

## **2002 Income and Capital Tax Agreement (English Translation)**

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**Effective date:** January 1, 2004. See Article 27.

**Status:** In Force

### **AGREEMENT BETWEEN THE SLOVAK REPUBLIC AND THE CZECH REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**

The Slovak Republic and the Czech Republic, desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, have agreed as follows:

#### **Article 1 General Scope**

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

#### **Article 2 Taxes Covered**

1. This Agreement shall apply to taxes on income and on capital imposed by each of the Contracting States or of their administrative bodies or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, 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 this Agreement shall apply are in particular:
  - a) in the Slovak Republic:
    - (i) the tax on income of individuals
    - (ii) the tax on income of legal persons
    - (iii) the tax on real property (hereinafter referred to as "Slovak tax"),
  - b) in the Czech Republic:
    - (i) the tax on income of individuals
    - (ii) the tax on income of legal persons
    - (iii) the tax on real property (hereinafter referred to as "Czech tax").
4. This Agreement shall apply also to all identical or substantially similar taxes, which shall be imposed after the date of signature of this Agreement in addition to existing taxes or in place of them. The competent authorities of the Contracting States shall notify each other of all significant changes which have been made in their respective taxation laws and regulations.

#### **Article 3 General Definitions**

1. For the purposes of this Agreement, unless the context otherwise requires,
  - a) the terms "one Contracting State" and "the other Contracting State" mean the Slovak Republic or the Czech Republic as the context requires;
  - b) the term "the Slovak Republic" means the Slovak Republic and when used in a geographical sense means the territory over which the Slovak Republic exercises its sovereignty and jurisdiction, in accordance with international law;
  - c) the term "the Czech Republic" means the territory of the Czech Republic over which, in accordance with the Czech law and in accordance with international law, the Czech Republic exercises its sovereignty and jurisdiction;
  - d) the term "person" includes an individual, a company, and all other associations of persons;
  - e) the term "company" means any legal person or any bearer of rights considered for the purposes of taxation to be a legal person;
  - f) the term "enterprise" applies to the rendering of any performance;
  - g) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean according to the context, the enterprise operated by a resident of a Contracting State and the enterprise operated by a resident of the other Contracting State;

h) the term "activity" means the rendering of skill-based as well as other activities of an independent character;

i) the term "international traffic" means any transport carried out by a ship, boat, airplane, railway or road vehicle, operated by an enterprise whose seat of the actual (main) headquarters is in one Contracting State, except cases where such ship, boat, airplane, railway or road vehicle is operated only between places in the other Contracting State;

j) the term "national" means:

(i) every individual possessing the citizenship of any Contracting State,

(ii) every legal person, partnership or association established in accordance with the laws effective in any of the Contracting States;

k) the term "competent authority" means

(i) the Minister of Finance or his empowered deputy in the case of the Slovak Republic;

(ii) the Minister of Finance or his empowered deputy in the case of the Czech Republic.

2. As regards the application of the Agreement by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning it has at such time under the law of that State concerning the taxes to which the Agreement applies.

#### **Article 4 Resident**

1. For 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 in that State by reasons of his domicile, permanent residence, place of headquarters, or any other similar criterion and includes the State itself as well as its administrative bodies and local authorities. However, this term does not include any person who is liable to tax in that State only by reasons of income from sources in that State or property situated in that State.

2. If an individual is, according to the provisions of paragraph 1, a resident of both Contracting States, his status shall be determined as follows:

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

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

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

d) if this individual is a national of both States or he is not a national of either of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. If, according to the provisions of paragraph 1, a person other than an individual is a resident of both Contracting States, he is deemed to be a resident of that State in which its seat of the actual (main) headquarters is situated. In the case of doubts, the competent authorities of the Contracting States shall settle this question by mutual agreement.

#### **Article 5 Permanent Establishment**

1. For the purposes of this Agreement, the term "permanent establishment" means a permanent place or facility used for business activity, through which the activity of an enterprise is wholly or partly carried out..

2. The term "permanent establishment" includes especially:

a) a seat of headquarters of a part of an enterprise,

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 includes

a) a building site or construction, assembly or installation project or supervisory activities in connection therewith, but only if such building site, project or supervisory activities last more than 12 months,

b) the rendering of services, including consultancy or management services by an enterprise of one Contracting State or through employees or other personnel engaged by the enterprise for this purpose, but only if the activities of such nature last in the territory of the other Contracting State during one or more periods aggregating more than 6 months in any 12-month period.

4. Regardless of the preceding provisions of this Article, the term "permanent establishment" does not include

- a) a facility used only for the purpose of storage, display or delivery of goods belonging to the enterprise,
- b) a stock of goods belonging to the enterprise, maintained only for the purpose of storage, display or delivery,
- c) a stock of goods belonging to the enterprise, maintained only for the purpose of processing by another enterprise,
- d) a permanent place or facility used for business activity, maintained only for the purpose of purchase of goods or collecting of information for the enterprise,
- e) a permanent place or facility used for business activity, maintained only for the purpose of carrying out any other activity which is of a preparatory or auxiliary character for the enterprise,
- f) a permanent place or facility used for business activity, maintained only for the carrying out of any combination of activities mentioned in sub-paragraphs a) through e) if the overall activity of the permanent place or facility used for business activity resulting from this combination is of a preparatory or auxiliary character.

5. If, regardless of the provisions of paragraphs 1 and 2, a person other than an independent agent to whom paragraph 6 applies, acts in the Contracting State on behalf of an enterprise and has, and habitually exercises an authority to conclude contracts in the name of the enterprise, then this enterprise has a permanent establishment in this State with respect to all of the activities which this person carries out for the enterprise, unless the activities of this person are limited to the activities specified in paragraph 4, which would not establish the existence of a permanent establishment under the provisions of this paragraph if they were carried out through a permanent place or facility used for business activities.

6. It is not deemed that the enterprise has the permanent establishment in the Contracting State merely because it carries out its activity in that State through a broker, general commission agent or any other independent agent provided that these persons act the ordinary course of their business

7. The fact that a company, which is a resident of one Contracting State, controls a company or is controlled by a company which is a resident of the other Contracting State, or which carries out its activity in that other State (whether through a permanent establishment or otherwise), does not make in itself any of these companies a permanent place of business of the other company.

#### **Article 6 Income From Immovable Property**

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

2. The term "immovable property" has the same meaning as it has under the laws of the Contracting State in which this property is situated. The term in all events includes property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of the Civil Code concerning land apply, usufruct of immovable property and rights to variable or fixed payments for the working of, or for the permission to work, mineral deposits, sources and other natural resources; ships, boats and airplanes are not regarded as immovable property.

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

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

#### **Article 7 Business Profits**

1. The profits of an enterprise of one Contracting State are liable to tax only in that State, unless the enterprise carries out its activity in the other Contracting State through a permanent establishment situated therein. If the enterprise carries out its activity in such manner, the profits of the enterprise may be taxed in the other State, but only to the extent to which they may be attributed to that permanent establishment.

2. If the enterprise of one Contracting State carries out its activity in the other Contracting State through a permanent establishment situated therein, with the exception of the provisions of paragraph 3, there are in each Contracting State attributed to that permanent establishment the profits which would be achieved if it, as a separate enterprise, carried out the same or similar activities under the same or similar conditions, and if it were completely independent of the enterprise whose permanent establishment it is.

3. In determining the profits of a permanent establishment, it is allowed to deduct the costs incurred for the purposes of this permanent establishment, including expenses of management and general

overhead expenses so incurred, whether they arose in the State in which the permanent establishment is situated or elsewhere.

4. If it is a usual practice in any of the Contracting States to assess the profits attributable to the permanent establishment on the basis of allocating the total profits of an enterprise to its various parts, the provision of paragraph 2 does not preclude this Contracting State from assessing the taxable profits which are to be taxed, using this usual prorating; however, the method used for such allocation must be such that the result is in compliance with the principles laid down in this Article.

5. No profits are attributed to a permanent establishment on the basis of that it only purchased goods for the enterprise.

6. For purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined every year using the same method, unless there are sufficient reasons for choosing another method.

7. If profits include items of income mentioned separately in other articles of this Agreement, the provisions of those Articles shall not be affected by the provisions of this Article.

### **Article 8 International Traffic**

1. The profits from the operation of ships, boats, airplanes, railway or road vehicles in international traffic are liable to tax only in the Contracting State in which the seat of the actual (main) headquarters of the enterprise is situated.

2. If the place of the actual (main) headquarters of a shipping enterprise is aboard of a ship or boat, then it is deemed to be situated in that Contracting State in which the home port of this ship or boat is situated, or if there is not such home port, in that Contracting State of which the operator of the ship or boat is a resident.

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

### **Article 9 Associated Enterprises**

1. If

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

b) the same persons participate directly or indirectly in the management, control or property of an enterprise of one Contracting State as well as of the enterprise of the other Contracting State, and if in these cases, both enterprises are bound in their commercial or financial relations by the conditions which were agreed or imposed between them and which differ from the conditions which would have been agreed between independent enterprises, any profits which would have accrued by one of them if there had been no such conditions, but by reasons of these conditions they did not accrue, may be included in the profits of this enterprise and taxed accordingly.

2. If one Contracting State includes in the profits of an enterprise of this State, and taxes accordingly, the profits on which an enterprise of the other State was taxed in that other State and the profits so included are profits which would have been accrued by 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 these profits. In determining such adjustment, due regard shall be paid to the other provisions of this Agreement and the competent authorities of the Contracting States shall, if necessary, consult each other.

3. The provisions of paragraph 2 shall not be exercised in the case of a fraud, gross negligence or willful default.

### **Article 10 Dividends**

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

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

a) 5 percent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership), which holds directly at least 10% of the stock of the company paying the dividends,

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

The competent authorities of the Contracting States shall by mutual agreement determine the method of application of these limitations.

This paragraph does not affect the taxation of profits of the company of which the dividends are paid.

3. The term "dividends" used in this Article means income from shares or other rights participating in profits, except debt-claims, as well as other income which is subject to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident, or of which the company making the allocation of profit or distribution of such income is a resident.

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

5. If a company which is a resident of one 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 if such dividends are paid to a resident of that other State or if the holding in respect of which the dividends are paid are effectively connected with a permanent establishment situated in that other State, and may not subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or undistributed profits consist wholly or partly of profits or income arising in such other State.

### **Article 11 Interest**

1. Interest arising in one Contracting State and beneficially owned by a resident of the other Contracting State is liable to tax only in that other State.

2. The term "interest" used in this Article means income from debt-claims of any kind, both secured or non-secured by mortgage on real property regardless whether they carry a right to participate in the debtor's profits, and in particular, income from government securities and income from debentures or bonds, including premiums and prizes attaching to such securities, debentures or bonds. Penalty charged for late payments are not treated as interest for the purpose of this Article. However, the term "interest" does not include income mentioned in Article 10.

3. The provisions of paragraph 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of one Contracting State, carries out his activity in the other Contracting State in which the interest arises, through a permanent establishment situated therein, and if 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.

4. Interest is deemed to arise in a Contracting State in which the payer is a resident. However, if the person paying the interest, regardless of whether he is a resident of a Contracting State, has in the Contracting State a permanent establishment in connection with which the debt on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest is deemed to arise in that State in which the permanent establishment is situated.

5. If, by a reason of a special relationship between the payer and the beneficial owner of the interest, or between both of them and a third person, the amount of the interest related to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer with 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 part of the payments exceeding this amount shall be taxed according to the laws of each Contracting State and with respect to other provisions of this Agreement.

### **Article 12 Royalties**

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

2. However, royalties described in subparagraph b) of paragraph 3 may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so imposed shall not exceed 10 percent of the gross amount of the royalties.

The competent authorities of the Contracting States shall by mutual agreement determine the method of application of this limitation.

3. The term "royalties" used in this Article means payments of any kind received as a consideration for the use of, or the right to use

a) any patent, trademark, design or model, plan, secret formula or process, software, or any industrial, commercial or scientific equipment or for information concerning industrial, commercial or scientific experience (know-how), or

b) any author's right to literary, artistic or scientific work, including cinematographic films and films or tapes and any other means used for radio or television broadcasting, except software.

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

5. Royalties are deemed to arise in a Contracting State in which the payer is a resident. However, if the person paying the royalties, regardless of whether he is a resident of a Contracting State, has in the Contracting State a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties are deemed to arise in that State in which the permanent establishment is situated.

6. If by a reason of a special relationship between the payer and the beneficial owner of the royalties or between both of them and a third person, the amount of the royalties related to the use, right or information, for which they are paid, exceeds the amount which would have been agreed upon by the payer with 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 part of the payments exceeding this amount shall be taxed according to the laws of each Contracting State and with respect to other provisions of this Agreement.

### **Article 13 Gains From the Alienation of Property**

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

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

3. Gains from the alienation of property forming part of the operational property of the enterprise and which consists from ships, boats, airplanes, railway or road vehicles operated in international traffic by this enterprise, or movable property pertaining to the operation of such ships, boats, airplanes, railway or road vehicles, are liable to tax only in that Contracting State in which the seat of the actual (main) headquarters is situated.

4. Gains from the alienation of any property other than that mentioned in paragraphs 1 to 3 are liable to tax only in that Contracting State of which the alienator is a resident.

### **Article 14 Dependent Personal Services**

1. Salaries, wages and other similar remuneration derived by a resident of one Contracting State in respect of an employment are liable to tax only in that State, except as provided in Articles 15, 17 and 18, unless the employment is performed in the other Contracting State. If the employment is performed in such other Contracting State, the remuneration received in connection with such employment may be taxed in that other State.

2. Notwithstanding the provision of paragraph 1, remuneration received by a resident of one Contracting State in respect of an employment performed in the other Contracting State is liable to tax only in the first-mentioned State if all of the following conditions are met:

a) the recipient is employed in the other State for one period or more periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in a particular calendar year, and

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

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

3. The calculation of periods mentioned in subparagraph a) of paragraph 2 includes the following days:

a) all days of physical presence including days of arrival and departure, and

b) days spent out of the State in which the employment is performed, such as Saturdays and Sundays, state holidays, vacations, and business trips directly connected to the employment in this State, if after these days the activity continued in the territory of that State.

4. The term "employer" mentioned in subparagraph b) of paragraph 2 means a person who has the right to the performed work and who bears the responsibility and risk connected to the performance of the work.

5. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment performed aboard of a ship, boat, airplane or railway or road vehicle operated in international traffic, may be taxed in the Contracting State in which the seat of the actual (main) headquarters of the enterprise is situated.

#### **Article 15 Directors' Fees**

Directors' fees and other similar remuneration derived by a resident of one Contracting State in his capacity as a member of the statutory body or any other body of a company, which is a resident of the other Contracting State, may be taxed in that other State.

#### **Article 16 Artists and Sportsmen**

1. Income derived by a resident of one Contracting State as an entertainer, such as a theater, motion picture, radio or television artist, or as a musician, or as a sportsman, from such activities personally performed by him in the other Contracting State, may be taxed in that other State, notwithstanding the provisions of Articles 7 and 14.

2. If income from activities performed personally by an entertainer or a sportsman is not received by an entertainer or a sportsman himself, but by other person, the income may be taxed in that Contracting State in which an entertainer or a sportsman performs his activity, notwithstanding the provisions of Articles 7 and 14.

#### **Article 17 Pensions**

Pensions and other similar remuneration paid to a resident of any Contracting State in consideration of past employment are liable to tax only in that State, subject to the provisions of Article 18, paragraph 2.

#### **Article 18 Government Service**

1. a) Salaries, wages and other similar remuneration, other than a pension, paid by one Contracting State, or its administrative body or a local authority, to an individual in respect of services rendered to that State or body or authority, are liable to tax only in that State.

b) However, such salaries, wages and other similar remuneration are liable to tax only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State and:

(i) is a national of that State, or

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

2. a) Any pension paid directly or from funds established by one of the Contracting States, or by its administrative body or local authority, to an individual in respect of services rendered to that State or body or authority, is liable to tax only in that State.

b) However, such pension is liable to tax only in the other Contracting State if the individual is a resident and a national of that State.

3. The provisions of the Articles 14, 15, 16 and 17 shall apply to salaries, wages and other similar remuneration and to pensions in respect of services rendered in connection with an activity carried out by a Contracting State or its administrative body or local authority.

#### **Article 19 Students and Trainees**

Payments received to cover the expenses of sustenance (for example room, food) or education by a student or by a trainee who is or was immediately before his arrival in one Contracting State a resident of the other Contracting State, and who stays in the first-mentioned State only for the purpose of his education, are not liable to tax in that State, provided that such payments are paid from sources outside of that State.

#### **Article 20 Other Income**

1. Income of a resident of one Contracting State, wherever arising, not dealt with in the preceding Articles of this Agreement, is liable to tax only in that State.

2. However, income of a resident of one Contracting State from lottery winnings, bets and other similar plays, from winnings in competitions and drawing lots, which has a source in the other Contracting State, may also be taxed in that other State.

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

#### **Article 21 Capital**

1. Capital represented by immovable property mentioned in Article 6, owned by a resident of one Contracting State and situated in the other Contracting State, may be taxed in that other Contracting State.
2. Capital represented by movable property forming a part of the operational property of a permanent establishment, which an enterprise of one Contracting State has in the other Contracting State, may be taxed in that other state.
3. Capital represented by ships, boats, airplanes, railway or road vehicles operated in international traffic by an enterprise, or movable property pertaining to the operation of such ships, boats, airplanes, railway or road vehicles, is liable to tax only in that Contracting State in which the seat of the actual (main) headquarters is situated.
4. All other elements of capital of a resident of a Contracting State are liable to tax only in that State.

### **Article 22 Elimination of Double Taxation**

1. If a resident of one Contracting State receives income or owns property, which may be taxed in the other Contracting State in compliance with the provisions of this Agreement, the first-mentioned State allows to:
  - a) reduce the income tax of such resident by an amount equal to the income tax paid in that other State,
  - b) reduce the tax on property of such resident by an amount equal to the tax on property paid in that other State.

However, the amount reducing the tax in no case exceeds that part of the income tax or tax on property, as calculated before the reduction is made, which is properly allocable, as the case may be, to the income or property which may be taxed in that other State.

2. If in compliance with any provision of this Agreement, an item of income or property owned by a resident of one Contracting State is exempt from tax in that State, that State may nevertheless, in calculating the amount of tax on the remaining income or property of such resident, take into account this exempt income or property.

### **Article 23 Non-Discrimination**

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other state who have the same status, particularly in 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 Contracting States.
2. Persons without nationality who are residents of any of the Contracting States are not liable to any tax in no one of the Contracting States nor any obligations connected therewith which are other or more burdensome than the taxation and obligations connected therewith, to which are liable or may be liable nationals of the particular State, who are in the same situation, particularly in respect to residence.
3. Taxation of a permanent establishment, which an enterprise of one Contracting State has in the other Contracting State, shall not be less favorable in that other State than taxation of enterprises of that other State rendering the same activities. This provision shall not be explained as obliging one Contracting State to grant to residents of the other Contracting State any personal allowances, relief, and tax reductions in respect of personal status or family obligations which it grants to its own residents.
4. If the provisions of Article 9 paragraph 1, Article 11 paragraph 5 or Article 12 paragraph 6 are not applied, interest, royalties, and other expenses paid by an enterprise of one Contracting State to a resident of the other Contracting State, for the purpose of assessment of taxable profits of such enterprise, shall be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of one Contracting State to a resident of the other Contracting State, for the purpose of assessment of taxable property of such enterprise, shall be deductible under the same conditions as if they had been agreed upon with a resident of first-mentioned State.
5. Enterprises of one Contracting State, the property of which is wholly or partly, directly or indirectly, owned or controlled by a resident or the residents of the other Contracting State, are not liable, in the first-mentioned State, to any taxation nor any obligations connected therewith, which are different or more burdensome than the taxation and obligations connected therewith, to which are liable or may be liable, other similar enterprises in the first-mentioned State.
6. The provisions of this Article apply to taxes of any kind and description, notwithstanding the provisions of Article 2.

## **Article 24 Mutual Agreement Procedure**

1. Where a person considers that measures of one or both Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may irrespective of the remedies provided by the domestic laws of these States, present his case to the competent authority of the Contracting State of which he is a resident, or, if his case comes under Article 23, paragraph 1, to the competent authority of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.
2. If the competent authority considers the objection justified, and if it is not itself able to arrive at a satisfactory solution it shall endeavor 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 compliance with this Agreement.
3. The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts which may arise as to the interpretation or application of this Agreement. They may also consult together in order to eliminate double taxation in cases which are not provided for in the Agreement.
4. The competent authorities of the Contracting States may communicate with each other directly as well as through a common Commission consisting of their representatives for the purpose of reaching an agreement in the sense of the preceding paragraphs.

## **Article 25 Exchange of Information**

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws concerning the taxes to which this Agreement applies, insofar as the taxation under those laws is not contrary to this Agreement. The exchange of information is not restricted by Articles 1 and 2. All information received by a Contracting State shall be treated as confidential, in the same manner as information obtained under domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative authorities), which are involved in the assessment or collection of taxes mentioned in the first sentence, in the enforcement or prosecution related to these taxes or in decision on remedies in relation to these taxes. These persons or authorities shall use the information only for such purposes. This information may be disclosed in public judicial proceedings or in judicial decisions.
2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation
  - a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State,
  - b) to provide information which is not obtainable on the basis of the laws or in the usual administrative proceedings of that or of the other Contracting State,
  - c) to provide 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 order.

## **Article 26 Diplomatic Agents and Consular Officers**

No provisions of this Agreement shall affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.

## **Article 27 Entry Into Force**

1. This Agreement is subject to ratification. The ratification instruments shall be exchanged as soon as possible.
2. The Agreement shall enter into force on the date of exchange of ratification instruments and its provisions shall apply,
  - a) in respect of taxes withheld at source, on income paid or allocated on or after the first day of January of the calendar year following the year in which the Agreement enters into force,
  - b) in respect of other income taxes and taxes on property, on income or property for every taxable year beginning on or after the first day of January of the calendar year following the year in which the Agreement enters into force.
3. From the date when this Agreement becomes effective, in the relations between the Slovak Republic and the Czech Republic, the provisions of the Agreement between the Slovak Republic and the Czech Republic for the avoidance of double taxation with respect to income tax and property tax signed in Bratislava on November 23, 1992 shall cease to apply, in compliance with the provisions of this Article.

## **Article 28 Termination**

This Agreement is concluded for an indefinite period of time. Either Contracting State may terminate the Agreement by giving written notice of termination at least six months before the end of any calendar year, after five years from the date of entry into force of the Agreement. In such case the Agreement shall cease to have effect and its provisions shall cease to apply,

a) in respect of taxes withheld at source, on income paid or allocated on or after January 1 of the calendar year following the year in which the notice of termination is given,

b) in respect of other income taxes and taxes on property, on income or property for any taxable year beginning on or after January 1 of the calendar year following the year in which the notice of termination is given.

In witness whereof the undersigned, duly authorized thereto, have signed this Agreement.

Done in two originals in Bratislava on March 26, 2002, each in the Slovak and the Czech language; both texts having equal force.

**FOR THE SLOVAK REPUBLIC:**

*Frantisek Hajnovic*

**FOR THE CZECH REPUBLIC:**

*Jiri Rusnok*