

MINUTES OF THE SIGNING
OF THE CONVENTION
ON THE ACCESSION OF THE CZECH REPUBLIC,
THE REPUBLIC OF ESTONIA, THE REPUBLIC OF CYPRUS,
THE REPUBLIC OF LATVIA, THE REPUBLIC OF LITHUANIA,
THE REPUBLIC OF HUNGARY, THE REPUBLIC OF MALTA,
THE REPUBLIC OF POLAND, THE REPUBLIC OF SLOVENIA
AND THE SLOVAK REPUBLIC
TO THE CONVENTION
ON THE ELIMINATION OF DOUBLE TAXATION IN CONNECTION WITH
THE ADJUSTMENT OF PROFITS OF ASSOCIATED ENTERPRISES

The Plenipotentiaries of the Kingdom of Belgium, the Czech Republic, the Kingdom of Denmark, the Republic of Estonia, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland have, on 08/12/2004 in Brussels, signed the Convention on the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises.

On this occasion they have taken note of the following unilateral Declarations:

- I. Declaration on Article 7 of the Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises

Declaration by Belgium, the Czech Republic, Latvia, Hungary, Poland, Portugal, Slovakia and Slovenia on Article 7 of the Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises

Belgium, the Czech Republic, Latvia, Hungary, Poland, Portugal, Slovakia and Slovenia declare that they will apply Article 7(3).

- II. Declarations on Article 8 of the Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises:

1. Declaration by the Republic of Cyprus:

The term "serious penalty" includes penalties for:

- (a) fraudulently or wilfully making or submitting a false statement, return, document or declaration in respect of income or claims to any allowances or deductions;

- (b) fraudulently or wilfully submitting false accounts;
- (c) refusing, failing or neglecting to submit a tax return;
- (d) refusing, failing or neglecting to keep proper records or to make documents and records available for inspection;
- (e) aiding, assisting, counselling, inciting or inducing a person to make, deliver or furnish any return, statement, claim, accounts or document, or to keep or prepare any accounts or documents, which is or are materially false.

The legislative provisions governing the above mentioned penalties are included in the Assessment and Collection of Taxes Laws.

2. Declaration by the Czech Republic:

An infringement of the tax laws punishable by "serious penalty" is constituted by any infringement of the tax laws penalised by detention, criminal or administrative fines. For these purposes, by "infringement of the tax law" is meant:

- (a) Failing to pay the charged taxes, social insurance taxes, health insurance taxes and fees paid for state policy of employment;

(b) Tax or similar payment evasion;

(c) Failing in fulfilling notification duty.

3. Declaration by the Republic of Estonia:

The term "serious penalty" will be interpreted as signifying criminal penalties for tax fraud pursuant to Estonian domestic law (Penal Code).

4. Declaration by the Hellenic Republic:

The definition of serious penalty, provided by the Hellenic Republic in 1990, is hereby replaced by the following:

"The term "serious penalties" includes administrative penalties for serious tax infringements, as well as criminal penalties for offences committed with respect to the tax laws in accordance with the relevant provisions of the Code of Books and Records, of the Income Tax Code, as well as all specific provisions which define the administrative and criminal penalties in tax law."

5. Declaration by the Republic of Hungary:

The term "serious penalty" means criminal penalties established in relation to criminal tax offences, or tax penalties in relation to tax defaults in excess of HUF 50 million.

6. Declaration by the Republic of Latvia:

The term "serious penalties" means administrative penalties for serious tax infringements, as well as criminal penalties.

7. Declaration by the Republic of Lithuania:

The term "serious penalties" includes criminal penalties and administrative penalties such as penalties for lack of good faith and for opposition to tax inspection.

8. Declaration by the Republic of Malta:

The term "serious penalty" means a penalty, whether administrative or criminal, imposed on a person who wilfully with intent to evade tax or to assist any other person to evade tax:

- (a) omits from a return or any other document or statement made, prepared or submitted for the purposes of or under the Income Tax Acts, any income which should be included therein; or

- (b) makes any false statement or entry in any return or other document or statement prepared or submitted for the purposes of or under the Income Tax Acts; or
- (c) gives any false answer, whether verbally or in writing, to any question or request for information asked or made in accordance with the provisions of the Income Tax Acts; or
- (d) prepares or maintains or authorises the preparation or maintenance of any false books of account or other records or falsifies or authorises the falsification of any books of account or records; or
- (e) makes use of any fraud, art or contrivance whatever or authorises the use of any such fraud, art or contrivance.

9. Declaration by the Kingdom of the Netherlands:

The definition of serious penalty, provided by the Kingdom of the Netherlands in 1990, is hereby replaced by the following:

"The term "a serious penalty" means a penalty imposed by a court due to intentionally committing an offence as listed in Article 68(2), or Article 69(1) or (2), of the General Tax Act."

10. Declaration by the Portuguese Republic:

The definition of serious penalty, provided by the Portuguese Republic in 1990, is hereby replaced by the following:

"The term "serious penalties" includes criminal penalties as well as administrative penalties applicable to tax infringements defined by law as serious or committed with intent to defraud."

11. Declaration by the Republic of Poland:

The term "serious penalty" means penalty of fine, penalty of imprisonment or both of them imposed jointly, or penalty of deprivation of liberty for culpable infringement of tax law provisions by a taxpayer.

12. Declaration by the Republic of Slovenia:

The concept of "serious penalty" means a penalty for any infringement of tax law.

13. Declaration by the Slovak Republic:

The term "serious penalty" means the term "fine" for breach of tax liability understood as a charge imposed according to the Tax Administration Act No 511/1992 of Coll. as amended, pertinent tax laws or the Act on Accounting and the term "penalty" means a penalty imposed according to the Criminal Code for the criminal charges committed in relation to breach of the abovementioned laws.
