P.Z. br. 646

HRVATSKI SABOR

KLASA: 022-03/19-01/83
URBROJ: 65-19-02

Zagreb, 16. svibnja 2019.

Hs**NP*022-03/19-01/83*65-19-02**Hs

ZASTUPNICAMA I ZASTUPNICIMA HRVATSKOGA SABORA

PREDSJEDNICAMA I PREDSJEDNICIMA RADNIH TIJELA

Na temelju članaka 178. i 192, a u svezi članka 207.a Poslovnika Hrvatskoga sabora u prilogu upućujem ***Konačni prijedlog zakona o potvrđivanju Ugovora između Republike Hrvatske i Japana o uklanjanju dvostrukog oporezivanja porezima na dohodak te sprječavanju porezne utaje i izbjegavanja plaćanja poreza,*** koji je predsjedniku Hrvatskoga sabora podnijela Vlada Republike Hrvatske, aktom od 16. svibnja 2019. godine.

Za svoje predstavnike, koji će u njezino ime sudjelovati u radu Hrvatskoga sabora i njegovih radnih tijela, Vlada je odredila dr. sc. Zdravka Marića, ministra financija, Zdravka Zrinušića, državnog tajnika u Ministarstvu financija, te Božidara Kutlešu, pomoćnika ministra financija – ravnatelja Porezne uprave.

PREDSJEDNIK

Gordan Jandroković

VLADA REPUBLIKE HRVATSKE

P.Z. br. 646

Klasa: **022-03/18-11/47**
Urbroj: **50301-25/16-19-12**

Zagreb, 16. svibnja 2019.

PREDSJEDNIKU HRVATSKOGA SABORA

Predmet: Konačni prijedlog zakona o potvrđivanju Ugovora između Republike Hrvatske i Japana o uklanjanju dvostrukog oporezivanja porezima na dohodak te sprječavanju porezne utaje i izbjegavanja plaćanja poreza

Na temelju članka 85. Ustava Republike Hrvatske (Narodne novine, br. 85/10 – pročišćeni tekst i 5/14 – Odluka Ustavnog suda Republike Hrvatske) i članka 207.a Poslovnika Hrvatskoga sabora (Narodne novine, br. 81/13, 113/16, 69/17 i 29/18), Vlada Republike Hrvatske podnosi Konačni prijedlog zakona o potvrđivanju Ugovora između Republike Hrvatske i Japana o uklanjanju dvostrukog oporezivanja porezima na dohodak te sprječavanju porezne utaje i izbjegavanja plaćanja poreza.

Za svoje predstavnike, koji će u njezino ime sudjelovati u radu Hrvatskoga sabora i njegovih radnih tijela, Vlada je odredila dr. sc. Zdravka Marića, ministra financija, Zdravka Zrinušića, državnog tajnika u Ministarstvu financija, te Božidara Kutlešu, pomoćnika ministra financija – ravnatelja Porezne uprave.

PREDSJEDNIK

mr. sc. Andrej Plenković

VLADA REPUBLIKE HRVATSKE

KONAČNI PRIJEDLOG ZAKONA O POTVRĐIVANJU UGOVORA IZMEĐU REPUBLIKE HRVATSKE I JAPANA O UKLANJANJU DVOSTRUKOG OPOREZIVANJA POREZIMA NA DOHODAK TE SPRJEČAVANJU POREZNE UTAJE I IZBJEGAVANJA PLAĆANJA POREZA

Zagreb, svibanj 2019.

KONAČNI PRIJEDLOG ZAKONA O POTVRĐIVANJU UGOVORA IZMEĐU REPUBLIKE HRVATSKE I JAPANA O UKLANJANJU DVOSTRUKOG OPOREZIVANJA POREZIMA NA DOHODAK TE SPRJEČAVANJU POREZNE UTAJE I IZBJEGAVANJA PLAĆANJA POREZA

I. USTAVNA OSNOVA

Ustavna osnova za donošenje Zakona o potvrđivanju Ugovora između Republike Hrvatske i Japana o uklanjanju dvostrukog oporezivanja porezima na dohodak te sprječavanju porezne utaje i izbjegavanja plaćanja poreza (u daljnjem tekstu: Ugovor) sadržana je u odredbi članka 140. stavka 1. Ustava Republike Hrvatske (Narodne novine, br. 85/10 – pročišćeni tekst i 5/14 – Odluka Ustavnog suda Republike Hrvatske).

II. OCJENA STANJA I CILJ KOJI SE DONOŠENJEM ZAKONA ŽELI POSTIĆI

Republika Hrvatska primjenjuje 63 ugovora o izbjegavanju dvostrukog oporezivanja, a pregovori za sklapanje novih ugovora s nizom država su u tijeku. Polazna osnova za pregovore pri sklapanju ugovora o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu kao i u većini država jesu vlastiti modeli koje svaka država izrađuje prema vlastitoj poreznoj politici, a temelje se na Modelu ugovora o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu Organizacije za gospodarsku suradnju i razvitak (OECD) te Ujedinjenih naroda (UN).

Republika Hrvatska obvezala se da će primjenjivati međunarodne ugovore koje je sklopila ili kojima je pristupila bivša SFRJ, ako nisu u suprotnosti s Ustavom Republike Hrvatske i pravnim poretkom Republike Hrvatske. Republika Hrvatska je s nizom država postigla sporazum da se na temelju sukcesije nastave primjenjivati ugovori o izbjegavanju dvostrukog oporezivanja koje su te države sklopile s bivšom SFRJ (primjerice Finska, Norveška i Švedska) do sklapanja novih ugovora.

Ugovor je potpisan u Zagrebu 19. listopada 2018. godine. Potpisivanje Ugovora samo je nužan slijed ukupnih aktivnosti koje Republika Hrvatska poduzima glede povećanja stupnja međusobne gospodarske suradnje između Republike Hrvatske i Japana.

III. OSNOVNA PITANJA KOJA SE PREDLAŽU UREDITI ZAKONOM

Ovim Zakonom potvrđuje se Ugovor kako bi njegove odredbe, u smislu članka 141. Ustava Republike Hrvatske, postale dio unutarnjeg pravnog poretka Republike Hrvatske.

Ugovorom se uređuju načini izbjegavanja dvostrukog oporezivanja dohotka i dobiti. U uvodnom dijelu Ugovora sadržane su definicije pojmova koji se spominju u ostalim odredbama Ugovora. Jedna od najvažnijih jest definicija rezidenta, pomoću koje se izbjegava dvostruko oporezivanje hrvatskih rezidenata. Ugovorom se hrvatskim građevinskim i sličnim poduzećima omogućuje da ne plaćaju porez na dobit u Japanu, ako ti radovi traju kraće od 12 mjeseci. Oporezivanje dobiti od poslovanja općenito vrši država rezidentnosti društva, osim u slučajevima postojanja stalne poslovne jedinice. Također će se omogućiti hrvatskim društvima

koja obavljaju međunarodni prijevoz robe između Republike Hrvatske i Japana plaćanje poreza na ostvarenu dobit isključivo u Republici Hrvatskoj. Ugovorom se snižavaju stope za pasivni dohodak u odnosu na postojeće stope propisane domaćim zakonima, tako da se dividende, kamate i naknade za autorska prava oporezuju stopom od 5% na izvoru. Propisani su načini izbjegavanja dvostrukog oporezivanja, kao i jednako postupanje prema društvima država ugovornica u raznim poreznim situacijama. Postupak zajedničkog dogovaranja predstavlja mogućnost da se o svakom nastalom problemu ili prijetećem slučaju dvostrukog oporezivanja nadležna tijela država izravno dogovaraju što pridonosi ubrzanju rješavanja problema. Članak o razmjeni obavijesti predstavlja efikasno sredstvo u borbi protiv izbjegavanja plaćanja poreza.

IV. OCJENA SREDSTAVA POTREBNIH ZA PROVOĐENJE ZAKONA

Za provedbu ovoga Zakona nije potrebno osigurati dodatna financijska sredstva u državnom proračunu Republike Hrvatske.

V. ZAKONI KOJIMA SE POTVRĐUJU MEĐUNARODNI UGOVORI

Temelj za donošenje ovoga Zakona nalazi se u članku 207.a Poslovnika Hrvatskoga sabora (Narodne novine, br. 81/13, 113/16, 69/17 i 29/18) prema kojemu se zakoni kojima se, u skladu s Ustavom Republike Hrvatske, potvrđuju međunarodni ugovori donose u pravilu u jednom čitanju, a postupak donošenja pokreće se podnošenjem konačnog prijedloga zakona o potvrđivanju međunarodnog ugovora.

Donošenje ovoga Zakona pretpostavka je za ispunjenje formalno-pravnih pretpostavki kako bi Ugovor stupio na snagu.

Naime, s obzirom na razloge navedene u točkama II. i III. ovoga Prijedloga zakona te s obzirom da je za provedbu dogovorenih mehanizama iz Ugovora i radi intenziviranja gospodarske suradnje između Republike Hrvatske i Japana potrebno što skorije stvoriti uvjete za stupanje Ugovora na snagu, ocjenjuje se da postoji interes da Republika Hrvatska što skorije okonča svoj unutarnji pravni postupak, kako bi se stvorile pretpostavke da Ugovor, u skladu sa svojim odredbama, u odnosima dviju država stupi na snagu.

S obzirom na prirodu postupka potvrđivanja međunarodnih ugovora, kojima država i formalno izražava spremnost da bude vezana već potpisanim međunarodnim ugovorom, kao i na činjenicu da u ovoj fazi postupka u pravilu nisu moguće izmjene ili dopune teksta međunarodnog ugovora, predlaže se da se ovaj Konačni prijedlog zakona raspraviti i prihvatiti u jednom čitanju.

KONAČNI PRIJEDLOG ZAKONA O POTVRĐIVANJU UGOVORA IZMEĐU REPUBLIKE HRVATSKE I JAPANA O UKLANJANJU DVOSTRUKOG OPOREZIVANJA POREZIMA NA DOHODAK TE SPRJEČAVANJU POREZNE UTAJE I IZBJEGAVANJA PLAĆANJA POREZA

Članak 1.

Potvrđuje se Ugovor između Republike Hrvatske i Japana o uklanjanju dvostrukog oporezivanja porezima na dohodak te sprječavanju porezne utaje i izbjegavanja plaćanja poreza, potpisan u Zagrebu 19. listopada 2018. godine u izvorniku na engleskom jeziku.

Članak 2.

Tekst Ugovora iz članka 1. ovoga Zakona, u izvorniku na engleskom jeziku i u prijevodu na hrvatski jezik, glasi:

UGOVOR
IZMEĐU
REPUBLIKE HRVATSKE
I
JAPANA
O UKLANJANJU DVOSTRUKOG OPOREZIVANJA POREZIMA NA DOHODAK TE SPRJEČAVANJU POREZNE UTAJE I IZBJEGAVANJA PLAĆANJA POREZA

Republika Hrvatska i Japan,

želeći unaprijediti svoj gospodarski odnos i poboljšati svoju suradnju u području poreza,

namjeravajući sklopiti Ugovor o uklanjanju dvostrukog oporezivanja porezima na dohodak bez stvaranja mogućnosti za neoporezivanje ili umanjeno oporezivanje putem porezne utaje ili izbjegavanja plaćanja poreza (uključujući putem sporazuma koji se sklapaju s ciljem ostvarivanja olakšica iz ovog Ugovora za neizravnu korist rezidenata trećih država),

sporazumjele su se kako slijedi:

Članak 1.
OSOBE NA KOJE SE PRIMJENJUJE UGOVOR

1. Ovaj Ugovor primjenjuje se na osobe koje su rezidenti jedne ili obiju država ugovornica.

2. Za potrebe ovog Ugovora, dohodak koji je ostvaren od strane ili putem subjekta ili aranžmana koji se smatra u cijelosti ili djelomično porezno transparentnim prema poreznim propisima bilo koje države ugovornice smatra se dohotkom rezidenta države ugovornice, ali samo u mjeri u kojoj se dohodak, u svrhu oporezivanja od strane te države ugovornice, smatra dohotkom rezidenta te države ugovornice.

3. Ovaj Ugovor ne utječe na pravo države ugovornice da oporezuje svoje rezidente, osim u pogledu povlastica koje se dodjeljuju prema stavku 3. članka 7., stavku 2. članka 9. i člancima 18., 19., 22., 23., 24. i 27.

Članak 2.
POREZI NA KOJE SE PRIMJENJUJE UGOVOR

1. Ovaj se Ugovor primjenjuje na poreze na dohodak koji su uvedeni u ime države ugovornice ili njezine političke podjedinice ili lokalne vlasti, neovisno o načinu na koji se ubiru.

2. Porezima na dohodak smatraju se svi porezi uvedeni na ukupni dohodak ili na dijelove dohotka, uključujući poreze na dobitke od otuđenja bilo koje imovine, poreze na ukupne iznose nadnica ili plaća koje isplaćuju poduzeća, kao i poreze na porast vrijednosti imovine.

3. Postojeći porezi na koje se primjenjuje ovaj Ugovor su:

   (a) u Hrvatskoj:
   (i) porez na dobit;
   (ii) porez na dohodak; i
   (iii) prirez porezu na dohodak
   (u daljnjem tekstu „hrvatski porez");

   (b) u Japanu:
   (i) porez na dohodak;
   (ii) porez na dobit;
   (iii) poseban porez na dohodak za obnovu;
   (iv) lokalni porez na dobit; i
   (v) lokalni porezi za stanovništvo
   (u daljnjem tekstu „japanski porez").

4. Ovaj Ugovor primjenjuje se i na bilo koje iste ili bitno slične poreze koji se uvedu nakon datuma potpisivanja Ugovora uz ili umjesto postojećih poreza. Nadležna tijela država ugovornica obavješćuju jedno drugo o svim bitnim promjenama u njihovim poreznim propisima.

Članak 3.
OPĆE DEFINICIJE

1. Za potrebe ovog Ugovora, osim ako kontekst ne zahtijeva drukčije:

   (a) izraz „Hrvatska" označava Republiku Hrvatsku te, kada se koristi u zemljopisnom smislu, državno područje Republike Hrvatske, kao i ona područja mora koja se nastavljaju na vanjsku granicu teritorijalnog mora, uključujući morsko dno i njegovo podzemlje, na kojima Republika Hrvatska u skladu s međunarodnim pravom i propisima Republike Hrvatske vrši svoja suverena prava i jurisdikciju;

   (b) izraz „Japan", kada se koristi u zemljopisnom smislu, označava cjelokupno državno područje Japana, uključujući njegovo teritorijalno more, u kojem su na snazi propisi koji se odnose na japanski porez, te cjelokupno područje izvan njegovog teritorijalnog mora, uključujući morsko dno i njegovo podzemlje, na kojima Japan ima suverena prava u skladu s međunarodnim pravom i u kojima su na snazi propisi koji se odnose na japanski porez;

   (c) izrazi „država ugovornica" i „druga država ugovornica" označavaju Hrvatsku ili Japan, ovisno o kontekstu;

   (d) izraz „osoba" uključuje fizičku osobu, društvo i bilo koju drugu skupinu osoba;

(e) izraz „društvo“ označava svaku pravnu osobu ili bilo koji organizacijski oblik koji se u svrhe oporezivanja smatra pravnom osobom;

(f) izraz „poduzeće“ primjenjuje se na obavljanje bilo kojeg poslovanja;

(g) izrazi „poduzeće države ugovornice“ i „poduzeće druge države ugovornice“ označavaju poduzeće kojim upravlja rezident države ugovornice i poduzeće kojim upravlja rezident druge države ugovornice;

(h) izraz „međunarodni promet“ označava svaki prijevoz brodom ili zrakoplovom osim ako se prijevoz brodom ili zrakoplovom obavlja samo između mjesta u državi ugovornici i poduzeće koje upravlja brodom ili zrakoplovom nije poduzeće te države ugovornice;

(i) izraz „nadležno tijelo“ označava:
(i) u Hrvatskoj, ministra financija ili njegovog ovlaštenog predstavnika; i
(ii) u Japanu, ministra financija ili njegovog ovlaštenog predstavnika;

(j) izraz „državljanin“, u odnosu na državu ugovornicu, označava:
(i) svaku fizičku osobu koja ima državljanstvo te države ugovornice; i
(ii) svaku pravnu osobu, partnerstvo ili udruženje koji svoj pravni položaj izvode iz propisa koji su na snazi u toj državi ugovornici;

(k) izraz „poslovanje“ uključuje pružanje profesionalnih usluga i drugih aktivnosti neovisnog karaktera;

(l) izraz „priznati mirovinski fond“ države ugovornice označava subjekta ili aranžman koji je osnovan prema propisima te države ugovornice, a koji se smatra zasebnom osobom prema poreznim propisima te države ugovornice i koji:
(i) je osnovan i njime se upravlja, isključivo ili gotovo isključivo, u svrhu primjene ili pružanja mirovinskih povlastica te pomoćnih ili sporednih povlastica ili drugih sličnih naknada fizičkim osobama te ga, kao takvog, uređuje ta država ugovornica ili jedna od njezinih političkih podjedinica ili lokalnih vlasti; ili
(ii) je osnovan i njime se upravlja, isključivo ili gotovo isključivo, u svrhu ulaganja sredstava u korist drugih priznatih mirovinskih fondova te države ugovornice.

Ako bi subjekt ili aranžman, koji je osnovan prema propisima države ugovornice, predstavljao priznati mirovinski fond sukladno odredbama (i) ili (ii) i ako bi bio smatran zasebnom osobom prema poreznim propisima te države ugovornice, smatra se, za potrebe Ugovora, zasebnom osobom kao takvom prema poreznim propisima te države ugovornice te se sva imovina i dobit subjekta ili aranžmana smatra imovinom koju posjeduje i dobiti koju ostvaruje ta zasebna osoba, a ne druga osoba.

2. U pogledu primjene ovog Ugovora u bilo koje doba od strane države ugovornice, svaki izraz koji nije njime određen, osim ako kontekst ne zahtijeva drukčije ili se nadležna tijela država ugovornica dogovore o drugom značenju sukladno odredbama članka 24., ima značenje koje on u to doba ima prema pravu te države ugovornice za potrebe poreza na

koje se Ugovor primjenjuje, a svako značenje prema primjenjivim poreznim propisima te države ugovornice prevladavat će nad značenjem koje je tom izrazu dodijeljeno prema drugim propisima te države ugovornice.

Članak 4.
REZIDENT

1. Za potrebe ovog Ugovora, izraz „rezident države ugovornice" označava svaku osobu koja, prema propisima te države ugovornice, u njoj podliježe oporezivanju na temelju svog prebivališta, boravišta, mjesta sjedišta ili glavnog ureda, mjesta uprave ili bilo kojeg drugog obilježja slične naravi, i također uključuje tu državu ugovornicu i bilo koju njezinu političku podjedinicu ili lokalnu vlast, kao i priznati mirovinski fond te države ugovornice. Međutim, ovaj izraz ne uključuje bilo koju osobu koja u toj državi ugovornici podliježe oporezivanju samo u pogledu dohotka iz izvora u toj državi ugovornici.

2. Ako je, zbog odredaba stavka 1., fizička osoba rezident obiju država ugovornica, tada se njezin pravni položaj određuje kako slijedi:

   (a) smatra se rezidentom samo one države ugovornice u kojoj ima prebivalište koje joj je na raspolaganju; ako ima prebivalište koje joj je na raspolaganju u objema državama ugovornicama, smatra se rezidentom samo one države ugovornice s kojom ima bliže osobne i gospodarske veze (središte životnih interesa);

   (b) ako se ne može odrediti država ugovornica u kojoj ima središte životnih interesa, ili ako ni u jednoj državi ugovornici nema prebivalište koje joj je na raspolaganju, smatra se rezidentom samo one države ugovornice u kojoj ima uobičajeno boravište;

   (c) ako ima uobičajeno boravište u objema državama ugovornicama ili ga nema ni u jednoj od njih, smatra se rezidentom samo one države ugovornice čiji je državljanin;

   (d) ako je državljanin obiju država ugovornica ili niti jedne od njih, nadležna tijela država ugovornica rješavaju pitanje zajedničkim dogovorom.

3. Ako je, zbog odredaba stavka 1., osoba koja nije fizička osoba rezident obiju država ugovornica, nadležna tijela država ugovornica nastoje zajedničkim dogovorom utvrditi državu ugovornicu čijim će se rezidentom smatrati ta osoba za potrebe ovog Ugovora, uzimajući u obzir njezino mjesto sjedišta ili glavnog ureda, njezino mjesto registriranja, njezino mjesto stvarne uprave, mjesto u kojem je osnovana ili na drugi način utemeljena i sve druge bitne čimbenike. U slučaju da takav dogovor nije postignut, takva osoba nema pravo na bilo kakvu olakšicu ili izuzeće od plaćanja poreza predviđeno Ugovorom.

Članak 5.
STALNA POSLOVNA JEDINICA

1. Za potrebe ovog Ugovora, izraz „stalna poslovna jedinica" označava stalno mjesto poslovanja putem kojega se poslovanje poduzeća obavlja u cijelosti ili djelomično.

2. Izraz „stalna poslovna jedinica“ uključuje posebno:

   (a) mjesto uprave;

   (b) podružnicu;

   (c) ured;

   (d) tvornicu;

   (e) radionicu; i

   (f) rudnik, naftni ili plinski izvor, kamenolom ili bilo koje drugo mjesto crpljenja prirodnih bogatstava.

3. Gradilište ili građevinski ili montažni projekt čini stalnu poslovnu jedinicu samo ako traje dulje od dvanaest mjeseci.

4. Neovisno o prethodnim odredbama ovog članka, neće se smatrati da izraz „stalna poslovna jedinica“ uključuje:

   (a) korištenje objekata isključivo u svrhu uskladištenja ili izlaganja dobara ili roba koji pripadaju poduzeću;

   (b) održavanje zaliha dobara ili roba koje pripadaju poduzeću isključivo u svrhu uskladištenja ili izlaganja;

   (c) održavanje zaliha dobara ili roba koje pripadaju poduzeću isključivo u svrhu prerade koju obavlja drugo poduzeće;

   (d) održavanje stalnog mjesta poslovanja isključivo u svrhu kupnje dobara ili roba ili u svrhu prikupljanja podataka za poduzeće;

   (e) održavanje stalnog mjesta poslovanja isključivo u svrhu obavljanja za poduzeće bilo koje druge aktivnosti koja nije navedena u podstavcima od (a) do (d), pod uvjetom da je ta aktivnost pripremne ili pomoćne naravi; ili

   (f) održavanje stalnog mjesta poslovanja isključivo zbog bilo koje kombinacije aktivnosti spomenutih u podstavcima od (a) do (e), pod uvjetom da je ukupna aktivnost stalnog mjesta poslovanja koja je nastala iz te kombinacije pripremne ili pomoćne naravi.

5. Stavak 4. ne primjenjuje se kada stalno mjesto poslovanja koristi ili održava poduzeće ako isto poduzeće ili usko povezano poduzeće obavlja poslovanje na istom mjestu ili na drugom mjestu u istoj državi ugovornicu i:

(a) to mjesto ili drugo mjesto čine stalnu poslovnu jedinicu poduzeća ili usko povezanog poduzeća prema odredbama ovog članka; ili

(b) ukupna aktivnost koja proizlazi iz kombinacije djelatnosti koje obavljaju dva poduzeća na istom mjestu ili isto poduzeće ili usko povezana poduzeća na dva mjesta, nije pripremne ili pomoćne naravi,

pod uvjetom da poslovne djelatnosti koje obavljaju dva poduzeća na istom mjestu ili isto poduzeće ili usko povezana poduzeća na dva mjesta predstavljaju nadopunjujuće funkcije koje su dio jedinstvenog poslovanja.

6. Neovisno o odredbama stavaka 1. i 2., ali sukladno odredbama stavka 7., kada osoba djeluje u državi ugovornici u ime poduzeća te, pri tome, uobičajeno sklapa ugovore ili uobičajeno ima glavnu ulogu u postupku sklapanja ugovora koji se rutinski sklapaju bez značajne preinake od strane poduzeća, te se ti ugovori sklapaju:

(a) u ime poduzeća; ili

(b) za prijenos vlasništva, ili za dodjeljivanje prava na korištenje, imovine koju posjeduje to poduzeća ili za koju to poduzeće ima pravo korištenja; ili

(c) za pružanje usluga od strane tog poduzeća,

smatra se da to poduzeće ima stalnu poslovnu jedinicu u toj državi ugovornici u pogledu svih djelatnosti koje ta osoba poduzima za poduzeće, osim ako djelatnosti te osobe nisu ograničene na one navedene u stavku 4. koje, ako bi se obavljale putem stalnog mjesta poslovanja (osim stalnog mjesta poslovanja na koji se primjenjuje stavak 5.), ne bi to stalno mjesto poslovanja činile stalnom poslovnom jedinicom prema odredbama stavka 4.

7. Stavak 6. ne primjenjuje se ako osoba koja djeluje u državi ugovornici u ime poduzeća druge države ugovornice posluje u prvospomenutoj državi ugovornici kao zastupnik sa samostalnim statusom i djeluje za poduzeće u okviru tog redovitog poslovanja. Međutim, ako osoba djeluje isključivo ili gotovo isključivo u ime jednog ili više poduzeća s kojima je usko povezana, ta se osoba ne smatra zastupnikom sa samostalnim statusom u smislu ovog stavka u pogledu bilo kojeg takvog poduzeća.

8. Činjenica da društvo koje je rezident države ugovornice kontrolira ili je kontrolirano od strane društva koje je rezident druge države ugovornice, ili koje obavlja svoju djelatnost u toj drugoj državi ugovornici (putem stalne poslovne jedinice ili na drugi način), sama po sebi ne znači da se jedno društvo smatra stalnom poslovnom jedinicom drugog.

9. Za potrebe ovog članka, osoba ili poduzeće je usko povezano s poduzećem ako, na temelju svih bitnih činjenica i okolnosti, jedno ima kontrolu nad drugim ili su oboje pod kontrolom istih osoba ili poduzeća. U svakom slučaju, osoba ili poduzeće se smatra usko povezanim s poduzećem ako jedno izravno ili neizravno posjeduje više od 50 posto stvarnog udjela u drugom (ili, u slučaju društva, više od 50 posto ukupnog glasačkog prava i vrijednosti dionica društva ili stvarnog vlasničkog udjela u društvu) ili ako druga osoba ili poduzeće izravno ili neizravno posjeduje više od 50 posto stvarnog udjela (ili, u

slučaju društva, više od 50 posto ukupnog glasačkog prava i vrijednosti dionica društva ili stvarnog vlasničkog udjela u društvu) u osobi i poduzeću ili u dva poduzeća.

Članak 6.
DOHODAK OD NEKRETNINA

1. Dohodak koji rezident države ugovornice ostvari od nekretnina (uključujući dohodak od poljoprivrede ili šumarstva) smještenih u drugoj državi ugovornici, može se oporezivati u toj drugoj državi ugovornici.

2. Izraz „nekretnine" ima značenje koje ima prema propisima države ugovornice u kojoj se predmetna imovina nalazi. U taj su izraz u svakom slučaju uključeni i pripaci nekretnine, stoka i oprema koji se koriste u poljoprivredi i šumarstvu, prava na koja se primjenjuju odredbe općih propisa o zemljišnom vlasništvu, plodouživanje nekretnina te prava na isplate u promjenjivom ili utvrđenom iznosu kao naknade za iskorištavanje ili pravo na iskorištavanje rudnih nalazišta, izvora i drugih prirodnih bogatstava; brodovi i zrakoplovi ne smatraju se nekretninama.

3. Odredbe stavka 1. primjenjuju se na dohodak koji potječe od izravnog iskorištavanja, davanja u zakup ili najam te korištenja nekretnina na svaki drugi način.

4. Odredbe stavaka 1. i 3. primjenjuju se i na dohodak od nekretnina poduzeća.

Članak 7.
DOBIT OD POSLOVANJA

1. Dobit poduzeća države ugovornice oporezuje se samo u toj državi ugovornici, osim ako poduzeće posluje u drugoj državi ugovornici putem stalne poslovne jedinice koja se u njoj nalazi. Ako poduzeće posluje na taj način, dobit koja se može pripisati toj stalnoj poslovnoj jedinici u skladu s odredbama stavka 2., može se oporezivati u toj drugoj državi ugovornici.

2. Za potrebe ovog članka i članka 22., dobit koja se u svakoj od država ugovornica može pripisati stalnoj poslovnoj jedinici iz stavka 1., je dobit koju bi mogla ostvariti, posebice u svom poslovanju s drugim dijelovima poduzeća, kao da je zasebno ili nezavisno poduzeće koje se bavi istim ili sličnim poslovanjem pod istim ili sličnim uvjetima, uzimajući u obzir izvršene funkcije, korištenu imovinu i predviđene rizike poduzeća putem stalne poslovne jedinice i putem drugih dijelova poduzeća.

3. Kada, u skladu sa stavkom 2., država ugovornica uskladi dobit koja se može pripisati stalnoj poslovnoj jedinici poduzeća jedne od država ugovornica i u skladu s time oporezuje dobit poduzeća na koju je obračunat porez u drugoj državi ugovornici, ta druga država ugovornica, u mjeri koja je potrebna za uklanjanje dvostrukog oporezivanja te dobiti, poduzima odgovarajuće usklađenje iznosa poreza koji je u njoj obračunat na tu dobit. Pri utvrđivanju takvog usklađenja, nadležna tijela država ugovornica međusobno se, prema potrebi, savjetuju.

4. Kada dobit uključuje dijelove dohotka koji su na poseban način uređeni u drugim člancima ovog Ugovora, tada na odredbe tih članaka neće utjecati odredbe ovog članka.

Članak 8.
MEĐUNARODNI BRODSKI I ZRAČNI PRIJEVOZ

1. Dobit poduzeća države ugovornice od korištenja brodova i zrakoplova u međunarodnom prometu oporezuje se samo u toj državi ugovornici.

2. Neovisno o odredbama članka 2., poduzeće države ugovornice se izuzima od oporezivanja u odnosu na svoje obavljanje djelatnosti korištenja brodova i zrakoplova u međunarodnom prometu od, u slučaju hrvatskog poduzeća, japanskog poreza na poduzeće te, u slučaju japanskog poduzeća, svakog poreza koji je sličan japanskom porezu na poduzeće koji je uveden u Hrvatskoj nakon datuma potpisivanja ovog Ugovora.

3. Odredbe stavaka 1. i 2. primjenjuju se i na dobit od sudjelovanja u udruženju, zajedničkom poslovanju ili u nekoj međunarodnoj poslovnoj agenciji.

Članak 9.
POVEZANA PODUZEĆA

1. Ako

   (a) poduzeće države ugovornice sudjeluje izravno ili neizravno u upravi, kontroli ili imovini poduzeća druge države ugovornice, ili

   (b) iste osobe sudjeluju izravno ili neizravno u upravi, nadzoru ili imovini poduzeća države ugovornice i poduzeća druge države ugovornice,

   i ako su u oba slučaja utvrđeni ili nametnuti uvjeti između dva poduzeća u njihovim trgovačkim ili financijskim odnosima koji se razlikuju od onih koji bi bili dogovoreni između samostalnih poduzeća, tada se bilo koja dobit koju bi, da nema navedenih uvjeta, jedno od poduzeća ostvarilo, no zbog navedenih uvjeta nije je ostvarilo, može uključiti u dobit tog poduzeća i sukladno tome oporezivati.

2. Ako država ugovornica u dobit poduzeća te države ugovornice uključi - i sukladno tome oporezuje - dobit na koju je poduzeću druge države ugovornice već obračunat porez u toj drugoj državi ugovornici i takva uključena dobit je dobit za koju prvospomenuta država ugovornica tvrdi da je dobit koju bi poduzeće prvospomenute države ugovornice ostvarilo da su uvjeti dogovoreni između ta dva poduzeća bili jednaki onima koje bi dogovorila samostalna poduzeća, tada ta druga država ugovornica na odgovarajući način usklađuje iznos poreza koji je u njoj obračunat na tu dobit. Pri utvrđivanju takvog usklađenja, trebaju se uzeti u obzir druge odredbe ovog Ugovora te se nadležna tijela država ugovornica, prema potrebi, međusobno savjetuju.

Članak 10.
DIVIDENDE

1. Dividende koje društvo, koje je rezident države ugovornice, isplaćuje rezidentu druge države ugovornice, mogu se oporezivati u toj drugoj državi ugovornici.

2. Međutim, dividende koje isplaćuje društvo, koje je rezident države ugovornice, mogu se oporezivati i u toj državi ugovornici sukladno propisima te države ugovornice, ali ako je stvarni korisnik dividendi rezident druge države ugovornice, tako obračunat porez ne smije biti veći od 5 posto bruto-iznosa dividendi.

3. Neovisno o odredbama stavka 2., dividende koje isplaćuje društvo rezident države ugovornice oporezivat će se samo u drugoj državi ugovornici ako je stvarni korisnik dividendi rezident te druge države ugovornice te je društvo koje posjeduje, izravno ili neizravno, najmanje 25 posto glasačkog prava društva koje isplaćuje dividende kroz razdoblje od 365 dana koje uključuje datum na koji je utvrđeno pravo na dividende (za potrebe računanja tog razdoblja, ne uzimaju se u obzir promjene vlasništva koje bi izravno nastale kao rezultat korporacijske reorganizacije, kao što je reorganizacija spajanjem ili podjelom, društva koje je stvarni korisnik dividendi ili koje plaća dividende).

4. (a) Društvo, koje je rezident države ugovornice, nema pravo na povlasticu koja bi mu inače bila dodijeljena prema odredbama stavka 3., osim ako je takvo društvo kvalificirana osoba, kako je definirano u podstavku (b), u trenutku kada bi povlastica inače bila dodijeljena.

   (b) Društvo, koje je rezident države ugovornice, je kvalificirana osoba u trenutku kada bi povlastica navedena u podstavku (a) inače bila dodijeljena ako:
   (i) se u tom trenutku glavnim razredom njegovih dionica redovito trguje na jednoj ili više priznatih burzi; ili
   (ii) je u tom trenutku i barem tijekom polovice dana u dvanaestomjesečnom razdoblju koje uključuje taj trenutak, najmanje 50 posto njegovih dionica u izravnom ili neizravnom vlasništvu osobe ili osoba koja je rezident te države ugovornice te je:
   (aa) društvo koje zadovoljava uvjete opisane u odredbi (i);
   (bb) fizička osoba; ili
   (cc) ta država ugovornica, njezina politička podjedinica ili lokalna vlast, središnja banka te države ugovornice ili agencija ili javno tijelo te države ugovornice ili političke podjedinice ili lokalne vlasti.

   (c) Ako društvo, koje je rezident države ugovornice, nije kvalificirana osoba, nadležno tijelo države ugovornice u kojoj je povlastica odbijena prema podstavku (a) može, neovisno o tome, odobriti povlasticu navedenu u tom podstavku, uzimajući u obzir predmet i svrhu Ugovora, ali samo ako takvo društvo dokaže na zadovoljstvo takvog nadležnog tijela da ni njegovo osnivanje, stjecanje ili održavanje, niti vođenje njegovog poslovanja nije bila jedna od glavnih svrha stjecanja takve povlastice. Nadležno tijelo države ugovornice kojem je društvo podnijelo zahtjev prema ovom podstavku, a koje je rezident druge države ugovornice, savjetuje se s nadležnim tijelom te druge države ugovornice prije davanja ili odbijanja zahtjeva.

(d) Za potrebe ovog stavka:
(i) izraz „glavni razred dionica“ označava razred ili razrede dionica društva koje predstavljaju većinu ukupnog prava glasa i vrijednosti društva;
(ii) izraz „priznata burza“ označava:
(aa) svaku burzu osnovanu i uređenu kao takvu prema propisima bilo koje države ugovornice; i
(bb) bilo koju drugu burzu o kojoj se nadležna tijela država ugovornica usuglase.

5. Neovisno o odredbama stavaka 2. i 3., dividende koje se odbijaju prilikom računanja oporezive dobiti društva koje isplaćuje dividende u državi ugovornici u kojoj je to društvo rezident mogu se oporezivati u toj državi ugovornici sukladno propisima te države ugovornice, ali ako je stvarni korisnik dividendi rezident druge države ugovornice, tada tako obračunat porez ne smije biti veći od 10 posto bruto-iznosa dividendi.

6. Odredbe stavaka 2., 3. i 5. ne utječu na oporezivanje društva u odnosu na dobit iz koje su dividende isplaćene.

7. Izraz „dividende“, kako se koristi u ovom članku, označava dohodak od dionica ili drugih prava koja nisu potraživanje duga, sudjelovanje u dobiti, kao i dohodak od drugih prava koji podliježe istom načinu oporezivanja kao dohodak od dionica prema propisima države ugovornice čiji je rezident društvo koje vrši raspodjelu.

8. Odredbe stavaka 1., 2., 3. i 5. ne primjenjuju se ako stvarni korisnik dividendi, koji je rezident države ugovornice, posluje u drugoj državi ugovornici čiji je rezident društvo koje isplaćuje dividende putem stalne poslovne jedinice koja se u njoj nalazi, a pravo u vezi s kojim se dividende isplaćuju povezano je s takvom stalnom poslovnom jedinicom. U tom se slučaju primjenjuju odredbe članka 7.

9. Ako društvo koje je rezident države ugovornice ostvaruje dobit ili dohodak iz druge države ugovornice, ta druga država ugovornica ne može nametnuti nikakav porez na dividende koje plaća to društvo, osim ako te dividende nisu isplaćene rezidentu te druge države ugovornice ili ako je pravo u vezi s kojim se dividende isplaćuju stvarno povezano sa stalnom poslovnom jedinicom koja se nalazi u toj drugoj državi ugovornici, niti može neraspodijeljenu dobit društva podvrgnuti oporezivanju na neraspodijeljenu dobit društva, pa čak ni onda ako se plaćene dividende ili neraspodijeljena dobit u cijelosti ili djelomično sastoje od dobiti ili dohotka nastalog u toj drugoj državi ugovornici.

Članak 11.
KAMATA

1. Kamata nastala u državi ugovornici, a isplaćena rezidentu druge države ugovornice, može se oporezivati u toj drugoj državi ugovornici.

2. Međutim, kamata nastala u drugoj državi ugovornici može se oporezivati u toj državi ugovornici sukladno propisima te države ugovornice, ali ako je stvarni korisnik kamate rezident druge države ugovornice, tako obračunat porez ne smije biti veći od 5 posto bruto-iznosa kamate.

3. Neovisno o odredbama stavka 2., kamata nastala u državi ugovornici oporezuje se samo u drugoj državi ugovornici ako:

   (a) je stvarni korisnik kamate ta druga država ugovornica, njezina politička podjedinica ili lokalna vlast, središnja banka te druge države ugovornice ili bilo koja institucija u potpunom vlasništvu te druge države ugovornice ili njezine političke podjedinice ili lokalne vlasti; ili

   (b) je stvarni korisnik kamate rezident te druge države ugovornice u odnosu na zajamčena potraživanja, koja osigurava ili neizravno financira ta druga država ugovornica, njezina politička podjedinica ili lokalna vlast, središnja banka te druge države ugovornice ili bilo koja institucija u potpunom vlasništvu te druge države ugovornice ili njezine političke podjedinice ili lokalne vlasti.

4. Izraz „kamata“, kako se koristi u ovom članku, označava prihod od potraživanja svake vrste, bez obzira jesu li ta potraživanja osigurana zalogom ili ne, i bez obzira nose li ili ne pravo sudjelovanja u dobiti dužnika, a posebno prihod od vladinih vrijednosnica ili prihod od obveznica ili zadužnica, uključujući premije i nagrade u vezi s tim vrijednosnicama, obveznicama i zadužnicama, kao i drugi dohodak koji podliježe istom poreznom postupku kao i dohodak od posudbe novca sukladno propisima države ugovornice u kojoj dohodak nastaje. Dohodak kojim se bavi članak 10. i zatezne kamate zbog kašnjenja pri isplati ne smatraju se, međutim, kamatom u smislu ovog članka.

5. Odredbe stavaka 1., 2. i 3. ne primjenjuju se ako stvarni korisnik kamate, koji je rezident države ugovornice, posluje u drugoj državi ugovornici u kojoj je ta kamata nastala, putem stalne poslovne jedinice koja se u njoj nalazi, a potraživanje na koje se plaća kamata stvarno je povezano s takvom stalnom poslovnom jedinicom. U tom se slučaju primjenjuju odredbe članka 7.

6. Smatra se da kamata nastaje u državi ugovornici kada je isplatitelj rezident te države ugovornice. Međutim, ako isplatitelj kamate, bez obzira je li rezident države ugovornice ili nije, u državi ugovornici ima stalnu poslovnu jedinicu u vezi s kojom je nastalo dugovanje na koje se kamata plaća, a takvu kamatu snosi stalna poslovna jedinica, tada se smatra da takva kamata nastaje u državi ugovornici u kojoj se nalazi stalna poslovna jedinica.

7. Ako je, zbog posebnog odnosa između isplatitelja i stvarnog korisnika ili između njih oboje i neke druge osobe, iznos kamate, uzimajući u obzir potraživanje za koje se ona plaća, veći od iznosa koji bi bio ugovoren između isplatitelja i stvarnog korisnika da nema takva odnosa, odredbe ovog članka primjenjuju se samo na zadnje spomenuti iznos. U tom slučaju višak plaćenog iznosa ostaje oporeziv sukladno propisima svake države ugovornice, uzimajući u obzir druge odredbe ovog Ugovora.

Članak 12.
NAKNADE ZA AUTORSKA PRAVA

1. Naknade za autorska prava nastale u državi ugovornici, a isplaćene rezidentu druge države ugovornice, mogu se oporezivati u toj drugoj državi ugovornici.

2. Međutim, naknade za autorska prava nastale u državi ugovornici mogu se oporezivati i u toj državi ugovornici sukladno propisima te države ugovornice, ali ako je stvarni korisnik naknada za autorska prava rezident druge države ugovornice, tako obračunat porez ne smije biti veći od 5 posto bruto-iznosa naknada za autorska prava.

3. Izraz „naknade za autorska prava", kako se koristi u ovom članku, označava plaćanja bilo koje vrste primljena kao naknade za korištenje, ili za pravo korištenja bilo kojeg autorskog prava na književno, umjetničko ili znanstveno djelo, uključujući kinematografske filmove, ili bilo kojeg patenta, zaštitnog znaka, nacrta ili modela, plana, ili tajne formule ili postupka, ili za obavijesti o industrijskom, komercijalnom ili znanstvenom iskustvu.

4. Odredbe stavaka 1. i 2. ne primjenjuju se ako stvarni korisnik naknada za autorska prava, koji je rezident države ugovornice, posluje u drugoj državi ugovornici u kojoj nastaju naknade za autorska prava putem stalne poslovne jedinice koja se u njoj nalazi, a prava ili imovina temeljem kojih su isplaćene naknade za autorska prava stvarno su povezani s takvom stalnom poslovnom jedinicom. U tom se slučaju primjenjuju odredbe članka 7.

5. Smatra se da naknade za autorska prava nastaju u državi ugovornici kada je isplatitelj rezident te države ugovornice. Međutim, ako isplatitelj naknada za autorska prava, bez obzira je li rezident države ugovornice ili nije, u državi ugovornici ima stalnu poslovnu jedinicu u vezi s kojom je nastala obveza isplate naknada za autorska prava, a takve naknade za autorska prava snosi stalna poslovna jedinica, tada se smatra da takve naknade za autorska prava nastaju u državi ugovornici u kojoj se nalazi stalna poslovna jedinica.

6. Ako je, zbog posebnog odnosa između isplatitelja i stvarnog korisnika ili između njih oboje i neke druge osobe, iznos naknada za autorska prava, uzimajući u obzir korištenje, pravo ili podatke za koje su one plaćene, veći od iznosa koji bi bio ugovoren između isplatitelja i stvarnog korisnika da nema takva odnosa, odredbe ovog članka primjenjuju se samo na zadnje spomenuti iznos. U tom slučaju višak plaćenog iznosa ostaje oporeziv sukladno propisima svake države ugovornice, uzimajući u obzir druge odredbe ovog Ugovora.

Članak 13.
DOBIT OD OTUĐENJA IMOVINE

1. Dobit koju rezident države ugovornice ostvari od otuđenja nekretnina iz članka 6., a koje se nalaze u drugoj državi ugovornici, može se oporezivati u toj drugoj državi ugovornici.

2. Dobit od otuđenja bilo koje imovine, osim nekretnina iz članka 6., koja čini dio poslovne imovine stalne poslovne jedinice koju poduzeće države ugovornice ima u drugoj državi ugovornici, uključujući dobit od otuđenja takve stalne poslovne jedinice (same ili zajedno s cijelim poduzećem), može se oporezivati u toj drugoj državi ugovornici.

3. Dobit koju poduzeće države ugovornice, koje koristi brodove ili zrakoplove u međunarodnom prometu, ostvari otuđenjem takvih brodova ili zrakoplova ili bilo koje imovine, osim nekretnina iz članka 6., što služi za korištenje takvih brodova ili zrakoplova oporezuje se samo u toj državi ugovornici.

4. Dobit koju rezident države ugovornice ostvari od otuđenja dionica društva ili usporedivih udjela, kao što su udjeli u partnerstvu ili trustu, mogu se oporezivati u drugoj državi ugovornici ako, u bilo kojem razdoblju unutar 365 dana koje prethodi otuđenju, te dionice ili usporedivi udjeli ostvaruju najmanje 50 posto svoje vrijednosti izravno ili neizravno od nekretnina kako su definirane u članku 6., koje se nalaze u toj drugoj državi ugovornici, osim ako se takvim dionicama ili usporedivim udjelima trguje na priznatoj burzi navedenoj u odredbi (ii) podstavka (d) stavka 4. članka 10. te rezident i osoba povezana s tim rezidentom posjeduje ukupno 5 posto ili manje razreda takvih dionica ili usporedivih udjela.

5. Dobit od otuđenja bilo koje imovine, osim one iz stavaka 1., 2., 3. i 4., oporezuje se samo u državi ugovornici čiji je otuditelj rezident.

Članak 14.
DOHODAK OD NESAMOSTALNOG RADA

1. Sukladno odredbama članaka 15., 17. i 18., plaće, nadnice i druga slična primanja, koje rezident države ugovornice ostvari nesamostalnim radom, oporezuju se samo u toj državi ugovornici, osim ako se nesamostalni rad obavlja u drugoj državi ugovornici. Ako se nesamostalni rad obavlja na taj način, takva primanja koja se od toga ostvaruju mogu se oporezivati u toj drugoj državi ugovornici.

2. Neovisno o odredbama stavka 1., primanja koja rezident države ugovornice ostvaruje od nesamostalnog rada obavljenog u drugoj državi ugovornici oporezuju se samo u prvospomenutoj državi ugovornici ako:

   (a) primatelj boravi u drugoj državi ugovornici u razdoblju ili razdobljima koja ukupno ne traju dulje od 183 dana u bilo kojem dvanaestomjesečnom razdoblju koje počinje ili završava u dotičnoj poreznoj godini, i

   (b) primanje isplati poslodavac koji nije rezident druge države ugovornice ili se ono isplati u njegovo ime, i

   (c) primanje ne tereti stalnu poslovnu jedinicu koju poslodavac ima u toj drugoj državi ugovornici.

3. Neovisno o prethodnim odredbama ovog članka, primanja koja ostvari rezident države ugovornice od nesamostalnog rada, kao član stalne posade broda ili zrakoplova, što se obavlja na brodu ili zrakoplovu koji se koriste u međunarodnom prometu, osim na brodu ili zrakoplovu koji se koriste samo unutar druge države ugovornice, oporezuju se samo u prvospomenutoj državi ugovornici.

Članak 15.
NAKNADE ČLANOVA UPRAVE

Naknade članova uprave i druga slična plaćanja koja ostvari rezident države ugovornice u svojstvu člana uprave, ili sličnog tijela, društva koje je rezident druge države ugovornice, mogu se oporezivati u toj drugoj državi ugovornici.

Članak 16.
IZVOĐAČI I SPORTAŠI

1. Neovisno o odredbama članka 14., dohodak koji ostvari rezident države ugovornice kao izvođač, primjerice kao kazališni, filmski, radijski ili televizijski umjetnik, ili glazbenik, ili kao sportaš, od svojih osobnih aktivnosti kao takvih izvršenih u drugoj državi ugovornici, može se oporezivati u toj drugoj državi ugovornici.

2. Ako dohodak u pogledu osobnih aktivnosti izvršenih u svojstvu izvođača ili sportaša ne pripada izvođaču ili sportašu osobno, već nekoj drugoj osobi, taj se dohodak, neovisno o odredbama članka 14., može oporezivati u državi ugovornici u kojoj su aktivnosti izvođača ili sportaša izvršene.

Članak 17.
MIROVINE

Sukladno odredbama stavka 2. članka 18., mirovine i druga slična primanja čiji je stvarni korisnik rezident države ugovornice oporezuju se samo u toj državi ugovornici.

Članak 18.
DRŽAVNA SLUŽBA

1. (a) Plaće, nadnice i druga slična primanja koje je država ugovornica ili njezina politička podjedinica ili lokalna vlast isplatila fizičkoj osobi za usluge pružene toj državi ugovornici ili političkoj podjedinici ili lokalnoj vlasti, oporezuje se samo u toj državni ugovornici.

   (b) Međutim, takve se plaće, nadnice i druga slična primanja oporezuju samo u drugoj državi ugovornici ako su usluge pružene u toj drugoj državi ugovornici i fizička osoba je rezident te druge države ugovornice koji:
   (i) je državljanin te druge države ugovornice; ili
   (ii) nije postao rezident te druge države ugovornice samo radi pružanja tih usluga.

2. (a) Neovisno o odredbama stavka 1., mirovine i druga slična primanja koje je isplatila, ili su isplaćeni iz fondova koje je osnovala ili kojima je doprinose uplatila, država ugovornica ili njezina politička podjedinica ili lokalna vlast, fizičkoj osobi za usluge pružene toj državi ugovornici ili političkoj podjedinici ili lokalnoj vlasti, oporezuju se samo u toj državi ugovornici.

(b) Međutim, takve se mirovine i druga slična primanja oporezuju samo u drugoj državi ugovornici ako je fizička osoba rezident i državljanin te druge države ugovornice.

3. Odredbe članaka 14., 15., 16. i 17. primjenjuju se na plaće, nadnice, mirovine i druga slična primanja u pogledu usluga pruženih u vezi s poslovanjem države ugovornice ili njezine političke podjedinice ili lokalne vlasti.

Članak 19.
STUDENTI

Plaćanja koja student ili vježbenik, koji jest ili je bio neposredno prije posjeta državi ugovornici rezident druge države ugovornice i koji boravi u prvospomenutoj državi ugovornici isključivo u svrhu svojeg obrazovanja ili usavršavanja, prima za potrebe svojeg uzdržavanja, obrazovanja ili usavršavanja, ne oporezuju se u toj državi ugovornici, pod uvjetom da takva plaćanja nastaju iz izvora izvan te države ugovornice. Izuzeće omogućeno ovim člankom primjenjuje se na vježbenike samo na razdoblje koje ne prelazi jednu godinu od datuma kada je isti započeo usavršavanje u toj državi ugovornici.

Članak 20.
TAJNO PARTNERSTVO

Neovisno o bilo kojoj drugoj odredbi ovog Ugovora, bilo koji dohodak koji ostvari tajni partner rezident države ugovornice u odnosu na ugovor o tajnom partnerstvu (u slučaju Hrvatske, „tajno društvo" te u slučaju Japana, „Tokumei Kumiai") ili drugi sličan ugovor, može se oporezivati u drugoj državi ugovornici sukladno propisima te druge države ugovornice, ako taj dohodak nastaje u toj drugoj državi ugovornici i odbija se prilikom računanja oporezivog dohotka obveznika u toj drugoj državi ugovornici.

Članak 21.
OSTALI DOHODAK

1. Dijelovi dohotka čiji je stvarni korisnik rezident države ugovornice, bez obzira gdje su nastali, a koji nisu navedeni u prethodnim člancima ovog Ugovora, oporezuju se samo u toj državi ugovornici.

2. Odredbe stavka 1. ne primjenjuju se na dohodak, osim na dohodak od nekretnina kako su definirane u stavku 2. članka 6., ako stvarni korisnik takvog dohotka, koji je rezident države ugovornice, posluje u drugoj državi ugovornici putem stalne poslovne jedinice koja se u njoj nalazi, a pravo ili imovina na temelju kojih se dohodak isplaćuje stvarno su povezani s takvom stalnom poslovnom jedinicom. U tom se slučaju primjenjuju odredbe članka 7.

3. Ako, zbog posebnog odnosa između isplatitelja i stvarnog korisnika ili između njih oboje i neke treće osobe, iznos dohotka naveden u stavku 1. premašuje iznos koji bi bio ugovoren između isplatitelja i stvarnog korisnika da nema takvog odnosa, odredbe ovog članka primjenjuju se samo na zadnje spomenuti iznos. U tom slučaju višak plaćenog

dohotka ostaje oporeziv sukladno propisima svake države ugovornice, uzimajući u obzir druge odredbe ovog Ugovora.

Članak 22.
UKLANJANJE DVOSTRUKOG OPOREZIVANJA

1. (a) Kada rezident Hrvatske ostvari dohodak koji se, u skladu s odredbama ovog Ugovora, može oporezivati u Japanu, Hrvatska će dopustiti kao odbitak od poreza na dohodak tog rezidenta iznos koji je jednak japanskom porezu plaćenom u Japanu. Takav odbitak, međutim, ne smije biti veći od onog dijela hrvatskog poreza koji je izračunat prije odbitka, a koji se može pripisati dohotku koji može biti oporeziv u Japanu.

   (b) Kada je, u skladu s bilo kojom odredbom Ugovora, dohodak koji ostvari rezident Hrvatske izuzet od oporezivanja u Hrvatskoj, Hrvatska svejedno može, pri obračunu iznosa poreza na preostali dohodak takvog rezidenta, uzeti u obzir izuzeti dohodak.

2. Podložno odredbama propisa Japana koji se odnose na dopuštanje odbitka od japanskog poreza poreza plaćenog u bilo kojoj državi osim Japana, kada rezident Japana ostvari dohodak iz Hrvatske koji se može oporezivati u Hrvatskoj u skladu s odredbama ovog Ugovora, iznos plaćenog hrvatskog poreza u odnosu na taj dohodak dopustit će se kao odbitak od japanskog poreza koji je uveden tom rezidentu. Iznos odbitka, međutim, ne smije biti veći od iznosa japanskog poreza koji je odgovarajući za taj dohodak.

Članak 23.
JEDNAKO POSTUPANJE

1. Državljani države ugovornice neće u drugoj državi ugovornici biti podvrgnuti nikakvom oporezivanju ili s njim povezanim zahtjevima koji su drukčiji ili predstavljaju veći teret od oporezivanja i s njim povezanim zahtjevima kojima podliježu ili mogu podlijegati državljani te druge države ugovornice u istim okolnostima, osobito vezano uz prebivalište. Neovisno o odredbama članka 1., odredbe ovog stavka primjenjuju se i na osobe koje nisu rezidenti jedne ili obiju država ugovornica.

2. Oporezivanje stalne poslovne jedinice koju poduzeće države ugovornice ima u drugoj državi ugovornici, neće biti u toj drugoj državi ugovornici pod manje povoljnim uvjetima od oporezivanja poduzeća te druge države ugovornice koja obavljaju iste djelatnosti. Odredbe ovog stavka neće se tumačiti tako da obvezuje državu ugovornicu da odobri rezidentima druge države ugovornice bilo koje osobne odbitke, olakšice i umanjenja za svrhe oporezivanja na temelju građanskog statusa ili obiteljskih obveza koje ona odobrava vlastitim rezidentima.

3. Osim kada se primjenjuju odredbe stavka 1. članka 9., stavka 7. članka 11., stavka 6. članka 12. ili stavka 3. članka 21., kamata, naknade za autorska prava i druge isplate koje poduzeće države ugovornice isplaćuje rezidentu druge države ugovornice, u svrhu utvrđivanja oporezive dobiti takvog poduzeća, odbijaju se pod istim uvjetima kao da su bile isplaćene rezidentu prvospomenute države ugovornice.

4. Poduzeća države ugovornice, čija je imovina u cijelosti ili djelomično u vlasništvu ili pod izravnom ili neizravnom kontrolom jednog ili više rezidenata druge države ugovornice, u prvospomenutoj državi ugovornici ne podliježu nikakvom oporezivanju ili s tim povezanim zahtjevima koji su drukčiji ili predstavljaju veći teret od oporezivanja i s njim povezanim zahtjevima kojima podliježu ili mogu podlijegati druga slična poduzeća prvospomenute države ugovornice.

5. Odredbe ovog članka primjenjuju se, neovisno o odredbama članka 2., na poreze bilo koje vrste i opisa koji su uvedeni u ime države ugovornice ili njezine političke podjedinice ili lokalne vlasti.

Članak 24.
POSTUPAK ZAJEDNIČKOG DOGOVARANJA

1. Ako osoba smatra da postupci jedne ili obiju država ugovornica kao posljedicu za nju imaju ili će imati oporezivanje koje nije u skladu s odredbama ovog Ugovora, ona može, neovisno o pravnim lijekovima predviđenim domaćim propisima tih država ugovornica, iznijeti svoj slučaj pred nadležno tijelo države ugovornice čiji je rezident ili, ako je njezin slučaj obuhvaćen stavkom 1. članka 23., pred tijelo države ugovornice čiji je državljanin. Slučaj se mora prijaviti u roku od tri godine od prve obavijesti o postupku koji je doveo do oporezivanja koje nije u skladu s odredbama Ugovora.

2. Nadležno tijelo nastoji, ako smatra da je prigovor opravdan i ako samo nije u mogućnosti doći do zadovoljavajućeg rješenja, riješiti slučaj zajedničkim dogovorom s nadležnim tijelom druge države ugovornice, radi izbjegavanja oporezivanja koje nije u skladu s odredbama ovog Ugovora. Svaki postignuti dogovor provodi se neovisno o vremenskim rokovima u domaćim propisima država ugovornica.

3. Nadležna tijela država ugovornica nastoje zajedničkim dogovorom riješiti sve teškoće ili dvojbe proizašle iz tumačenja ili primjene ovog Ugovora. Ona se, također, mogu međusobno savjetovati radi uklanjanja dvostrukog oporezivanja u slučajevima koji nisu predviđeni Ugovorom.

4. Nadležna tijela država ugovornica mogu međusobno komunicirati izravno, kao i putem zajedničkog povjerenstva sastavljenog od njih samih ili njihovih predstavnika, u svrhu postizanja dogovora u smislu prethodnih stavaka ovog članka.

Članak 25.
RAZMJENA OBAVIJESTI

1. Nadležna tijela država ugovornica razmjenjuju takve obavijesti ako je to predvidivo bitno za provedbu odredaba ovog Ugovora ili za provedbu ili izvršavanje unutarnjih propisa koji se odnose na poreze bilo koje vrste i opisa koji su uvedeni u ime države ugovornice ili njezine političke podjedinice ili lokalne vlasti, u mjeri u kojoj oporezivanje prema tim propisima nije u suprotnosti s Ugovorom. Razmjena obavijesti nije ograničena člancima 1. i 2.

2. Svaka obavijest koju prema stavku 1. primi država ugovornica smatra se tajnom na isti način kao i obavijesti pribavljene prema unutarnjim propisima te države ugovornice te se može priopćiti samo osobama ili tijelima (uključujući sudove i upravna tijela) koja se bave obračunom ili naplatom poreza, ovrhom ili progonom u pogledu poreza, odlučivanjem o žalbama koji se odnose na poreze iz stavka 1. ili nadzorom nad gore spomenutim. Te osobe ili tijela koriste se obavijestima samo u navedene svrhe. Oni mogu otkrivati obavijesti u javnom sudskom postupku ili u sudskim odlukama. Neovisno o prethodno navedenom, obavijesti koje zaprimi država ugovornica mogu se koristit u druge svrhe kada se takve obavijesti mogu koristiti za takve druge svrhe prema propisima obje države ugovornice te nadležno tijelo države ugovornice koja daje obavijesti odobri takvo korištenje.

3. Odredbe stavaka 1. i 2. ne mogu se ni u kojem slučaju tumačiti tako da državi ugovornici nameću obvezu da:

   (a) poduzima upravne mjere suprotne propisima ili upravnoj praksi te ili druge države ugovornice;

   (b) dostavlja obavijesti koje se ne mogu dobiti prema propisima ili u uobičajenom postupanju uprave te ili druge države ugovornice;

   (c) dostavlja obavijesti čije bi otkrivanje povrijedilo obvezu čuvanja bilo koje trgovačke, poslovne, industrijske, komercijalne ili profesionalne tajne ili trgovačkih postupaka, ili obavijesti čije bi otkrivanje bilo protivno javnom poretku;

   (d) prikuplja ili pruža obavijesti koje bi otkrile povjerljivu komunikaciju između klijenta i odvjetnika, branitelja ili drugog priznatog pravnog zastupnika kada je takva komunikacija:
   (i) nastala u svrhu traženja ili pružanja pravnog savjeta; ili
   (ii) nastala u svrhu korištenja u postojećim ili predviđenim pravnim postupcima.

4. Ako država ugovornica zatraži obavijesti u skladu s ovim člankom, druga država ugovornica koristi svoje mjere za prikupljanje obavijesti kako bi pribavila tražene obavijesti, iako ta druga država možda ne treba takve obavijesti za svoje vlastite porezne svrhe. Obveza sadržana u prethodnoj rečenici podliježe ograničenjima iz stavka 3., ali ni u kojem slučaju se takva ograničenja neće tumačiti tako da državi ugovornici daju pravo odbiti dostavljanje obavijesti isključivo iz razloga nepostojanja domaćeg zanimanja za takvom obavijesti.

5. Ni u kojem slučaju se odredbe stavka 3. neće tumačiti tako da državi ugovornici daju pravo odbiti dostavljanje obavijesti isključivo iz razloga što tražene obavijesti drži banka, druga financijska institucija, imenovani zastupnik ili osoba koja djeluje kao posrednik ili u fiducijarnom svojstvu ili zato što se odnose na vlasničke udjele u osobi.

Članak 26.
POMOĆ PRI NAPLATI POREZA

1. Države ugovornice pružaju pomoć jedna drugoj pri naplati poreznih potraživanja. Ova pomoć nije ograničena člancima 1. i 2. Nadležna tijela država ugovornica mogu zajedničkim dogovorom urediti način primjene ovog članka.

2. Izraz „porezno potraživanje“, kako se koristi u ovom članku, označava iznos koji se duguje na ime sljedećih poreza, ukoliko to oporezivanje nije u suprotnosti s ovim Ugovorom ili bilo kojim drugim instrumentom čije su stranke države ugovornice, kao i kamatu, upravne kazne i troškove naplate ili osiguranje u vezi s takvim iznosom:

   (a) u slučaju Hrvatske:
      (i) porezi navedeni u podstavku (a) stavka 3. članka 2.;
      (ii) porez na dodanu vrijednost;
      (iii) porez na nasljedstva i darove;
      (iv) porez na promet nekretnina; i
      (v) porez na kuće za odmor;

   (b) u slučaju Japana:
      (i) porezi navedeni u odredbama (i) do (iv) podstavka (b) stavka 3. članka 2.;
      (ii) poseban porez na dobit za obnovu;
      (iii) porez na potrošnju;
      (iv) lokalni porez na potrošnju;
      (v) porez na nasljedstva; i
      (vi) porez na darove;

   (c) svaki drugi porez koji se može dogovoriti s vremena na vrijeme između vlada država ugovornica diplomatskim putem;

   (d) svi istovjetni ili suštinski slični porezi koji su uvedeni nakon datuma potpisivanja Ugovora pored, ili umjesto, poreza navedenih u podstavku (a), (b) ili (c).

3. Kada je porezno potraživanje države ugovornice ovršno prema propisima te države ugovornice, a duguje ga osoba koja u to vrijeme ne može, prema propisima te države ugovornice, spriječiti njegovu naplatu, to se porezno potraživanje, na zahtjev nadležnog tijela te države ugovornice, prihvaća u svrhe naplate od strane nadležnog tijela druge države ugovornice. Ta druga država ugovornica naplaćuje to porezno potraživanje u skladu s odredbama svojih propisa primjenjivih na ovrhu i naplatu svojih vlastitih poreza kao kad se radi o poreznom potraživanju te druge države ugovornice koje je ispunilo uvjete omogućavajući toj drugoj državi ugovornici da podnese zahtjev prema ovom stavku.

4. Kada je porezno potraživanje države ugovornice potraživanje u odnosu na koje ta država ugovornica može, prema svojem pravu, poduzeti mjere osiguranja radi njegove naplate, nadležno tijelo druge države ugovornice prihvaća to porezno potraživanje na zahtjev nadležnog tijela te druge države ugovornice u svrhu poduzimanja mjera osiguranja. Ta druga država ugovornica poduzima mjere osiguranja u odnosu na to porezno potraživanje u skladu s odredbama svojih propisa kao kad se radi o poreznom potraživanju te druge države ugovornice, čak i ako, u vrijeme kad se takve mjere primjenjuju, porezno potraživanje nije ovršno u prvospomenutoj državi ugovornici ili ga duguje osoba koja ima pravo spriječiti njegovu naplatu.

5. Neovisno o odredbama stavaka 3. i 4., porezno potraživanje prihvaćeno od strane nadležnog tijela države ugovornice za potrebe stavaka 3. i 4., neće u toj državi ugovornici biti predmetom vremenskih ograničenja ili uživati bilo kakav prioritet primjenjiv na

porezno potraživanje prema propisima te države ugovornice, iz razloga njegove naravi kao takvog. Dodatno, porezno potraživanje koje prihvati nadležno tijelo država ugovornica za potrebe stavaka 3. ili 4. nema u toj državi ugovornici bilo kakav prioritet primjenjiv na to porezno potraživanje prema propisima druge države ugovornice.

6. Postupci koje država ugovornica provodi pri naplati poreznog potraživanja, koje je nadležno tijelo te države ugovornice prihvatilo u svrhe stavka 3. ili 4., koji bi imali, da ih je provela druga država ugovornica, učinak odgode ili prekida vremenskih rokova primjenjivih na porezno potraživanje u skladu s propisima te druge države ugovornice, imaju takav učinak prema propisima te druge države ugovornice. Nadležno tijelo prvospomenute države ugovornice obavješćuje nadležno tijelo druge države ugovornice o provedbi takvih postupaka.

7. Postupci u vezi s postojanjem, valjanošću ili iznosom poreznog potraživanja države ugovornice ne mogu se podnijeti sudovima ili upravnim tijelima druge države ugovornice.

8. Kada, u bilo kojem trenutku nakon što nadležno tijelo države ugovornice postavi zahtjev sukladno stavcima 3. i 4., a prije nego što je druga država ugovornica naplatila i doznačila prvospomenutoj državi ugovornici odgovarajuće porezno potraživanje, odgovarajuće porezno potraživanje prestaje postojati

   (a) u slučaju zahtjeva prema stavku 3., porezno potraživanje prvospomenute države ugovornice koje je ovršno prema propisima te države ugovornice, a duguje ga osoba koja, u tom trenutku, ne može, prema propisima te države ugovornice, spriječiti njegovu naplatu, ili

   (b) u slučaju zahtjeva prema stavku 4., porezno potraživanje prvospomenute države ugovornice prema kojem ta država ugovornica može, prema svojim propisima, poduzeti mjere osiguranja radi njegove naplate

   nadležno tijelo prvospomenute države ugovornice odmah obavješćuje nadležno tijelo druge države ugovornice o toj činjenici te, prema mišljenju nadležnog tijela druge države ugovornice, nadležno tijelo prvospomenute države ugovornice obustavlja ili povlači svoj zahtjev.

9. Odredbe ovog članka neće se ni u kojem slučaju tumačiti tako da državi ugovornici nameću obvezu da:

   (a) poduzima upravne mjere suprotne propisima i upravnoj praksi te ili druge države ugovornice;

   (b) poduzima mjere koje bi bile protivne javnom poretku;

   (c) pruža pomoć ako druga država ugovornica nije poduzela sve razumne mjere naplate ili osiguranja ovisno o slučaju, koje su joj na raspolaganju prema njezinim propisima ili upravnom praksom;

   (d) pruža pomoć u onim slučajevima kada je upravni teret za tu državu ugovornicu u jasnom nerazmjeru s koristi koju bi ostvarila druga država ugovornica.

Članak 27.
ČLANOVI DIPLOMATSKIH MISIJA I KONZULARNIH UREDA

Ništa u ovom Ugovoru ne utječe na porezne povlastice članova diplomatskih misija ili konzularnih ureda prema općim pravilima međunarodnog prava ili prema odredbama posebnih ugovora.

Članak 28.
PRAVO NA POVLASTICE

1. (a) Ako:

(i) poduzeće države ugovornice ostvaruje dobit iz druge države ugovornice, a prvospomenuta država ugovornica smatra da se ta dobit može pripisati stalnoj poslovnoj jedinici poduzeća koje se nalazi u trećoj jurisdikciji; i

(ii) dobit koja se može pripisati toj stalnoj poslovnoj jedinici je izuzeta od oporezivanja u prvospomenutoj državi ugovornici,

povlastice iz ovog Ugovora ne primjenjuju se na bilo koji dio dobiti za koju porez u trećoj jurisdikciji iznosi manje od 60 posto poreza koji bi bio uveden za taj dio dobiti u prvospomenutoj državi ugovornici da se ta stalna poslovna jedinica nalazi u prvospomenutoj državi ugovornici. U tom slučaju, bilo koja dobit na koju se primjenjuju odredbe ovog stavka ostaje oporeziva sukladno domaćim propisima druge države ugovornice, neovisno o drugim odredbama Ugovora.

(b) Odredbe podstavka (a) ne primjenjuju se ako je dobit ostvarena iz druge države ugovornice, opisana u tom podstavku, stečena u vezi s ili pored aktivnog obavljanja poslovne djelatnosti putem stalne poslovne jedinice (osim poslova ulaganja, upravljanja ili jednostavno držanja ulaganja za vlastiti račun poduzeća, osim ako su te djelatnosti djelatnosti bankarstva, osiguranja ili djelatnosti povezane s vrijednosnicama koje provode banka, osiguravajuće poduzeće odnosno registrirani trgovac vrijednosnim papirima).

(c) Ako su povlastice iz Ugovora uskraćene sukladno odredbama podstavka (a) u pogledu dijela dobiti koju je ostvario rezident države ugovornice, nadležno tijelo druge države ugovornice može, neovisno o tome, dodijeliti te povlastice u pogledu tog dijela dobiti ako, u okviru odgovora na zahtjev koji je podnio taj rezident, to nadležno tijelo utvrdi da je dodjeljivanje povlastica opravdano jer takav rezident nije ispunio zahtjeve podstavaka (a) i (b) (kao što je postojanje gubitaka). Nadležno tijelo države ugovornice kojoj je rezident druge države ugovornice podnio zahtjev na temelju prethodne rečenice savjetuje se s nadležnim tijelom te druge države ugovornice prije odobrenja ili odbijanja zahtjeva.

2. Neovisno o drugim odredbama ovog Ugovora, povlastica iz Ugovora ne dodjeljuje se u pogledu dijela dobiti ako je razumno za zaključiti, uzimajući u obzir sve relevantne činjenice i okolnosti, da je ostvarivanje te povlastice bilo jedna od glavnih svrha svakog aranžmana ili transakcije koja je, izravno ili neizravno, rezultirala tom povlasticom, osim ako je utvrđeno da bi dodjeljivanje te povlastice u tim okolnostima bilo u skladu s predmetom i svrhom relevantnih odredbi Ugovora.

Članak 29.
NASLOVI

Naslovi članaka ovog Ugovora umetnuti su samo zbog praktičnosti upućivanja i ne utječu na tumačenje Ugovora.

Članak 30.
STUPANJE NA SNAGU

1. Svaka država ugovornica dostavlja pisano i diplomatskim putem drugoj državi ugovornici obavijest kojom potvrđuje da su njezini unutarnji postupci potrebni za stupanje na snagu ovog Ugovora dovršeni. Ugovor stupa na snagu tridesetog dana nakon datuma primitka zadnje obavijesti.

2. Ovaj Ugovor proizvodi učinak:

   (a) u odnosu na poreze koji se ubiru na osnovu porezne godine, za poreze za bilo koje porezne godine koje počinju na ili nakon 1. siječnja u kalendarskoj godini koja slijedi onoj u kojoj Ugovor stupa na snagu; i

   (b) u odnosu na poreze koji se ne ubiru na osnovu porezne godine, za poreze koji se ubiru na ili nakon 1. siječnja u kalendarskoj godini koja slijedi onoj u kojoj Ugovor stupa na snagu.

3. Neovisno o odredbama stavka 2., odredbe članaka 25. i 26. proizvode učinak od datuma stupanja na snagu ovog Ugovora bez obzira na datum na koji se porezi ubiru ili poreznu godinu na koju se porezi odnose.

Članak 31.
PRESTANAK

Ovaj Ugovor ostaje na snazi dok ga ne okonča država ugovornica. Bilo koja država ugovornica može okončati Ugovor dostavom obavijesti o okončanju diplomatskim putem drugoj državi ugovornici najmanje šest mjeseci prije kraja bilo koje kalendarske godine koja počinje nakon isteka pet godina od datuma stupanja na snagu Ugovora. U tom slučaju, Ugovor prestaje proizvoditi učinak:

(a) u odnosu na poreze koji se ubiru na osnovu porezne godine, za poreze za bilo koje porezne godine koje počinju na ili nakon 1. siječnja u kalendarskoj godini koja slijedi onoj u kojoj je obavijest dana; i

(b) u odnosu na poreze koji se ne ubiru na osnovu porezne godine, za poreze koji se ubiru na ili nakon 1. siječnja u kalendarskoj godini koja slijedi onoj u kojoj je obavijest dana.

U POTVRDU TOGA niže potpisani, za to propisno ovlašteni, potpisali su ovaj Ugovor.

SASTAVLJENO u dva izvornika u Zagrebu dana devetnaestog listopada 2018. na engleskom jeziku.

Za Republiku Hrvatsku:	**Za Japan:**
dr. sc. Zdravko Marić, v. r. ministar financija	Kenji Yamada, v. r. parlamentarni zamjenik ministra vanjskih poslova Japana

AGREEMENT
BETWEEN
THE REPUBLIC OF CROATIA
AND
JAPAN
FOR THE ELIMINATION OF DOUBLE TAXATION
WITH RESPECT TO TAXES ON INCOME AND THE PREVENTION
OF TAX EVASION AND AVOIDANCE

The Republic of Croatia and Japan,

Desiring to further develop their economic relationship and to enhance their co-operation in tax matters,

Intending to conclude an Agreement for the elimination of double taxation with respect to taxes on income 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 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 Contracting State, as the income of a resident of that Contracting 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 3 of Article 7, paragraph 2 of Article 9 and Articles 18, 19, 22, 23, 24 and 27.

Article 2
TAXES COVERED

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income or on

elements of income, including taxes on gains from the alienation of any 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:

   (a) in Croatia:
   (i) the profit tax;
   (ii) the income tax; and
   (iii) the surtax on the income tax
   (hereinafter referred to as "Croatian tax");

   (b) in Japan:
   (i) the income tax;
   (ii) the corporation tax;
   (iii) the special income tax for reconstruction;
   (iv) the local corporation tax; and
   (v) the local inhabitant taxes
   (hereinafter referred to as "Japanese tax").

4. This Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their taxation laws.

Article 3
GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:

   (a) the term "Croatia" means the Republic of Croatia and, when used in a geographical sense, the territory of the Republic of Croatia as well as those maritime areas adjacent to the outer limit of territorial sea, including the seabed and subsoil thereof, over which the Republic of Croatia in accordance with international law and the laws of the Republic of Croatia exercises its sovereign rights and jurisdiction;

   (b) the term "Japan", when used in a geographical sense, means all the territory of Japan, including its territorial sea, in which the laws relating to Japanese tax are in force, and all the area beyond its territorial sea, including the seabed and subsoil thereof, over which Japan has sovereign rights in accordance with international law and in which the laws relating to Japanese tax are in force;

   (c) the terms "a Contracting State" and "the other Contracting State" mean Croatia or Japan, as the context requires;

   (d) the term "person" includes an individual, a company and any other body of persons;

   (e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;

   (f) the term "enterprise" applies to the carrying on of any business;

   (g) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State

and an enterprise carried on by a resident of the other Contracting State;

(h) the term "international traffic" means any transport by a ship or aircraft except when the ship or aircraft is operated solely between places in a Contracting State and the enterprise that operates the ship or aircraft is not an enterprise of that Contracting State;

(i) the term "competent authority" means:
  (i) in Croatia, the Minister of Finance or his authorised representative; and
  (ii) in Japan, the Minister of Finance or his authorised representative;

(j) the term "national", in relation to a Contracting State, means:
  (i) any individual possessing the nationality of that Contracting State; and
  (ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State;

(k) the term "business" includes the performance of professional services and of other activities of an independent character;

(l) the term "recognised pension fund" of a Contracting State means an entity or arrangement established under the law of that Contracting State that is treated as a separate person under the taxation laws of that Contracting State and:
  (i) that is established and operated exclusively or almost exclusively to administer or provide retirement benefits and ancillary or incidental benefits or other similar remuneration to individuals and that is regulated as such by that Contracting 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 other recognised pension funds of that Contracting State.

  Where an entity or arrangement established under the law of a Contracting State would constitute a recognised pension fund under clause (i) or (ii) if it were treated as a separate person under the taxation laws of that Contracting State, it shall be considered, for the purposes of the Agreement, as a separate person treated as such under the taxation laws of that Contracting State and all the assets and income of the entity or arrangement shall be treated as assets held and income derived by that separate person and not by another person.

2. As regards the application of this Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires or the competent authorities of the Contracting States agree to a different meaning pursuant to the provisions of Article 24, have the meaning that it has at that time under the law of that Contracting State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that Contracting State prevailing over a meaning given to the term under other laws of that Contracting State.

Article 4
RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that Contracting State, is liable to tax therein by reason of his domicile, residence, place of head or main office, place of management or any other criterion of a similar nature, and also includes that Contracting State and any political

subdivision or local authority thereof as well as a recognised pension fund of that Contracting State. This term, however, does not include any person who is liable to tax in that Contracting State in respect only of income from sources in that Contracting State.

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

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

   (b) if the Contracting State 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 State, he shall be deemed to be a resident only of the Contracting State in which he has an habitual abode;

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

   (d) if he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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 this Agreement, having regard to its place of head or main office, its place of registration, 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 the Agreement.

Article 5
PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

   (a) a place of management;

   (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. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.

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 activity not listed in subparagraphs (a) to (d), provided that this activity has a preparatory or auxiliary character; or

   (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination 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 Contracting 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 5 would apply), would not make this fixed place of business a permanent establishment

under the provisions of paragraph 4.

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 Contracting 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. 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 Contracting State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

9. 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
INCOME FROM IMMOVABLE PROPERTY

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

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.

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

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

Article 7
BUSINESS PROFITS

1. Profits of an enterprise of a Contracting State shall be taxable only in that Contracting State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits that are attributable to the permanent establishment in accordance with the provisions of paragraph 2 may be taxed in that other Contracting State.

2. For the purposes of this Article and Article 22, the profits that are attributable in each Contracting State to the permanent establishment referred to in paragraph 1 are the profits it might be expected to make, in particular in its dealings with other parts of the enterprise, if it were a separate and independent enterprise engaged in the same or similar activities under the same or similar conditions, taking into account the functions performed, assets used and risks assumed by the enterprise through the permanent establishment and through the other parts of the enterprise.

3. Where, in accordance with paragraph 2, a Contracting State adjusts the profits that are attributable to a permanent establishment of an enterprise of one of the Contracting States and taxes accordingly profits of the enterprise that have been charged to tax in the other Contracting State, that other Contracting State shall, to the extent necessary to eliminate double taxation on these profits, make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, the competent authorities of the Contracting States shall if necessary consult each other.

4. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8
INTERNATIONAL SHIPPING AND AIR TRANSPORT

1. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that Contracting State.

2. Notwithstanding the provisions of Article 2, an enterprise of a Contracting State shall be exempt, in respect of its carrying on the operation of ships or aircraft in international traffic, from, in the case of an enterprise of Croatia, the enterprise tax of Japan and, in the case of an enterprise of Japan, any tax similar to the enterprise tax of Japan which is imposed after the date of signature of this Agreement in Croatia.

3. The provisions of paragraphs 1 and 2 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9
ASSOCIATED ENTERPRISES

1. Where

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

   (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

   and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that Contracting State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other Contracting State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Contracting State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Contracting State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10
DIVIDENDS

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

2. However, dividends paid by a company which is a resident of a Contracting State may also be taxed in that Contracting State according to the laws of that Contracting State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the dividends.

3. Notwithstanding the provisions of paragraph 2, dividends paid by a company which is a resident of a Contracting State shall be taxable only in the other Contracting State if the beneficial owner of the dividends is a resident of that other Contracting State and is a company which has owned directly or indirectly at least 25 per cent of the voting power of the company paying the dividends throughout a 365 day period that includes the date on which entitlement to the dividends is determined (for the purpose of computing that period, no account shall be taken of changes of ownership that would directly result from a corporate reorganisation, such as a merger or divisive reorganisation, of the company that is the beneficial owner of the dividends or that pays the dividends).

4. (a) A company, being a resident of a Contracting State, shall not be entitled to a benefit that would otherwise be accorded under the provisions of paragraph 3 unless such company is a qualified person, as defined in subparagraph (b), at the time when the benefit would otherwise be accorded.

(b) A company, being a resident of a Contracting State, shall be a qualified person at a time when a benefit referred to in subparagraph (a) would otherwise be accorded if:
(i) at that time, the principal class of its shares is regularly traded on one or more recognised stock exchanges; or
(ii) at that time and on at least half of the days of a twelve month period that includes that time, at least 50 per cent of its shares are directly or indirectly owned by a person or persons who is a resident of that Contracting State and is:
(aa) a company which satisfies the requirement described in clause (i);
(bb) an individual; or
(cc) that Contracting State, a political subdivision or local authority thereof, the central bank of that Contracting State, or an agency or instrumentality of that Contracting State or political subdivision or local authority.

(c) If a company, being a resident of a Contracting State, is not a qualified person, the competent authority of the Contracting State in which a benefit is denied under subparagraph (a) may, nevertheless, grant a benefit referred to in that subparagraph, taking into account the object and purpose of the Agreement, but only if such company demonstrates to the satisfaction of such competent authority that neither its establishment, acquisition or maintenance, nor the conduct of its operations, had as one of its principal purposes the obtaining of such benefit. The competent authority of the Contracting State to which a request has been made under this subparagraph by a company, being a resident of the other Contracting State, shall consult with the competent authority of that other Contracting State before either granting or denying the request.

(d) For the purposes of this paragraph:
(i) the term "principal class of shares" means the class or classes of shares of a company which represents the majority of the aggregate vote and value of the company;
(ii) the term "recognised stock exchange" means:
(aa) any stock exchange established and regulated as such under the laws of either Contracting State; and
(bb) any other stock exchange agreed upon by the competent authorities of the Contracting States.

5. Notwithstanding the provisions of paragraphs 2 and 3, dividends which are deductible in computing the taxable income of the company paying the dividends in the Contracting State of which that company is a resident may be taxed in that Contracting State according to the laws of that Contracting State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.

6. The provisions of paragraphs 2, 3 and 5 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

7. The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other rights which is subjected to the same taxation treatment as income from shares by the laws of the Contracting State of which the company making the distribution is a resident.

8. The provisions of paragraphs 1, 2, 3 and 5 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

9. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other Contracting State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other Contracting State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other Contracting State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other Contracting State.

Article 11
INTEREST

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

2. However, interest arising in a Contracting State may also be taxed in that Contracting State according to the laws of that Contracting State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State shall be taxable only in the other Contracting State if:

   (a) the interest is beneficially owned by that other Contracting State, a political subdivision or local authority thereof, the central bank of that other Contracting State or any institution wholly owned by that other Contracting State or a political subdivision or local authority thereof; or

   (b) the interest is beneficially owned by a resident of that other Contracting State with respect to debt-claims guaranteed, insured or indirectly financed by that other Contracting State, a political subdivision or local authority thereof, the central bank of that other Contracting State or any institution wholly owned by that other Contracting State or a political subdivision or local authority thereof.

4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or

debentures as well as other income that is subjected to the same taxation treatment as income from money lent by the laws of the Contracting State in which the income arises. Income dealt with in Article 10 and penalty charges for late payment shall not, however, be regarded as interest for the purposes of this Article.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein and 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.

6. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that Contracting State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and 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 excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 12
ROYALTIES

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

2. However, royalties arising in a Contracting State may also be taxed in that Contracting State according to the laws of that Contracting State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, or any patent, trade mark, design or model, plan, or secret formula or process, or for information concerning industrial, commercial or scientific experience.

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

5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that Contracting State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a 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 shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and 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 excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 13
CAPITAL GAINS

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

2. Gains from the alienation of any property, other than immovable property referred to in Article 6, forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other Contracting State.

3. Gains that an enterprise of a Contracting State that operates ships or aircraft in international traffic derives from the alienation of such ships or aircraft, or of any property, other than immovable property referred to in Article 6, pertaining to the operation of such ships or aircraft, shall be taxable only in that Contracting State.

4. Gains derived by a resident of a Contracting State from the alienation of shares of a company or comparable interests, such as interests in a partnership or trust, may be taxed in the other Contracting State if, at any time during the 365 days preceding the alienation, these shares or comparable interests derived at least 50 per cent of their value directly or indirectly from immovable property, as defined in Article 6, situated in that other Contracting State, unless such shares or comparable interests are traded on a recognised stock exchange specified in clause (ii) of subparagraph (d) of paragraph 4 of Article 10 and the resident and persons related to that resident own in the aggregate 5 per cent or less of the class of such shares or comparable interests.

5. Gains from the alienation of any property, other than that referred to in paragraphs 1, 2, 3 and 4, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14
INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that Contracting State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Contracting State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned Contracting State if:

   (a) the recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the taxable year concerned, and

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

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

3. Notwithstanding the preceding provisions of this Article, remuneration derived by a resident of a Contracting State in respect of an employment, as a member of the regular complement of a ship or aircraft, that is exercised aboard a ship or aircraft operated in international traffic, other than aboard a ship or aircraft operated solely within the other Contracting State, shall be taxable only in the first-mentioned Contracting State.

Article 15
DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors, or of a similar organ, of a company which is a resident of the other Contracting State may be taxed in that other Contracting State.

Article 16
ENTERTAINERS AND SPORTSPERSONS

1. Notwithstanding the provisions of Article 14, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from that resident's personal activities as such exercised in the other Contracting State, may be taxed in that other Contracting State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsperson acting as such accrues not to the entertainer or sportsperson but to another person, that

income may, notwithstanding the provisions of Article 14, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

Article 17
PENSIONS

Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration beneficially owned by a resident of a Contracting State shall be taxable only in that Contracting State.

Article 18
GOVERNMENT SERVICE

1. (a) Salaries, wages and other similar remuneration paid by a Contracting State or a political subdivision or local authority thereof to an individual in respect of services rendered to that Contracting State or political subdivision or local authority shall be taxable only in that Contracting State.

   (b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that other Contracting State and the individual is a resident of that other Contracting State who:
   (i) is a national of that other Contracting State; or
   (ii) did not become a resident of that other Contracting State solely for the purpose of rendering the services.

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

   (b) However, such pensions and other similar remuneration shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that other Contracting State.

3. The provisions of Articles 14, 15, 16 and 17 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 State or a political subdivision or local authority thereof.

Article 19
STUDENTS

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned Contracting State 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 State, provided that such payments arise from sources outside that Contracting State. The exemption provided by this Article shall apply to a business apprentice only for a period not exceeding one

year from the date on which he first begins his training in that Contracting State.

Article 20
SILENT PARTNERSHIP

Notwithstanding any other provisions of this Agreement, any income derived by a silent partner who is a resident of a Contracting State in respect of a silent partnership (in the case of Croatia, "tajno društvo" and in the case of Japan, "Tokumei Kumiai") contract or another similar contract may be taxed in the other Contracting State according to the laws of that other Contracting State, provided that such income arises in that other Contracting State and is deductible in computing the taxable income of the payer in that other Contracting State.

Article 21
OTHER INCOME

1. Items of income beneficially owned by a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that Contracting State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the beneficial owner of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

3. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the income referred to in paragraph 1 exceeds the amount which would have been agreed upon by the payer and 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 excess part of the income shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 22
ELIMINATION OF DOUBLE TAXATION

1. (a) Where a resident of Croatia derives income which, in accordance with the provisions of this Agreement, may be taxed in Japan, Croatia shall allow as a deduction from the tax on the income of that resident an amount equal to Japanese tax paid in Japan. Such deduction shall not, however, exceed that part of Croatian tax as computed before the deduction is given, which is attributable to the income which may be taxed in Japan.

   (b) Where in accordance with any provision of the Agreement income derived by a resident of Croatia is exempt from tax in Croatia, Croatia may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

2. Subject to the provisions of the laws of Japan regarding the allowance as a credit against Japanese tax of tax payable in any country other than Japan, where a resident of Japan derives income from Croatia which may be taxed in Croatia in accordance with the provisions of this Agreement, the amount of Croatian tax payable in respect of that income shall be allowed as a credit against the Japanese tax imposed on that resident. The amount of credit, however, shall not exceed the amount of the Japanese tax which is appropriate to that income.

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 Contracting State in the same circumstances, in particular with respect to residence, are or may be subjected. The provisions of this paragraph shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other Contracting State than the taxation levied on enterprises of that other Contracting State carrying on the same activities. The provisions of this paragraph shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, paragraph 6 of Article 12 or paragraph 3 of Article 21 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned Contracting State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned Contracting State are or may be subjected.

5. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description imposed on behalf of a Contracting State or of its political subdivisions or local authorities.

Article 24
MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the 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 law of those Contracting States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that 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. 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 State, with a view to the avoidance of taxation which is not in accordance with the provisions of this Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

4. The competent authorities of the Contracting States 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 of this Article.

Article 25
EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement 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 Agreement. 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 Contracting 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 Contracting States and the competent

authority of the Contracting State supplying the information authorises 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;

   (d) to obtain or provide information that would reveal confidential communications between a client and an attorney, solicitor or other admitted legal representative where such communications are:
      (i) produced for the purposes of seeking or providing legal advice; or
      (ii) produced for the purposes of use in existing or contemplated legal proceedings.

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 Contracting 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 26
ASSISTANCE IN THE COLLECTION OF TAXES

1. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article.

2. The term "revenue claim" as used in this Article means an amount owed in respect of the following taxes, insofar as the taxation thereunder is not contrary to this Agreement or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount:

   (a) in the case of Croatia:
      (i) the taxes referred to in subparagraph (a) of paragraph 3 of Article 2;
      (ii) the value added tax;
      (iii) the inheritance and gifts tax;
      (iv) the real estate transfer tax; and

(v) the tax on holiday houses;

(b) in the case of Japan:
(i) the taxes referred to in clauses (i) to (iv) of subparagraph (b) of paragraph 3 of Article 2;
(ii) the special corporation tax for reconstruction;
(iii) the consumption tax;
(iv) the local consumption tax;
(v) the inheritance tax; and
(vi) the gift tax;

(c) any other tax as may be agreed upon from time to time between the Governments of the Contracting States through diplomatic channels;

(d) any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the taxes covered by subparagraph (a), (b) or (c).

3. When a revenue claim of a Contracting State is enforceable under the laws of that Contracting State and is owed by a person who, at that time, cannot, under the laws of that Contracting State, prevent its collection, that revenue claim shall, at the request of the competent authority of that Contracting State, be accepted for purposes of collection by the competent authority of the other Contracting State. That revenue claim shall be collected by that other Contracting State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other Contracting State that met the conditions allowing that other Contracting State to make a request under this paragraph.

4. When a revenue claim of a Contracting State is a claim in respect of which that Contracting State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that Contracting State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other Contracting State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other Contracting State even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned Contracting State or is owed by a person who has a right to prevent its collection.

5. Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by the competent authority of a Contracting State for purposes of paragraph 3 or 4 shall not, in that Contracting State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that Contracting State by reason of its nature as such. In addition, a revenue claim accepted by the competent authority of a Contracting State for the purposes of paragraph 3 or 4 shall not, in that Contracting State, have any priority applicable to that revenue claim under the laws of the other Contracting State.

6. Acts carried out by a Contracting State in the collection of a revenue claim accepted by the competent authority of that Contracting State for purposes of paragraph 3 or 4 which if they were carried out by the other Contracting State would have the effect of suspending or interrupting the time limits applicable to the revenue claim in accordance with the laws of that other Contracting State shall have such effect under the laws of that other

Contracting State. The competent authority of the first-mentioned Contracting State shall inform the competent authority of the other Contracting State of having carried out such acts.

7. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall not be brought before the courts or administrative bodies of the other Contracting State.

8. Where, at any time after a request has been made by the competent authority of a Contracting State under paragraph 3 or 4 and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned Contracting State, the relevant revenue claim ceases to be

   (a) in the case of a request under paragraph 3, a revenue claim of the first-mentioned Contracting State that is enforceable under the laws of that Contracting State and is owed by a person who, at that time, cannot, under the laws of that Contracting State, prevent its collection, or

   (b) in the case of a request under paragraph 4, a revenue claim of the first-mentioned Contracting State in respect of which that Contracting State may, under its laws, take measures of conservancy with a view to ensure its collection

   the competent authority of the first-mentioned Contracting State shall promptly notify the competent authority of the other Contracting State of that fact and, at the option of the competent authority of the other Contracting State, the competent authority of the first-mentioned Contracting 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;

   (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 Contracting State is clearly disproportionate to the benefit to be derived by the other Contracting State.

Article 27
MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

Article 28
ENTITLEMENT TO BENEFITS

1. (a) Where:
   (i) an enterprise of a Contracting State derives income from the other Contracting State and the first-mentioned Contracting State treats such income as attributable to a permanent establishment of the enterprise situated in a third jurisdiction; and

   (ii) the profits attributable to that permanent establishment are exempt from tax in the first-mentioned Contracting State,

   the benefits under this Agreement shall not apply to any item of income on which the tax in the third jurisdiction is less than 60 per cent of the tax that would be imposed in the first-mentioned Contracting State on that item of income if that permanent establishment were situated in the first-mentioned Contracting State. In such a case, any income to which the provisions of this paragraph apply shall remain taxable according to the domestic law of the other Contracting State, notwithstanding any other provisions of the Agreement.

   (b) The provisions of subparagraph (a) shall not apply if the income derived from the other Contracting State described in that subparagraph emanates from, or is incidental to, the active conduct of a business carried on through the permanent establishment (other than the business of making, managing or simply holding investments for the enterprise's own account, unless these activities are banking, insurance or securities activities carried on by a bank, insurance enterprise or registered securities dealer, respectively).

   (c) If the benefits under the Agreement are denied pursuant to the provisions of subparagraph (a) with respect to an item of income derived by a resident of a Contracting State, the competent authority of the other Contracting State may, nevertheless, grant these benefits with respect to that item of income if, in response to a request by such resident, such competent authority determines that granting such benefits is justified in light of the reasons such resident did not satisfy the requirements of subparagraphs (a) and (b) (such as the existence of losses). The competent authority of the Contracting State to which a request has been made under the preceding sentence by a resident of the other Contracting State shall consult with the competent authority of that other Contracting State before either granting or denying the request.

2. Notwithstanding the other provisions of this Agreement, a benefit under the 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 the Agreement.

Article 29
HEADINGS

The headings of the Articles of this Agreement are inserted for convenience of reference only and shall not affect the interpretation of the Agreement.

Article 30
ENTRY INTO FORCE

1. Each of the Contracting States shall send in writing and through diplomatic channels to the other Contracting State the notification confirming that its internal procedures necessary for the entry into force of this Agreement have been completed. The Agreement shall enter into force on the thirtieth day after the date of receipt of the latter notification.

2. This Agreement shall have effect:
   (a) with respect to taxes levied on the basis of a taxable year, for taxes for any taxable years beginning on or after 1 January in the calendar year next following that in which the Agreement enters into force; and
   (b) with respect to taxes levied not on the basis of a taxable year, for taxes levied on or after 1 January in the calendar year next following that in which the Agreement enters into force.

3. Notwithstanding the provisions of paragraph 2, the provisions of Articles 25 and 26 shall have effect from the date of entry into force of this Agreement without regard to the date on which the taxes are levied or the taxable year to which the taxes relate.

Article 31
TERMINATION

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement by giving notice of termination through diplomatic channels to the other Contracting State at least six months before the end of any calendar year beginning after expiry of five years from the date of entry into force of the Agreement. In such event, the Agreement shall cease to have effect:

(a) with respect to taxes levied on the basis of a taxable year, for taxes for any taxable years beginning on or after 1 January in the calendar year next following that in which the notice is given; and

(b) with respect to taxes levied not on the basis of a taxable year, for taxes levied on or after 1 January in the calendar year next following that in which the notice is given.

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

DONE in duplicate at Zagreb this nineteenth day of October, 2018 in the English language.

For the Republic of Croatia:

Zdravko Marić
Minister of Finance

For Japan:

Kenji Yamada
Parliamentary Vice-Minister
for Foreign Affairs

Članak 3.

Provedba ovoga Zakona u djelokrugu je središnjeg tijela državne uprave nadležnog za poslove financija.

Članak 4.

Na dan stupanja na snagu ovoga Zakona, Ugovor iz članka 1. ovoga Zakona nije na snazi te će se podaci o njegovom stupanju na snagu objaviti u skladu s odredbom članka 30. stavka 3. Zakona o sklapanju i izvršavanju međunarodnih ugovora (Narodne novine, broj 28/96).

Članak 5.

Ovaj Zakon stupa na snagu osmoga dana od dana objave u Narodnim novinama.

OBRAZLOŽENJE

Člankom 1. Konačnog prijedloga zakona utvrđuje se da Hrvatski sabor potvrđuje Ugovor, sukladno odredbi članka 140. stavka 1. Ustava Republike Hrvatske (Narodne novine, br. 85/10 – pročišćeni tekst i 5/14 – Odluka Ustavnog suda Republike Hrvatske), čime se iskazuje formalni pristanak Republike Hrvatske da bude vezana ovim Ugovorom, na temelju čega će ovaj pristanak biti iskazan i u odnosima s drugom ugovornom strankom.

Članak 2. Konačnog prijedloga zakona sadrži tekst Ugovora u izvorniku na engleskom jeziku i u prijevodu na hrvatski jezik.

Člankom 3. Konačnog prijedloga zakona o potvrđivanju utvrđuje se da je provedba Zakona u djelokrugu središnjeg tijela državne uprave nadležnog za poslove financija.

Člankom 4. utvrđuje se da na dan stupanja na snagu Zakona, Ugovor nije na snazi te da će se podaci o njegovom stupanju na snagu objaviti sukladno odredbi članka 30. stavka 3. Zakona o sklapanju i izvršavanju međunarodnih ugovora (Narodne novine, broj 28/96).

Člankom 5. uređuje se stupanje na snagu Zakona.

PRILOZI - **Preslika teksta Ugovora u izvorniku na engleskom jeziku**
- **Izvješće o provedenom savjetovanju sa zainteresiranom javnošću**

AGREEMENT
BETWEEN
THE REPUBLIC OF CROATIA
AND
JAPAN
FOR THE ELIMINATION OF DOUBLE TAXATION
WITH RESPECT TO TAXES ON INCOME AND THE PREVENTION
OF TAX EVASION AND AVOIDANCE

The Republic of Croatia and Japan,

Desiring to further develop their economic relationship and to enhance their co-operation in tax matters,

Intending to conclude an Agreement for the elimination of double taxation with respect to taxes on income 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 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 Contracting State, as the income of a resident of that Contracting 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 3 of Article 7, paragraph 2 of Article 9 and Articles 18, 19, 22, 23, 24 and 27.

Article 2
TAXES COVERED

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of any 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:

   (a) in Croatia:
   (i) the profit tax;
   (ii) the income tax; and
   (iii) the surtax on the income tax
   (hereinafter referred to as "Croatian tax");

   (b) in Japan:
   (i) the income tax;
   (ii) the corporation tax;
   (iii) the special income tax for reconstruction;
   (iv) the local corporation tax; and
   (v) the local inhabitant taxes
   (hereinafter referred to as "Japanese tax").

4. This Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their taxation laws.

Article 3
GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:

   (a) the term "Croatia" means the Republic of Croatia and, when used in a geographical sense, the territory of the Republic of Croatia as well as those maritime areas adjacent to the outer limit of territorial sea, including the seabed and subsoil thereof, over which the Republic of Croatia in accordance with international law and the laws of the Republic of Croatia exercises its sovereign rights and jurisdiction;

   (b) the term "Japan", when used in a geographical sense, means all the territory of Japan, including its territorial sea, in which the laws relating to Japanese tax are in force, and all the area beyond its territorial sea, including the seabed and subsoil thereof, over which Japan has sovereign rights in accordance with international law and in which the laws relating to Japanese tax are in force;

   (c) the terms "a Contracting State" and "the other Contracting State" mean Croatia or Japan, as the context requires;

   (d) the term "person" includes an individual, a company and any other body of persons;

   (e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;

   (f) the term "enterprise" applies to the carrying on of any business;

(g) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

(h) the term "international traffic" means any transport by a ship or aircraft except when the ship or aircraft is operated solely between places in a Contracting State and the enterprise that operates the ship or aircraft is not an enterprise of that Contracting State;

(i) the term "competent authority" means:
  (i) in Croatia, the Minister of Finance or his authorised representative; and
  (ii) in Japan, the Minister of Finance or his authorised representative;

(j) the term "national", in relation to a Contracting State, means:
  (i) any individual possessing the nationality of that Contracting State; and
  (ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State;

(k) the term "business" includes the performance of professional services and of other activities of an independent character;

(l) the term "recognised pension fund" of a Contracting State means an entity or arrangement established under the law of that Contracting State that is treated as a separate person under the taxation laws of that Contracting State and:
  (i) that is established and operated exclusively or almost exclusively to administer or provide retirement benefits and ancillary or incidental benefits or other similar remuneration to individuals and that is regulated as such by that Contracting 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 other recognised pension funds of that Contracting State.

  Where an entity or arrangement established under the law of a Contracting State would constitute a recognised pension fund under clause (i) or (ii) if it were treated as a separate person under the taxation laws of that Contracting State, it shall be considered, for the purposes of the Agreement, as a separate person treated as such under the taxation laws of that Contracting State and all the assets and income of the entity or arrangement shall be treated as assets held and income derived by that separate person and not by another person.

2. As regards the application of this Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires or the competent authorities of the Contracting States agree to a different meaning pursuant to the provisions of Article 24, have the meaning that it has at that time under the law of that Contracting State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that Contracting State prevailing over a meaning given to the term under other laws of that Contracting State.

Article 4
RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that Contracting State, is liable to tax therein by reason of his domicile, residence, place of head or main office, place of management or any other criterion of a similar nature, and also includes that Contracting State and any political subdivision or local authority

thereof as well as a recognised pension fund of that Contracting State. This term, however, does not include any person who is liable to tax in that Contracting State in respect only of income from sources in that Contracting State.

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

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

   (b) if the Contracting State 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 State, he shall be deemed to be a resident only of the Contracting State in which he has an habitual abode;

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

   (d) if he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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 this Agreement, having regard to its place of head or main office, its place of registration, 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 the Agreement.

Article 5
PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

   (a) a place of management;

   (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. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.

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 activity not listed in subparagraphs (a) to (d), provided that this activity has a preparatory or auxiliary character; or

   (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination 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 Contracting 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 5 would apply), would not make this fixed place of business a permanent establishment under the provisions of paragraph 4.

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 Contracting 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. 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 Contracting State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

9. 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
INCOME FROM IMMOVABLE PROPERTY

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

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.

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

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

Article 7
BUSINESS PROFITS

1. Profits of an enterprise of a Contracting State shall be taxable only in that Contracting State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits that are attributable to the permanent establishment in accordance with the provisions of paragraph 2 may be taxed in that other Contracting State.

2. For the purposes of this Article and Article 22, the profits that are attributable in each Contracting State to the permanent establishment referred to in paragraph 1 are the profits it might be expected to make, in particular in its dealings with other parts of the enterprise, if it were a separate and independent enterprise engaged in the same or similar activities under the same or similar conditions, taking into account the functions performed, assets used and risks assumed by the enterprise through the permanent establishment and through the other parts of the enterprise.

3. Where, in accordance with paragraph 2, a Contracting State adjusts the profits that are attributable to a permanent establishment of an enterprise of one of the Contracting States and taxes accordingly profits of the enterprise that have been charged to tax in the other Contracting State, that other Contracting State shall, to the extent necessary to eliminate double taxation on these profits, make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, the competent authorities of the Contracting States shall if necessary consult each other.

4. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8
INTERNATIONAL SHIPPING AND AIR TRANSPORT

1. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that Contracting State.

2. Notwithstanding the provisions of Article 2, an enterprise of a Contracting State shall be exempt, in respect of its carrying on the operation of ships or aircraft in international traffic, from, in the case of an enterprise of Croatia, the enterprise tax of Japan and, in the case of an enterprise of Japan, any tax similar to the enterprise tax of Japan which is imposed after the date of signature of this Agreement in Croatia.

3. The provisions of paragraphs 1 and 2 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9
ASSOCIATED ENTERPRISES

1. Where

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

   (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

   and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that Contracting State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other Contracting State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Contracting State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Contracting State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10
DIVIDENDS

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

2. However, dividends paid by a company which is a resident of a Contracting State may also be taxed in that Contracting State according to the laws of that Contracting State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the dividends.

3. Notwithstanding the provisions of paragraph 2, dividends paid by a company which is a resident of a Contracting State shall be taxable only in the other Contracting State if the beneficial owner of the dividends is a resident of that other Contracting State and is a company which has owned directly or indirectly at least 25 per cent of the voting power of the company paying the dividends throughout a 365 day period that includes the date on which entitlement to the dividends is determined (for the purpose of computing that period, no account shall be taken of changes of ownership that would directly result from a corporate reorganisation, such as a merger or divisive reorganisation, of the company that is the beneficial owner of the dividends or that pays the dividends).

4. (a) A company, being a resident of a Contracting State, shall not be entitled to a benefit that would otherwise be accorded under the provisions of paragraph 3 unless such company is a qualified person, as defined in subparagraph (b), at the time when the benefit would otherwise be accorded.

(b) A company, being a resident of a Contracting State, shall be a qualified person at a time when a benefit referred to in subparagraph (a) would otherwise be accorded if:

(i) at that time, the principal class of its shares is regularly traded on one or more recognised stock exchanges; or

(ii) at that time and on at least half of the days of a twelve month period that includes that time, at least 50 per cent of its shares are directly or indirectly owned by a person or persons who is a resident of that Contracting State and is:

(aa) a company which satisfies the requirement described in clause (i);

(bb) an individual; or

(cc) that Contracting State, a political subdivision or local authority thereof, the central bank of that Contracting State, or an agency or instrumentality of that Contracting State or political subdivision or local authority.

(c) If a company, being a resident of a Contracting State, is not a qualified person, the competent authority of the Contracting State in which a benefit is denied under subparagraph (a) may, nevertheless, grant a benefit referred to in that subparagraph, taking into account the object and purpose of the Agreement, but only if such company demonstrates to the satisfaction of such competent authority that neither its establishment, acquisition or maintenance, nor the conduct of its operations, had as one of its principal purposes the obtaining of such benefit. The competent authority of the Contracting State to which a request has been made under this subparagraph by a company, being a resident of the other Contracting State, shall consult with the competent authority of that other Contracting State before either granting or denying the request.

(d) For the purposes of this paragraph:

(i) the term "principal class of shares" means the class or classes of shares of a company which represents the majority of the aggregate vote and value of the company;

(ii) the term "recognised stock exchange" means:

(aa) any stock exchange established and regulated as such under the laws of either Contracting State; and

(bb) any other stock exchange agreed upon by the competent authorities of the Contracting States.

5. Notwithstanding the provisions of paragraphs 2 and 3, dividends which are deductible in computing the taxable income of the company paying the dividends in the Contracting State of which that company is a resident may be taxed in that Contracting State according to the laws of that Contracting State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.

6. The provisions of paragraphs 2, 3 and 5 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

7. The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other rights which is subjected to the same taxation treatment as income from shares by the laws of the Contracting State of which the company making the distribution is a resident.

8. The provisions of paragraphs 1, 2, 3 and 5 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

9. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other Contracting State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other Contracting State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other Contracting State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other Contracting State.

Article 11
INTEREST

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

2. However, interest arising in a Contracting State may also be taxed in that Contracting State according to the laws of that Contracting State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State shall be taxable only in the other Contracting State if:

   (a) the interest is beneficially owned by that other Contracting State, a political subdivision or local authority thereof, the central bank of that other Contracting State or any institution wholly owned by that other Contracting State or a political subdivision or local authority thereof; or

   (b) the interest is beneficially owned by a resident of that other Contracting State with respect to debt-claims guaranteed, insured or indirectly financed by that other Contracting State, a political subdivision or local authority thereof, the central bank of that other Contracting State or any institution wholly owned by that other Contracting State or a political subdivision or local authority thereof.

4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures as well as other income that is subjected to the same taxation treatment as income from money lent by the laws of the Contracting State in which the income arises. Income dealt with in Article 10 and penalty charges for late payment shall not, however, be regarded as interest for the purposes of this Article.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein and 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.

6. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that Contracting State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and 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 excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 12
ROYALTIES

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

2. However, royalties arising in a Contracting State may also be taxed in that Contracting State according to the laws of that Contracting State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, or any patent, trade mark, design or model, plan, or secret formula or process, or for information concerning industrial, commercial or scientific experience.

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

5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that Contracting State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a 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 shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and 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 excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 13
CAPITAL GAINS

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

2. Gains from the alienation of any property, other than immovable property referred to in Article 6, forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other Contracting State.

3. Gains that an enterprise of a Contracting State that operates ships or aircraft in international traffic derives from the alienation of such ships or aircraft, or of any property, other than immovable property referred to in Article 6, pertaining to the operation of such ships or aircraft, shall be taxable only in that Contracting State.

4. Gains derived by a resident of a Contracting State from the alienation of shares of a company or comparable interests, such as interests in a partnership or trust, may be taxed in the other Contracting State if, at any time during the 365 days preceding the alienation, these shares or comparable interests derived at least 50 per cent of their value directly or indirectly from immovable property, as defined in Article 6, situated in that other Contracting State, unless such shares or comparable interests are traded on a recognised stock exchange specified in clause (ii) of subparagraph (d) of paragraph 4 of Article 10 and the resident and persons related to that resident own in the aggregate 5 per cent or less of the class of such shares or comparable interests.

5. Gains from the alienation of any property, other than that referred to in paragraphs 1, 2, 3 and 4, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14
INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that Contracting State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Contracting State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned Contracting State if:

   (a) the recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the taxable year concerned, and

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

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

3. Notwithstanding the preceding provisions of this Article, remuneration derived by a resident of a Contracting State in respect of an employment, as a member of the regular complement of a ship or aircraft, that is exercised aboard a ship or aircraft operated in international traffic, other than aboard a ship or aircraft operated solely within the other Contracting State, shall be taxable only in the first-mentioned Contracting State.

Article 15
DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors, or of a similar organ, of a company which is a resident of the other Contracting State may be taxed in that other Contracting State.

Article 16
ENTERTAINERS AND SPORTSPERSONS

1. Notwithstanding the provisions of Article 14, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from that resident's personal activities as such exercised in the other Contracting State, may be taxed in that other Contracting State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsperson acting as such accrues not to the entertainer or sportsperson but to another person, that income may, notwithstanding the provisions of Article 14, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

Article 17
PENSIONS

Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration beneficially owned by a resident of a Contracting State shall be taxable only in that Contracting State.

Article 18
GOVERNMENT SERVICE

1. (a) Salaries, wages and other similar remuneration paid by a Contracting State or a political subdivision or local authority thereof to an individual in respect of services rendered to that Contracting State or political subdivision or local authority shall be taxable only in that Contracting State.

   (b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that other Contracting State and the individual is a resident of that other Contracting State who:
   (i) is a national of that other Contracting State; or
   (ii) did not become a resident of that other Contracting State solely for the purpose of rendering the services.

2. (a) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds which are created by or to which contributions are made by, a Contracting State or a political subdivision or local authority thereof to an individual in respect of services rendered to that Contracting S tate or political subdivision or local authority shall be taxable only in that Contracting State.

   (b) However, such pensions and other similar remuneration shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that other Contracting State.

3. The provisions of Articles 14, 15, 16 and 17 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 State or a political subdivision or local authority thereof.

Article 19
STUDENTS

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned Contracting State 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 State, provided that such payments arise from sources outside that Contracting State. The exemption provided by this Article shall apply to a business apprentice only for a period not exceeding one year from the date on which he first begins his training in that Contracting State.

Article 20
SILENT PARTNERSHIP

Notwithstanding any other provisions of this Agreement, any income derived by a silent partner who is a resident of a Contracting State in respect of a silent partnership (in the case of Croatia, "tajno društvo" and in the case of Japan, "Tokumei Kumiai") contract or another similar contract may be taxed in the other Contracting State according to the laws of that other Contracting State, provided that such income arises in that other Contracting State and is deductible in computing the taxable income of the payer in that other Contracting State.

Article 21
OTHER INCOME

1. Items of income beneficially owned by a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that Contracting State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the beneficial owner of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

3. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the income referred to in paragraph 1 exceeds the amount which would have been agreed upon by the payer and the beneficial owner jn the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the income shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 22
ELIMINATION OF DOUBLE TAXATION

1. (a) Where a resident of Croatia derives income which, in accordance with the provisions of this Agreement, may be taxed in Japan, Croatia shall allow as a deduction from the tax on the income of that resident an amount equal to Japanese tax paid in Japan. Such deduction shall not, however, exceed that part of Croatian tax as computed before the deduction is given, which is attributable to the income which may be taxed in Japan.

   (b) Where in accordance with any provision of the Agreement income derived by a resident of Croatia is exempt from tax in Croatia, Croatia may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

2. Subject to the provisions of the laws of Japan regarding the allowance as a credit against Japanese tax of tax payable in any country other than Japan, where a resident of Japan derives income from Croatia which may be taxed in Croatia in accordance with the provisions of this Agreement, the amount of Croatian tax payable in respect of that income shall be allowed as a credit against the Japanese tax imposed on that resident. The amount of credit, however, shall not exceed the amount of the Japanese tax which is appropriate to that income.

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 Contracting State in the same circumstances, in particular with respect to residence, are or may be subjected. The provisions of this paragraph shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other Contracting State than the taxation levied on enterprises of that other Contracting State carrying on the same activities. The provisions of this paragraph shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, paragraph 6 of Article 12 or paragraph 3 of Article 21 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductibie under the same conditions as if they had been paid to a resident of the first-mentioned Contracting State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned Contracting State are or may be subjected.

5. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description imposed on behalf of a Contracting State or of its political subdivisions or local authorities.

Article 24
MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the 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 law of those Contracting States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that 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. 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 State, with a view to the avoidance of taxation which is not in accordance with the provisions of this Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

4. The competent authorities of the Contracting States 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 of this Article.

Article 25
EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement 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 Agreement. 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 Contracting 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 Contracting States and the competent authority of the Contracting State supplying the information authorises 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;

(d) to obtain or provide information that would reveal confidential communications between a client and an attorney, solicitor or other admitted legal representative where such communications are:
   (i) produced for the purposes of seeking or providing legal advice; or
   (ii) produced for the purposes of use in existing or contemplated legal proceedings.

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 Contracting 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 26
ASSISTANCE IN THE COLLECTION OF TAXES

1. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article.

2. The term "revenue claim" as used in this Article means an amount owed in respect of the following taxes, insofar as the taxation thereunder is not contrary to this Agreement or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount:

   (a) in the case of Croatia:
      (i) the taxes referred to in subparagraph (a) of paragraph 3 of Article 2;
      (ii) the value added tax;
      (iii) the inheritance and gifts tax;
      (iv) the real estate transfer tax; and
      (v) the tax on holiday houses;

   (b) in the case of Japan:
      (i) the taxes referred to in clauses (i) to (iv) of subparagraph (b) of paragraph 3 of Article 2;
      (ii) the special corporation tax for reconstruction;
      (iii) the consumption tax;
      (iv) the local consumption tax;
      (v) the inheritance tax; and
      (vi) the gift tax;

   (c) any other tax as may be agreed upon from time to time between the Governments of the Contracting States through diplomatic channels;

   (d) any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the taxes covered by subparagraph (a), (b) or (c).

3. When a revenue claim of a Contracting State is enforceable under the laws of that Contracting State and is owed by a person who, at that time, cannot, under the laws of that Contracting State, prevent its collection, that revenue claim shall, at the request of the competent authority of that Contracting State, be accepted for purposes of collection by the competent authority of the other Contracting State. That revenue claim shall be collected by that other Contracting State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other Contracting State that met the conditions allowing that other Contracting State to make a request under this paragraph.

4. When a revenue claim of a Contracting State is a claim in respect of which that Contracting State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that Contracting State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other Contracting State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other Contracting State even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned Contracting State or is owed by a person who has a right to prevent its collection.

5. Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by the competent authority of a Contracting State for purposes of paragraph 3 or 4 shall not, in that Contracting State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that Contracting State by reason of its nature as such. In addition, a revenue claim accepted by the competent authority of a Contracting State for the purposes of paragraph 3 or 4 shall not, in that Contracting State, have any priority applicable to that revenue claim under the laws of the other Contracting State.

6. Acts carried out by a Contracting State in the collection of a revenue claim accepted by the competent authority of that Contracting State for purposes of paragraph 3 or 4 which if they were carried out by the other Contracting State would have the effect of suspending or interrupting the time limits applicable to the revenue claim in accordance with the laws of that other Contracting State shall have such effect under the laws of that other Contracting State. The competent authority of the first-mentioned Contracting State shall inform the competent authority of the other Contracting State of having carried out such acts.

7. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall not be brought before the courts or administrative bodies of the other Contracting State.

8. Where, at any time after a request has been made by the competent authority of a Contracting State under paragraph 3 or 4 and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned Contracting State, the relevant revenue claim ceases to be

   (a) in the case of a request under paragraph 3, a revenue claim of the first-mentioned Contracting State that is enforceable under the laws of that Contracting State and is owed by a person who, at that time, cannot, under the laws of that Contracting State, prevent its collection, or

(b) in the case of a request under paragraph 4, a revenue claim of the first-mentioned Contracting State in respect of which that Contracting State may, under its laws, take measures of conservancy with a view to ensure its collection

the competent authority of the first-mentioned Contracting State shall promptly notify the competent authority of the other Contracting State of that fact and, at the option of the competent authority of the other Contracting State, the competent authority of the first-mentioned Contracting 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;

(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 Contracting State is clearly disproportionate to the benefit to be derived by the other Contracting State.

Article 27
MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

Article 28
ENTITLEMENT TO BENEFITS

1. (a) Where:
(i) an enterprise of a Contracting State derives income from the other Contracting State and the first-mentioned Contracting State treats such income as attributable to a permanent establishment of the enterprise situated in a third jurisdiction; and
(ii) the profits attributable to that permanent establishment are exempt from tax in the first-mentioned Contracting State,

the benefits under this Agreement shall not apply to any item of income on which the tax in the third jurisdiction is less than 60 per cent of the tax that would be imposed in the first-mentioned Contracting State on that item of income if that permanent establishment were situated in the first-mentioned Contracting State. In such a case, any income to which the provisions of this paragraph apply shall remain taxable according to the domestic law of the other Contracting State, notwithstanding any other provisions of the Agreement.

(b) The provisions of subparagraph (a) shall not apply if the income derived from the other Contracting State described in that subparagraph emanates from, or is incidental to, the active conduct of a business carried on through the permanent establishment (other than the business of making, managing or simply holding investments for the enterprise's own account, unless these activities are banking, insurance or securities activities carried on by a bank, insurance enterprise or registered securities dealer, respectively).

(c) If the benefits under the Agreement are denied pursuant to the provisions of subparagraph (a) with respect to an item of income derived by a resident of a Contracting State, the competent authority of the other Contracting State may, nevertheless, grant these benefits with respect to that item of income if, in response to a request by such resident, such competent authority determines that granting such benefits is justified in light of the reasons such resident did not satisfy the requirements of subparagraphs (a) and (b) (such as the existence of losses). The competent authority of the Contracting State to which a request has been made under the preceding sentence by a resident of the other Contracting State shall consult with the competent authority of that other Contracting State before either granting or denying the request.

2. Notwithstanding the other provisions of this Agreement, a benefit under the 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 the Agreement.

Article 29
HEADINGS

The headings of the Articles of this Agreement are inserted for convenience of reference only and shall not affect the interpretation of the Agreement.

Article 30
ENTRY INTO FORCE

1. Each of the Contracting States shall send in writing and through diplomatic channels to the other Contracting State the notification confirming that its internal procedures necessary for the entry into force of this Agreement have been completed. The Agreement shall enter into force on the thirtieth day after the date of receipt of the latter notification.

2. This Agreement shall have effect:

   (a) with respect to taxes levied on the basis of a taxable year, for taxes for any taxable years beginning on or after 1 January in the calendar year next following that in which the Agreement enters into force; and

   (b) with respect to taxes levied not on the basis of a taxable year, for taxes levied on or after 1 January in the calendar year next following that in which the Agreement enters into force.

3. Notwithstanding the provisions of paragraph 2, the provisions of Articles 25 and 26 shall have effect from the date of entry into force of this Agreement without regard to the date on which the taxes are levied or the taxable year to which the taxes relate.

Article 31
TERMINATION

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement by giving notice of termination through diplomatic channels to the other Contracting State at least six months before the end of any calendar year beginning after expiry of five years from the date of entry into force of the Agreement. In such event, the Agreement shall cease to have effect:

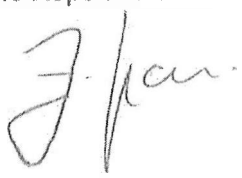
(a) with respect to taxes levied on the basis of a taxable year, for taxes for any taxable years beginning on or after 1 January in the calendar year next following that in which the notice is given; and

(b) with respect to taxes levied not on the basis of a taxable year, for taxes levied on or after 1 January in the calendar year next following that in which the notice is given.

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

DONE in duplicate at Zagreb this nineteenth day of October, 2018 in the English language.

For the Republic of Croatia:



For Japan:

OBRAZAC IZVJEŠĆA O PROVEDENOM SAVJETOVANJU SA ZAINTERESIRANOM JAVNOŠĆU	
Naslov dokumenta	Izvješće o provedenom savjetovanju sa zainteresiranom javnošću o Konačnom prijedlogu Zakona o potvrđivanju Ugovora između Republike Hrvatske i Japana o uklanjanju dvostrukog oporezivanja porezima na dohodak te sprječavanju porezne utaje i izbjegavanja plaćanja poreza
Stvaratelj dokumenta, tijelo koje provodi savjetovanje	Ministarstvo financija, Porezna uprava
Svrha dokumenta	Izvješćivanje o provedenom javnom savjetovanju sa zainteresiranom javnošću o Konačnom prijedlogu Zakona o potvrđivanju Ugovora između Republike Hrvatske i Japana o uklanjanju dvostrukog oporezivanja porezima na dohodak te sprječavanju porezne utaje i izbjegavanja plaćanja poreza
Datum dokumenta	20. ožujka 2019.
Verzija dokumenta	1.
Vrsta dokumenta	Izvješće
Naziv nacrta zakona, drugog propisa ili akta	Konačni prijedlog Zakona o potvrđivanju Ugovora između Republike Hrvatske i Japana o uklanjanju dvostrukog oporezivanja porezima na dohodak te sprječavanju porezne utaje i izbjegavanja plaćanja poreza
Jedinstvena oznaka iz Plana donošenja zakona, drugih propisa i akata objavljenog na internetskim stranicama Vlade	-
Naziv tijela nadležnog za izradu nacrta	Ministarstvo financija, Porezna uprava
Koji su predstavnici zainteresirane javnosti bili uključeni u postupak izrade odnosno u rad stručne radne skupine za izradu nacrta?	-
Je li nacrt bio objavljen na internetskim stranicama ili na drugi odgovarajući način?	Konačni prijedlog bio je objavljen na internetskim stranicama Ministarstva financija te na portalu eSavjetovanja (www.savjetovanja.gov.hr).
Ako jest, kada je nacrt objavljen, na kojoj internetskoj stranici i koliko je vremena ostavljeno za savjetovanje?	Savjetovanje sa zainteresiranom javnosti trajalo je od 14. veljače do 17. ožujka 2019.
Ako nije, zašto?	
Koji su predstavnici zainteresirane javnosti dostavili svoja očitovanja?	Josip Vinković

ANALIZA DOSTAVLJENIH PRIMJEDBI Primjedbe koje su prihvaćene Primjedbe koje nisu prihvaćene i obrazloženje razloga za neprihvaćanje	Tijekom razdoblja Javnog savjetovanja zaprimljena je jedna primjedba / prijedlog na Konačni prijedlog Zakona o potvrđivanju Ugovora između Republike Hrvatske i Japana o uklanjanju dvostrukog oporezivanja porezima na dohodak te sprječavanju porezne utaje i izbjegavanja plaćanja poreza. Porezni obveznik Josip Vinković postavio je pitanje / primjedbu dana 21. veljače 2019.: "Načelo izuzimanja ne valja, Treba primijeniti načelo oslobađanja kao npr. s Njemačkom." Isto je primljeno na znanje. Nije jasna primjedba/prijedlog jer suprotstavlja načelo „izuzimanja" i načelo „oslobađanja" koje davatelj komentara nalazi u ugovoru o izbjegavanju dvostrukog oporezivanja sa SR Njemačkom. U odnosnom Ugovoru, sklopljenim sa SR Njemačkom, primjenjuje se upravo načelo „izuzimanja" kao prevladavajuće načelo izbjegavanja dvostrukog oporezivanja, uz dopunsku primjenu načela „uračunavanja" (odbitka) za određene slučajeve, pa možemo zaključiti da su od strane davatelja komentara navedena načela „izuzimanja" i „oslobađanja" sinonimi za načelo „izuzimanja". U Ugovoru između Republike Hrvatske i Japana o uklanjanju dvostrukog oporezivanja porezima na dohodak te sprječavanju porezne utaje i izbjegavanja plaćanja poreza ne primjenjuje se načelo „izuzimanja" nego načelo „uračunavanja" poreza plaćenog u inozemstvu, koje se koristi u svim novijim ugovorima o izbjegavanju dvostrukog oporezivanja koje Republika Hrvatska sklapa.
Troškovi provedenog savjetovanja	Provedba javnog savjetovanja nije iziskivala dodatne financijske troškove.