L.N. 158 of 2007

INCOME TAX ACT
(CAP. 123)

Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises Order, 2007

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

Citation.

1. The title of this order is the Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises Order, 2007.

Arrangements to have effect.

2. It is hereby declared that:–

(a) the arrangements specified in the Convention set out in the Schedule to this Order have been made with a view to affording relief from double taxation in connection with the adjustment of profits of associated enterprises;

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

(c) it is expedient that those arrangements be implemented and interpreted, where applicable, in terms of the Code of Conduct Convention adopted by the EU Council on 7th December, 2004 for the effective implementation of the Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises (90/436/EEC);

(d) the Convention set out in the Schedule to this Order has entered into force on the 1st November, 2006.

SCHEDULE

Regulation 2 (a)

Council Convention on the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the Convention on the Elimination of Double Taxation in Connection with the Adjustment of Profits of Associated Enterprises (2005/C 160/01)

THE HIGH CONTRACTING PARTIES TO THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY,

CONSIDERING that the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in becoming members of the Union, undertook to accede to the Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises (Arbitration Convention), signed in Brussels on 23 July 1990 and to the Protocol hereto, signed in Brussels on 25 May 1999,

HAVE DECIDED to conclude this Convention and to this end have designated as their Plenipotentiaries:

HIS MAJESTY THE KING OF THE BELGIANS,
THE PRESIDENT OF THE CZECH REPUBLIC,
HER MAJESTY THE QUEEN OF DENMARK,
THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY,
THE PRESIDENT OF THE REPUBLIC OF ESTONIA,
THE PRESIDENT OF THE HELLENIC REPUBLIC,
HIS MAJESTY THE KING OF SPAIN,
THE PRESIDENT OF THE FRENCH REPUBLIC,
THE PRESIDENT OF IRELAND,
THE PRESIDENT OF THE ITALIAN REPUBLIC,
THE PRESIDENT OF THE REPUBLIC OF CYPRUS,
THE CABINET OF MINISTERS OF THE REPUBLIC OF LATVIA,
THE PRESIDENT OF THE REPUBLIC OF LITHUANIA,
HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG,
THE PRESIDENT OF THE REPUBLIC OF HUNGARY,
THE PRESIDENT OF MALTA,
HER MAJESTY THE QUEEN OF THE NETHERLANDS,
THE FEDERAL PRESIDENT OF THE REPUBLIC OF AUSTRIA,
THE PRESIDENT OF THE REPUBLIC OF POLAND,
THE PRESIDENT OF THE PORTUGUESE REPUBLIC,
THE PRESIDENT OF THE REPUBLIC OF SLOVENIA,
THE PRESIDENT OF THE SLOVAK REPUBLIC,
THE PRESIDENT OF THE REPUBLIC OF FINLAND,
THE GOVERNMENT OF THE KINGDOM OF SWEDEN,
HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

WHO, meeting within the Committee of Permanent Representatives of the Member States to the European Union and having exchanged their full powers, found in good and due form,

HAVE AGREED AS FOLLOWS:

Article 1

The Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic hereby accede to the Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises, signed in Brussels on 23 July 1990, with all the adjustments and amendments made to it by the Convention on the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises, signed in Brussels on 21 December 1995, and by the Protocol amending the Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises, signed in Brussels on 25 May 1999.

Article 2

The Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises is hereby amended as follows:

1. in Article 2(2):
(a) the following subparagraph shall be inserted after subparagraph (a):
‘(b) in the Czech Republic:
— daň z příjmů fyzických osob,
— daň z příjmů právnických osob;’
(b) subparagraph (b) shall become subparagraph (c) and shall be replaced by the following text:
‘(c) in Denmark:
— indkomstskat til staten,
— den kommunale indkomstskat,
— den amtskommunale indkomstskat;’
(c) subparagraph (c) shall become subparagraph (d);
(d) the following subparagraph shall be inserted after subparagraph (d):
‘(e) in the Republic of Estonia:
— tulumaks;’
(e) subparagraph (d) shall become subparagraph (f);
(f) subparagraph (e) shall become subparagraph (g) and shall be replaced by the following text:
‘(g) in Spain:
— Impuesto sobre la Renta de las Personas Físicas,
— Impuesto sobre Sociedades,
— Impuesto sobre la Renta de no Residentes;’
(g) subparagraph (f) shall become subparagraph (h);
(h) subparagraph (g) shall become subparagraph (i);
(i) subparagraph (h) shall become subparagraph (j) and shall be replaced by the following text:
‘(j) in Italy:

— imposta sul reddito delle persone fisiche,
— imposta sul reddito delle società,
— imposta regionale sulle attività produttive;’

(j) the following subparagraphs shall be inserted after subparagraph (j):

‘(k) in the Republic of Cyprus:
— Φόρος Εισοδήματος,
— Έκτακτη Εισφορά για την Άμυνα της Δημοκρατίας;

(l) in the Republic of Latvia:
— uzņēmumu ienākuma nodoklis,
— iedzīvotāju ienākuma nodoklis;

(m) in the Republic of Lithuania:
— Gyventojų pajamų mokestis,
— Pelno mokestis;’

(k) subparagraph (i) shall become subparagraph (n);

(l) the following subparagraphs shall be inserted after subparagraph (n):

‘(o) in the Republic of Hungary:
— személyi jövedelemadó,
— társasági adó,
— osztalékadó;

(p) in the Republic of Malta:
— taxxa fuq l-*Income’*;

(m) subparagraph (j) shall become subparagraph (q);

(n) subparagraph (k) shall become subparagraph (r);

(o) the following subparagraph shall be inserted after subparagraph (r):

‘(s) in the Republic of Poland:
— podatek dochodowy od osób fizycznych,
— podatek dochodowy od osób prawnych;’

(p) subparagraph (l) shall become subparagraph (t);

(q) the following subparagraphs shall be inserted after subparagraph (t):

‘(u) in the Republic of Slovenia:
— dohodnina,
— davek od dobička pravnih oseb;

(v) in the Slovak Republic:
— Daň z príjmov právnických osôb,
— Daň z príjmov fyzických osôb;’

(r) subparagraph (m) shall become subparagraph (w);

(s) subparagraph (n) shall become subparagraph (x) and shall be replaced by the following text:

‘(x) in Sweden:
— statlig inkomstskatt,
— kupongskatt,
— kommunal inkomstskatt;’

(t) subparagraph (o) shall become subparagraph (y);

2. the following indents shall be added to Article 3(1):

‘ — in the Czech Republic:
— Ministr financí or an authorised representative;
— in the Republic of Estonia:
— Rahandusminister or an authorised representative;
— in the Republic of Cyprus:
— Ο Υπουργός Οικονομικών or an authorised representative;
— in the Republic of Latvia:

— Valsts ieņēmumu dienests;
— in the Republic of Lithuania:
— Finansu ministras or an authorised representative;
— in the Republic of Hungary:
— a pénzügyminiszter or an authorised representative;
— in the Republic of Malta:
— il-Ministru responsabbli għall-finanzi or an authorised representative;
— in the Republic of Poland:
— Minister Finansów or an authorised representative;
— in the Republic of Slovenia
— Ministrstvo za finance or an authorised representative;
— in the Slovak Republic:
— Minister financií or an authorised representative;'

3. in Article 3 (1), the indent:

' — in Italy: il Ministro delle Finanze or an authorised representative',

shall be replaced by the following:

' — in Italy: Il Capo del Dipartimento per le Politiche Fiscali or an authorised representative'.

Article 3

The Secretary-General of the Council of the European Union shall transmit to the Governments of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic a certified copy of:

— the Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises,
— the Convention on the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises, and
— the Protocol amending the Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises,

in the Danish, Dutch, English, French, Finnish, German, Greek, Irish, Italian, Portuguese, Spanish and Swedish languages. The text of the Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises, of the Convention on the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises, and of the Protocol amending the Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises in the Czech, Estonian, Latvian, Lithuanian, Hungarian, Maltese, Polish, Slovenian and Slovakian languages is set out in Annexes I to IX to this Convention. The texts drawn up in the Czech, Estonian, Latvian, Lithuanian, Hungarian, Maltese, Polish, Slovenian and Slovakian languages shall be authentic under the same conditions as the other texts of the Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises.

Article 4

This Convention shall be subject to ratification, acceptance or approval by the signatory States. The instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the Council of the European Union.

Article 5

This Convention shall enter into force, as between the Contracting States which have ratified, accepted or approved it, on the first day of the third month following the deposit of the last instrument of ratification, acceptance or approval by these States.

Article 6

The Secretary-General of the Council of the European Union shall notify all signatory States of:

(a) the deposit of each instrument of ratification, acceptance or approval;
(b) the dates of entry into force of this Convention between the States that have ratified, accepted or approved it.

Article 7

This Convention, drawn up in a single original in the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Slovenian, Slovakian, Spanish and Swedish languages, all twenty-one texts being equally authentic, shall be deposited in the archives of the General Secretariat of the Council of the European Union. The Secretary-General shall transmit a certified copy to the Governments of each signatory State.

Done at Brussels on the eighth day of December in the year two thousand and four.

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