

PROTOCOL

AMENDING THE CONVENTION AND THE PROTOCOL BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SLOVENIA AND THE GOVERNMENT OF THE REPUBLIC OF INDIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME, WHICH WAS SIGNED AT LJUBLJANA ON JANUARY 13, 2003

The Government of the Republic of Slovenia

and

The Government of the Republic of India

Desiring to conclude a Protocol (hereinafter referred to as "Amending Protocol") to amend the Convention and the Protocol between the Government of the Republic of Slovenia and the Government of the Republic of India for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, which was signed at Ljubljana on January 13, 2003, and which entered into force on February 17, 2005 (hereinafter referred to as "Convention"),

Have agreed as follows:

Article 1

Article 26 (Exchange of Information) of the Convention shall be deleted and replaced by the following Article:

"Article 26

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information (including documents or certified copies of the documents) as is foreseeably relevant for carrying out the provisions of this Convention 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 Convention. 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 authorizes 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 2

A new Article, as hereunder, shall be inserted after Article 26 and the remaining Articles shall be renumbered accordingly.

“Article 27

ASSISTANCE IN THE COLLECTION OF TAXES

1. The Contracting States shall lend assistance to each other in the collection of tax claims. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article.

2. The term “tax claim” as used in this Article means an amount owed in respect of taxes as mentioned in Article 2, as well as interest, administrative penalties and costs of collection or conservancy related to such amount.

3. When a tax 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 tax 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 tax 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 tax claim were a tax claim of that other State.

4. When a tax 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 tax 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 tax claim in accordance with the provisions of its laws as if the tax claim were a tax claim of that other State even if, at the time when such measures are applied, the tax claim is not enforceable in the first-mentioned State or is owed by a person who has a right to prevent its collection.

5. When a Contracting State may, under its law, take interim measures of conservancy by freezing of assets before a tax claim is raised against a person, the competent authority of the other Contracting State, if requested by the competent authority of the first mentioned State, shall take measures for freezing the assets of that person in that Contracting State in accordance with the provisions of its law.

6. Notwithstanding the provisions of paragraphs 3 and 4, a tax 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 tax claim under the laws of that State by reason of its nature as such. In addition, a tax 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 tax claim under the laws of the other Contracting State.

7. Proceedings with respect to the existence, validity or the amount of a tax claim of a Contracting State shall not be brought before the courts or administrative bodies of the other Contracting State. Nothing in this Article shall be construed as creating or providing any right to such proceedings before any court or administrative body of the other Contracting State.

8. 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 tax claim to the first-mentioned State, the relevant tax claim ceases to be:

- a) in the case of a request under paragraph 3, a tax 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 tax 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.

9. 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 3

1. The Contracting States shall notify each other through diplomatic channels that all legal requirements and procedures necessary for entry into force of this Amending Protocol have been completed.

2. The Amending Protocol, which shall form an integral part of the Convention, shall enter into force on the date of receipt of the last notification and its provisions shall have effect from the first day of the third month next following the date on which it enters into force.

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

Done in duplicate at Ljubljana this 17th day of May 2016 in the Slovenian, Hindi and English languages, all the texts being equally authentic. In case of divergence among the texts, the English text shall be the operative one.

For the
Government of the
Republic of Slovenia:

Dušan Mramor (s)

For the
Government of the
Republic of India:

Sarvajit Chakravarti (s)