 10., 11. in 12. členu Vzorčne davčne konvencije OECD o dohodku in premoženju, kot je veljal 21. novembra 2017, o pomenu izraza "upravičeni lastnik". Zlasti se razume, da kadar skrbniki diskrecijskega skrbniškega sklada ne razdelijo dividend, obresti ali licenčnin in avtorskih honorarjev, pridobljenih v nekem obdobju, so lahko ti skrbniki, ki delujejo kot taki, za namene ustreznega člena upravičeni lastniki takih dohodkov.

8. V zvezi s pododstavkom (e) tretjega odstavka 12. člena sporazuma:

Razume se, da se izraz "opustitev uporabe ali zagotavljanja katerega koli premoženja ali pravice" nanaša na primere, ko imetnik katerega koli

premoženja ali pravice prejme plačilo kot nadomestilo za to, da tega premoženja ali pravice ne da na razpolago drugi osebi.

9. V zvezi z 22. členom sporazuma:

(a) 22. člen se ne uporablja za nobeno določbo zakonodaje države pogodbenice:

- (i) ki je namenjena preprečevanju izogibanja davkom ali davčnih utaj;
- (ii) ki ne dovoljuje odloga plačila davka, ki nastane pri prenosu sredstva, če bi poznejši prenos sredstva s strani prejemnika presešel davčno pristojnost države pogodbenice v skladu z njeno zakonodajo;
- (iii) ki omogoča, da se subjekti v skupini združeno obravnavajo kot en subjekt za davčne namene, pod pogojem, da lahko družba, ki je rezident te države in katere kapital je v celoti ali delno, neposredno ali posredno v lasti ali pod nadzorom enega rezidenta druge države pogodbenice ali več rezidentov druge države pogodbenice, dostopa do take združene obravnave pod enakimi pogoji kot druge družbe, ki so rezidenti prve navedene države;
- (iv) ki omogoča prenos izgub znotraj skupine družb;
- (v) ki ne dovoljuje vračil davka, odbitkov davka ali oprostitve davka v zvezi z dividendami, ki jih plača družba, ki je rezident te države za davčne namene;
- (vi) za katero je v izmenjavi diplomatskih not med državama pogodbenicama dogovorjeno, da ta člen nanjo ne vpliva.

(b) Določbe zakonodaje države pogodbenice, ki so namenjene preprečevanju izogibanja davkom ali davčnih utaj iz točke (i) pododstavka (a) tega odstavka tega protokola, vključujejo:

- (i) ukrepe za obravnavo tanke kapitalizacije in transfernih cen;
- (ii) pravila glede nadzorovanih tujih družb in tujih investicijskih skladov ter
- (iii) ukrepe za zagotavljanje učinkovitega pobiranja in učinkovite izterjave davkov, vključno z ukrepi za zavarovanje.

10. V zvezi s tretjim in petim odstavkom 22. člena sporazuma:

Razume se, da sklicevanje na "v podobnih okoliščinah" odraža načelo, izraženo v 37. odstavku komentarja 24. člena Vzorčne davčne konvencije OECD o dohodku in premoženju, kot je veljal 21. novembra 2017.

11. V zvezi s petim odstavkom 23. člena sporazuma:

- (a) Državi pogodbenici lahko arbitražnemu senatu, ustanovljenemu v skladu z določbami petega odstavka 23. člena, sporočita informacije, potrebne za izvedbo arbitražnega postopka. Za člane arbitražnega senata veljajo omejitve v zvezi z razkritjem, opisane v drugem odstavku 24. člena sporazuma, glede tako sporočenih informacij. Pred začetkom arbitražnega postopka pristojna organa držav pogodbenic zagotovita, da se vsaka oseba, ki je predložila zadevo, in njeni svetovalci pisno zavežejo, da informacij, ki jih prejmejo med arbitražnim postopkom od pristojnega organa ali arbitražnega senata, ne bodo razkrili nobeni drugi osebi. Postopek skupnega dogovarjanja in arbitražni postopek se v

zvezi z zadevo končata, če kadar koli po vložitvi zahteve za arbitražo in preden arbitražni senat sporoči svojo odločitev pristojnima organoma držav pogodbenic, oseba, ki je predložila zadevo, ali eden od njenih svetovalcev bistveno krši to zavezo.

- (b) Razume se tudi, da arbitražna odločitev ni zavezujoča za nobeno od obeh držav pogodbenic, če oseba, na katero se zadeva neposredno nanaša, pred katerim koli sodiščem ali upravnim sodiščem nadaljuje postopek glede vprašanj, rešenih v skupnem dogovoru, s katerim se izvede arbitražna odločitev.
- (c) Če kadar koli po predložitvi zahteve za arbitražo in preden arbitražni senat sporoči svojo odločitev o zadevi pristojnima organoma držav pogodbenic:
  - (i) pristojna organa držav pogodbenic dosežeta skupni dogovor o rešitvi zadeve v skladu z drugim odstavkom 23. člena ali
  - (ii) oseba, ki je predložila zadevo, umakne zahtevo za arbitražo ali postopek skupnega dogovarjanja, se postopek skupnega dogovarjanja in arbitražni postopek v zvezi z zadevo končata.
- (d) Če kadar koli po predložitvi zahteve za arbitražo in preden arbitražni senat sporoči svojo odločitev o zadevi pristojnima organoma držav pogodbenic, sodišče ali upravno sodišče ene od držav pogodbenic odloči o vprašanju, se arbitražni postopek konča.
- (e) Peti odstavek 23. člena se ne uporablja za nerešena vprašanja v zadevah:
  - (i) v primeru Nove Zelandije:

- (A) v zadevi, ki vključuje uporabo novozelandskega splošnega pravila za preprečevanje izogibanja iz razdelka BG 1 Zakona o davku od dohodka iz leta 2007 (*Income Tax Act 2007*), vključno z vsemi poznejšimi določbami, ki nadomeščajo, spreminjajo ali posodablajo ta pravila za preprečevanje izogibanja. Nova Zelandija po diplomatski poti obvesti Republiko Slovenijo o vseh takih poznejših določbah;
- (B) v zadevi, ki vključuje uporabo novozelandskega pravila za preprečevanje izogibanja za stalne poslovne enote iz razdelka GB 54 Zakona o davku od dohodka iz leta 2007 (*Income Tax Act 2007*), vključno z vsemi poznejšimi določbami, ki nadomeščajo, spreminjajo ali posodablajo ta pravila za preprečevanje izogibanja. Nova Zelandija po diplomatski poti obvesti Republiko Slovenijo o vseh takih poznejših določbah;
- (ii) v primeru Slovenije:
- (A) v zadevah v zvezi z deli dohodka, ki niso obdavčeni v državi pogodbenici, ker niso vključeni v davčno osnovo v tej državi pogodbenici ali ker zanje velja oprostitev ali ničelna davčna stopnja, ki velja samo po domačem davčnem pravu te države pogodbenice in je značilna za tak del dohodka

(B) v zadevah, ki vključujejo dejanja, zaradi katerih je bil davčni zavezanec, oseba, ki deluje zanj, ali povezana oseba:

1. na sodišču spoznana za krivo kaznivega dejanja v zvezi z davki ali
2. ji je bila naložena večja kazen zaradi davčne goljufije, utaje ali izogibanja davkom.

Za ta namen Zakon o davčnem postopku vsebuje določbe, ki urejajo večje kazni za davčno goljufijo, utajo ali izogibanje davkom. Upoštevajo se tudi morebitne poznejše določbe, ki te določbe nadomeščajo, spreminjajo ali posodablajo. Republika Slovenija uradno obvesti Novo Zelandijo o vseh takih poznejših določbah;

(C) v zadevah, ki vključujejo rezidentstvo družb in drugih subjektov;

(D) v zadevah, ki vključujejo uporabo domačih določb za preprečevanje izogibanja. V ta namen so v Republiki Sloveniji domače določbe za preprečevanje izogibanja določbe za preprečevanje izogibanja, ki jih vsebuje davčna zakonodaja.

Določbe iz tega pododstavka se vzajemno uporabljajo na način, ki ga pristojna organa držav pogodbenic uredita s skupnim dogovorom.



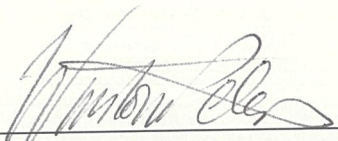
I, WINSTON RAYMOND PETERS  
Minister of Foreign Affairs  
of New Zealand

do hereby certify that

The Honourable Simon Glen Watts  
Minister of Revenue of New Zealand

is vested with full powers and authority to sign, on behalf of the Government of New Zealand, the *Agreement between New Zealand and the Republic of Slovenia for the Elimination of Double Taxation with respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance* and its accompanying Protocol.

IN WITNESS WHEREOF, I have signed and sealed these presents at  
PARIS, this 25th day of November 2024.

  
Rt Hon Winston Raymond Peters  
Minister of Foreign Affairs

