

**Protocol  
between  
the Slovak Republic  
and  
the Islamic Republic of Iran  
amending the Agreement for the Avoidance of Double Taxation and the  
Prevention of Fiscal Evasion with respect to Taxes on Income**

The Slovak Republic and the Islamic Republic of Iran  
(hereinafter referred to as “the Contracting States”),

Desiring to conclude a Protocol to amend the Agreement between the Slovak Republic and the Islamic Republic of Iran for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed at Tehran on the 19<sup>th</sup> day of January 2016, corresponding to the 29<sup>th</sup> day of Dey 1394 solar *Hijra*, hereinafter referred to as “the Agreement”,

Have agreed as follows:

**Article 1**

1. The title of the Agreement shall be deleted and replaced by the following:

“Agreement between the Slovak Republic and the Islamic Republic of Iran for the Elimination of Double Taxation with respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance”.

2. The preamble to the Agreement shall be deleted and replaced by the following:

“the Slovak Republic and the Islamic Republic of Iran,

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 and the prevention of tax evasion and avoidance 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 2**

Article 1 (Persons Covered) of the Agreement shall be deleted and replaced by the following:

### **“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.
3. 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 25.”.

## **Article 3**

The following new subparagraph k) shall be introduced into paragraph 1 of Article 3 (General Definitions) of the Agreement:

“k) 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).”.

## **Article 4**

1. Paragraph 1 of Article 4 (Resident) of the Agreement shall be deleted and replaced by the following:

“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 his 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. Paragraph 3 of Article 4 (Resident) of the Agreement shall be deleted and replaced by the following:

“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**

Paragraphs 4 to 7 of Article 5 (Permanent Establishment) of the Agreement shall be deleted and replaced by the following:

“4. 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 or display 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 or display;
- 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.

5. Paragraph 4 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.

6. Notwithstanding the provisions of paragraphs 1 and 2, but subject to the provisions of paragraph 7, where a person is acting in a Contracting State on behalf of an enterprise and, in doing so, 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:

- a) in the name of the enterprise, or
- b) 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
- c) for the provision of services by 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 4 which, if exercised through a fixed place of business (other than a fixed place of business to which paragraph 4 would apply), would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

However, if a person acting in a Contracting State on behalf of an enterprise does not habitually conclude contracts nor plays the principal role leading to the conclusion of such contracts, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State.

7. Paragraph 6 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.

8. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of the other Contracting State or it insures risks situated therein through a person, other than an agent of an independent status to whom paragraph 7 shall apply.

9. 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.

10. 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**

The following new paragraph 8 shall be introduced into to Article 7 (Business profits) of the Agreement:

“8. A Contracting State shall make no adjustment to the profits that are attributable to a permanent establishment of an enterprise of one of the Contracting States after 8 years from the end of the taxable year in which the profits would have been attributable to the permanent establishment. The provisions of this paragraph shall not apply in the case of fraud, gross negligence or wilful default.”.

## **Article 7**

The following new paragraph 3 shall be introduced into Article 9 (Associated Enterprises) of the Agreement:

“3. A Contracting State shall not include in the profits of an enterprise, and tax accordingly, profits that would have accrued to the enterprise but by reason of the conditions referred to in paragraph 1 have not so accrued, after 8 years from the end of the taxable year in which the profits would have accrued to the enterprise. The provisions of this paragraph shall not apply in the case of fraud, gross negligence or wilful default.”.

## **Article 8**

Article 21 (Elimination of Double Taxation) of the Agreement shall be deleted and replaced by the following:

### **“Article 21 Elimination of Double Taxation**

1. Where a resident of a Contracting State derives income which may be taxed in the other Contracting State in accordance with the provisions of this Agreement (except to the extent that these provisions allow taxation by that other State solely because the income is also income derived by a resident of that State), the first-mentioned State shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in that other State.

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 that other State.

2. Where in accordance with any provision of the Agreement income derived by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.”.

## **Article 9**

The second sentence of paragraph 2 of Article 23 (Mutual Agreement Procedure) of the Agreement shall be deleted and replaced by the following:

“Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States, but in any case not later than 11 years after the end of the concerned taxable year.”.

## **Article 10**

1. The following new sentence shall be introduced into paragraph 2 of Article 24 (Exchange of Information) of the Agreement:

“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.”.

2. The second sentence of paragraph 5 of Article 24 of the Agreement shall be deleted.

## **Article 11**

Article 26 (Limitation of Benefits) of the Agreement shall be deleted and replaced by the following:

### **“Article 26 Entitlement to 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. Where by reason of paragraph 1 of this Article, a resident of a Contracting State is denied the benefits of this Agreement in the other Contracting State, the competent authority of that other Contracting State shall notify the competent authority of the first-mentioned Contracting State.”.

## **Article 12**

Either Contracting State shall notify the other in writing, through the diplomatic channels, of the completion of the procedures required by its domestic law for bringing this Protocol into force. This Protocol shall enter into force on first day of the third month following date of receipt of the later of these notifications. Provisions of this Protocol shall have effect in both Contracting States:

a) in the Slovak Republic:

(i) in respect of taxes withheld at source, to amounts of income paid or credited on or after the first day of January of the calendar year following the year in which this Protocol enters into force;

(ii) in respect of other taxes, to such taxes as will be imposed for any tax periods beginning on or after the first day of January of the calendar year following the year in which this Protocol enters into force;

b) in the Islamic Republic of Iran:

(i) in respect of taxes withheld at source, on amounts paid or credited on or after the 1st day of month of Farvardin, Solar Hijra, (corresponding to the 20<sup>th</sup>/21<sup>st</sup> day of March) in the Iranian calendar year next following the year in which the Protocol shall enter into force in the Slovak Republic;

(ii) in the case of other taxes on income for taxes chargeable for any taxable period beginning on or after the 1st day of month of Farvardin, Solar Hijra, (corresponding to the 20<sup>th</sup>/21<sup>st</sup> day of March) in the Iranian calendar year next following the year in which the Protocol shall enter into force in the Slovak Republic.

### **Article 13**

This Protocol shall cease to have effect at such time as the Agreement ceases to have effect in accordance with Article 28 (Termination) of the Agreement.

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

Done in duplicate in ..... on the ..... corresponding to the ..... in the Slovak, Persian and English languages, each text being equally authentic. In case of any divergence, the English text shall prevail.

**For the Slovak Republic**

**For the Islamic Republic of Iran**