

## TREATY USA - SLOVENIA

### *CONVENTION BETWEEN THE REPUBLIC OF SLOVENIA AND THE UNITED STATES OF AMERICA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL*

#### **ARTICLE 22 Limitation on Benefits**

- 1) A resident of a Contracting State shall be entitled to benefits otherwise accorded to residents of a Contracting State by this Convention only to the extent provided in this Article.
- 2) A resident of a Contracting State shall be entitled to all the benefits of this Convention if the resident is:
  - a) an individual;
  - b) a qualified governmental entity;
  - c) a company, if
    - (i) all the shares in the class or classes of shares representing more than 50 percent of the voting power and value of the company are regularly traded on a recognized stock exchange, or
    - (ii) at least 50 percent of each class of shares in the company is owned directly or indirectly by five or fewer companies entitled to benefits under clause i), provided that in the case of indirect ownership, each intermediate owner is a person entitled to benefits of the Convention under this paragraph;
  - d) described in subparagraph 1 c)(i) of Article 4 (Residence);
  - e) described in subparagraph 1 c)(ii) of Article 4 (Residence), provided that more than 50 percent of the person's beneficiaries, members or participants are individuals resident in either Contracting State; or
  - f) a person other than an individual, if:
    - (i) On at least half the days of the taxable year persons described in subparagraphs a), b), c), d) or e) own, directly or indirectly (through a chain of ownership in which each person is entitled to benefits of the Convention under this paragraph), at least 50 percent of each class of shares or other beneficial interests in the person, and
    - (ii) less than 50 percent of the person's gross income for the taxable year is paid or accrued, directly or indirectly, to persons who are not

residents of either Contracting State (unless the payment is attributable to a permanent establishment situated in either State), in the form of payments that are deductible for income tax purposes in the person's State of residence.

- 3)
  - a) A resident of a Contracting State not otherwise entitled to benefits shall be entitled to the benefits of this Convention with respect to an item of income derived from the other State, if:
    - (i) the resident is engaged in the active conduct of a trade or business in the first-mentioned State (other than the business of making or managing investments, unless the activity is banking, insurance or securities activity conducted by a bank, insurance company or registered securities dealer),
    - (ii) the income is connected with or incidental to the trade or business, and
    - (iii) the trade or business is substantial in relation to the activity in the other State generating the income.
  - b) Income is derived in connection with a trade or business if the activity in the other State generating the income is a line of business that forms a part of or is complementary to the trade or business. Income is incidental to a trade or business if it facilitates the conduct of the trade or business in the other State.
- 4) A resident of a Contracting State not otherwise entitled to benefits may be granted benefits of the Convention if the competent authority of the State from which benefits are claimed so determines.
- 5) For purposes of this Article the term "recognized stock exchange" means:
  - a) the NASDAQ System owned by the National Association of Securities Dealers, Inc. and any stock exchange registered with the U.S. Securities and Exchange Commission as a national securities exchange under the U.S. Securities Exchange Act of 1934;
  - b) the Ljubljana Stock Exchange; and
  - c) the stock exchanges of Frankfurt, London, Paris and Vienna, and any other stock exchanges agreed upon by the competent authorities of both Contracting States.