



INCOME TAX ACT 1970

INCOME TAX (SLOVENIA) (DOUBLE TAXATION) ORDER 2011

*Approved by Tynwald
Coming into operation*

*13 December 2011
16 December 2011*

The Council of Ministers makes this Order under section 54 of the Income Tax Act 1970¹.

1 Title

This Order is the Income Tax (Slovenia) (Double Taxation) Order 2011.

2 Commencement

If approved by Tynwald², this Order comes into operation on 16 December 2011.

3 Interpretation

In this Order “applicable arrangements” means the arrangements for the avoidance of double taxation with respect to individuals contained in an agreement between the Isle of Man and the Republic of Slovenia signed in Douglas on 27 June 2011 and set out in the Schedule.

4 Implementation of the agreement

It is declared that –

- (a) the applicable arrangements have been made with the Republic of Slovenia for the avoidance of double taxation with respect to individuals;

¹ XXI p. 260 (section 54 was amended by section 10 of the Income Tax Act 2009 c.2.)

² As required by section 54(1G) of the Income Tax Act 1970

Price £2.30

- (b) it is expedient that those arrangements have effect under section 54 of the Income Tax Act 1970.

MADE 26th October 2011


Chief Secretary

AGREEMENT BETWEEN
THE ISLE OF MAN
AND
THE REPUBLIC OF SLOVENIA
FOR THE AVOIDANCE OF DOUBLE TAXATION
WITH RESPECT TO INDIVIDUALS

The Isle of Man and the Republic of Slovenia,

Recognising that they have concluded an Agreement for the Exchange of Information
Relating to Tax Matters, and

Desiring to conclude an Agreement for the avoidance of double taxation with respect to
individuals,

Have agreed as follows:

Article 1
INDIVIDUALS COVERED

This Agreement shall apply to individuals who are residents of one or both of the Contracting Parties.

Article 2
TAXES COVERED

1. The existing taxes to which the Agreement shall apply are:
 - a) in Slovenia, tax on income of individuals
(hereinafter referred to as "Slovenian tax"); and
 - b) in the Isle of Man, taxes on income or profit
(hereinafter referred to as "Manx tax").

2. The Agreement shall also apply to any identical or substantially similar taxes that are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting Parties shall notify each other of any significant changes in their taxation laws concerning individuals.

Article 3

DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:
 - a) 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;
 - b) the term "Isle of Man" means the island of the Isle of Man, including its territorial sea, in accordance with international law;
 - c) the term "Contracting Party" means Slovenia or the Isle of Man, as the context requires;
 - d) the term "person" includes an individual, a company and any other body of persons;
 - e) the term "enterprise" means the carrying on of any business;
 - f) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Contracting Party, except when the ship or aircraft is operated solely between places in the other Contracting Party;
 - g) the term "competent authority" means:
 - (i) in the case of Slovenia, the Ministry of Finance of the Republic of Slovenia or its authorised representative;
 - (ii) in the case of the Isle of Man, the Assessor of Income Tax or his or her delegate; and

h) the term "tax" means Slovenian tax or Manx tax, as the context requires.

2. As regards the application of this Agreement at any time by a Contracting Party, 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 Contracting Party, for the purposes of the taxes to which this Agreement applies, with any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Contracting Party.

Article 4

RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting Party" means in respect of an individual any individual who, under the laws of that Contracting Party, is liable to tax therein by reason of his domicile, residence or any other criterion of a similar nature. This term, however, does not include an individual who is liable to tax in that Contracting Party in respect only of income from sources in that Contracting Party.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting Parties, then his status shall be determined as follows:

- a) he shall be deemed to be a resident only of the Contracting Party in which he has a permanent home available to him; if he has a permanent home available to him in both Contracting Parties, he shall be deemed to be a resident only of the Contracting Party with which his personal and economic relations are closer (centre of vital interests);
- b) if the Contracting Party in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting Party, he shall be deemed to be a resident only of the Contracting Party in which he has an habitual abode;
- c) if he has an habitual abode in both Contracting Parties or in neither of them, the competent authorities of the Contracting Parties shall endeavour to resolve the question by mutual agreement.

Article 5

INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 6, 7, 8 and 9, salaries, wages and other similar remuneration derived by a resident of a Contracting Party in respect of an employment shall be taxable only in that Contracting Party unless the employment is exercised in the other Contracting Party. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Contracting Party.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting Party in respect of an employment exercised in the other Contracting Party shall be taxable only in the first-mentioned Contracting Party if:
 - a) the recipient is present in the other Contracting Party for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned; and
 - b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Contracting Party; and
 - c) the remuneration is not borne by a fixed place of business through which the business is wholly or partly carried on which the employer has in the other Contracting Party.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting Party in which the place of effective management of the enterprise is situated.

Article 6
DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting Party in his capacity as a member of the board of directors of a company which is a resident of the other Contracting Party may be taxed in that other Contracting Party. The term "board of directors" includes organs of companies which are similar in function to a board of directors.

Article 7
ARTISTES AND SPORTSMEN

1. Income derived by a resident of a Contracting Party as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting Party, may be taxed in that other Contracting Party.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may be taxed in the Contracting Party in which the activities of the entertainer or sportsman are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply if the activities exercised in a Contracting Party are wholly or mainly supported from public funds of the other Contracting Party or a political subdivision or a local authority thereof. In such case, income derived from such activities shall be taxable only in that other Contracting Party.

Article 8
PENSIONS

Subject to the provisions of paragraph 2 of Article 9, pensions and other similar remuneration paid to a resident of a Contracting Party in consideration of past employment shall be taxable only in that Contracting Party.

Article 9
GOVERNMENT SERVICE

1. a) Salaries, wages and other similar remuneration paid by a Contracting Party or a political subdivision or a local authority thereof to an individual in respect of services rendered to that Contracting Party or subdivision or authority shall be taxable only in that Contracting Party.
b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting Party if the services are rendered in that Contracting Party and the individual is a resident of that Contracting Party who did not become a resident of that Contracting Party solely for the purpose of rendering the services.

2. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds created by, a Contracting Party or a political subdivision or a local authority thereof to an individual in respect of services rendered to that Contracting Party or subdivision or authority shall be taxable only in that Contracting Party.

3. The provisions of Articles 5, 6, 7 and 8 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 Party or a political subdivision or a statutory body or a local authority thereof.

Article 10
STUDENTS

Payments which a student or business apprentice who is or was immediately before visiting a Contracting Party a resident of the other Contracting Party and who is present in the first-mentioned Contracting Party solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that Contracting Party, provided that such payments arise from sources outside that Contracting Party.

Article 11
ELIMINATION OF DOUBLE TAXATION

Double taxation shall be avoided as follows:

1. In Slovenia:

- a) Where a resident of Slovenia derives income which, in accordance with the provisions of this Agreement, may be taxed in the Isle of Man, Slovenia shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in the Isle of Man. 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 the Isle of Man.
- b) Where in accordance with any provision of this 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.

2. In the Isle of Man:

Subject to the provisions of the laws of the Isle of Man regarding the allowance as a credit against Manx tax of tax payable in a territory outside the Isle of Man (which shall not affect the general principle hereof);

- a) subject to the provisions of sub-paragraph c), where a resident of the Isle of Man derives income which, in accordance with the provisions of this Agreement, may be taxed in Slovenia, the Isle of Man shall

allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Slovenia;

- b) 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 Slovenia;
- c) where a resident of the Isle of Man derives income which, in accordance with the provisions of this Agreement shall be taxable only in Slovenia, the Isle of Man may include this income in the tax base, but shall allow as a deduction from the income tax that part of the income tax which is attributable to the income derived from Slovenia.

Article 12

MUTUAL AGREEMENT PROCEDURES

1. Where a resident considers that the actions of one or both of the Contracting Parties 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 law of those Contracting Parties, present his case to the competent authority of the Contracting Party of which he is a resident. 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 Party, 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 Parties.

3. The competent authorities of the Contracting Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement.

4. The competent authorities of the Contracting Parties may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 13
ENTRY INTO FORCE

1. The Contracting Parties shall notify each other in writing that the procedures required by their law for the entry into force of this Agreement have been satisfied. This Agreement shall enter into force on the date of receipt of the last notification, provided an Agreement for the Exchange of Information in Relation to Tax Matters is in force between the Contracting Parties.

2. The provisions of this Agreement shall have effect:

a) in Slovenia:

(i) in respect of Slovenian taxes withheld at source, to income derived on or after the first day of January of the calendar year next following that in which this Agreement enters into force;

(ii) in respect of other Slovenian taxes on income, to taxes chargeable for any taxable year beginning on or after the first day of January of the calendar year next following that in which the Agreement enters into force;

b) in the Isle of Man, in respect of Manx tax, for any taxable period beginning on or after 6 April in the calendar year next following that in which this Agreement enters into force.

Article 14
TERMINATION

1. This Agreement shall remain in force until terminated by a Contracting Party. Either Contracting Party may, after the expiration of two years from the date of its entry into force, terminate the Agreement by giving written notice of termination. Such termination shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of notice of termination by the other Contracting Party.

2. Notwithstanding the provisions of paragraph 1, this Agreement shall, on receipt of written notice of termination of the Agreement for the Exchange of Information Relating to Tax Matters between the Contracting Parties, terminate and cease to be effective on the date the last-mentioned Agreement ceases to be effective.

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

DONE in duplicate at Douglas this 27th day of June 2011, in the English and Slovenian languages, both texts being equally authentic.

For the Isle of Man:



For the Republic of Slovenia:



EXPLANATORY NOTE
(This note is not part of the Order)

This Order is made under section 54 of the Income Tax Act 1970. It implements arrangements negotiated between the Isle of Man and the Republic of Slovenia for the avoidance of double taxation with respect to individuals.