
TECHNICAL

Direct Tax

[DOUBLE TAXATION RELIEF \(THE GOVERNMENT OF THE SLOVAK REPUBLIC\) ORDER 2015 \[P.U.\(A\)256/2015\]](#)

The above Order was gazetted on 30 October 2015. Paragraph 2 of the Order states:

"It is declared that the arrangements specified in the Schedule have been made by the Government of Malaysia with the Government of the Slovak Republic with a view to affording relief from double taxation in relation to Malaysian tax and Slovak tax (as defined in each case in the arrangements) and that it is expedient that those arrangements shall have effect."

The schedule to the Order contains the text of the following:

Agreement Between The Government of Malaysia And The Government of The Slovak Republic For The Avoidance Of Double Taxation And The Prevention Of Fiscal Evasion With Respect To Taxes On Income.

The following are some salient provisions of the Agreement:

1. Existing taxes covered by the Agreement (Article 2) are:
 - a. In Malaysia – income tax and petroleum income tax;
 - b. In the Slovak Republic – the tax on income.
2. Rules for the taxation of the following sources of income are laid out in the Articles indicated in the table below:

Income Source	Article	Remarks	Rate of tax
Income from immovable property	6	Income derived by a resident of one contracting state (CS) from immovable property (including income from agriculture or forestry) situated in the other CS may be taxed in the other CS.	
Business profits	7	Profits of an enterprise of a CS is only taxable in that CS unless the enterprise carries on business in the other CS through a permanent establishment (P.E.) situated therein. In that case, profits of the enterprise may be taxed in the other CS but only so much as is attributable to that P.E.	
Shipping and air transport	8	Profits of an enterprise of a CS from operation of ships and aircraft in international traffic is taxable only in that CS.	

Associated enterprises	9	Where conditions are made or imposed in the commercial or financial relations, between an enterprise of a CS which is <i>associated</i> [as defined in para. 1(a) and 1(b)] with an enterprise of the other CS, 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, (Refer to Article 9 for more details.)	
Dividends	10	Dividends paid by a company which is a resident of one CS, to a resident of the other CS, may be taxed in that other CS (para. 1) or, subject to conditions (para.2), may be taxed in the state of residence of the payer. (Exception to these paragraphs are set out in para. 4)	0% or 5%
Interest	11	Interest arising in a CS and paid to a resident of the other CS may be taxed in the other CS (para.1), or, subject to conditions (para. 2), may be taxed in the CS in which the interest arises. (Exception to these paragraphs is set out in para. 6.)	Not exceeding 10%
Royalty	12	Royalties arising in a CS and paid to a resident of the other CS may be taxed in the other CS (para. 1), or, subject to conditions (para. 2) may be taxed in the CS in which the royalty arises. (Exception to these paragraphs is set out in para. 4.)	Not exceeding 10%
Fees for technical services	13	Fees arising in a CS and paid to a resident of the other CS may be taxed in the other CS (para. 1). However, fees for services performed in one CS may also be taxed in the CS in which they arise (para. 2). (Exception to these paragraphs is set out in para. 4)	Not exceeding 5%
Fees for independent personal services	15	Taxable only in the state of residence of the recipient, unless he operates from a fixed base regularly available to him in the other CS. In that case, so much of the income that is attributable to that fixed base is taxable in the other CS.	
Employment income	16	Subject to Articles 17, 19 and 20, salaries, wages and other similar remuneration in respect of an employment is only taxable in the state of residence of the recipient, unless the employment is exercised in the other contracting state, in which case income derived from the other CS may be taxed in that state. Exceptions (where income derived from the CS where employment is exercised is only taxable in the state of residence) are detailed in para.2.	
Director's fees	17	Fees derived by a resident of a CS, in his capacity as a member of the board of directors of a company which is resident in the other CS, may be taxed in the other CS.	

Income of artistes and sportsmen	18	Notwithstanding Articles 15 and 16, income derived by an entertainer/ artiste or musician or sportsman who is resident in one CS, from his personal activities as such exercised in the other CS, may be taxed in the other CS (para. 1) (with exception mentioned in para. 3).	
Pensions	19	Subject to para. 20 of Article 20, pensions and other similar remuneration paid to a resident of a CS in respect of past employment is taxable only in that CS.	
Government service	20	Salary, wages and other similar remuneration (other than pension) paid by a CS or other authority to an individual for services rendered to that CS or other authority is taxable only in that CS. However if the services were rendered in the other CS and the individual is resident in that CS (subject to other conditions) then such income is taxable only in the other CS.	
Students	21	Payments to a student or business apprentice who is present in a CS solely for purpose of education or training, and who is or was immediately before visiting the first mentioned CS resident in the other CS, are not taxable in that (first mentioned) CS if the payments are for his maintenance, education or training, and the payments arise from sources outside that CS.	
Other income	22	Income of a resident of a CS not dealt with in the foregoing Articles: - <ul style="list-style-type: none"> • wherever arising, is taxable only in that CS with the exception mentioned in para. 2 and para. 3. • arising in the other CS, may also be taxed in the other CS (para. 3). 	

3. Under Article 28 (Entry into Force), the Agreement will enter into force 60 days after receipt of the later diplomatic note confirming that internal legal procedures (for approval of the Agreement) of both CS have been complied with. Thereafter, the provisions of the Agreement will be applicable in Malaysia in respect of tax chargeable for any year of assessment beginning on or after 1 January of the calendar year following the year in which the Agreement enters into force.

Members may read the Order at the official website of the [Attorney-General's Chambers](#).

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