UNOFFICIAL AND UNAUTHORIZED TRANSLATION

Section III.a
Withholding tax on income from dematerialised financial instruments

Article 383.b
(Contents of this section)

(1) This section of the Act refers to calculation, deduction and payment of withholding tax on income from dematerialised financial instruments, received for a third-party account.

(2) Notwithstanding the previous paragraph, Articles 383.c and 383.d of this Act shall apply also to income from materialised financial instruments.

Article 383.c
(Withholding tax on income from dematerialised financial instruments)

(1) If the payer of tax, defined in accordance with Article 58 of this Act, pays income from dematerialised financial instruments to a person, who receives it for a foreign-party account, notwithstanding other provisions of this Act and the act on taxation, calculates and deducts withholding tax without taking provisions into consideration, which consequently have lower tax obligations in connection with withholding tax, if they are not the same for all income beneficiaries according to all taxation acts and treaties.

(2) In the case from the previous paragraph the payer of tax, notwithstanding other provisions of this Act, charges, deducts and pays withholding tax according to the rate, defined under that taxation act, which defines a higher rate of withholding tax on income paid.

(3) It is considered that the person from the first paragraph of this Article receives income for a third-party account when any of the following conditions is fulfilled:
1. the person performs an activity, which is or which includes also receiving income for a third-party account or it is known for the person that he/she acts, although occasionally, as a person, who receives income for a third-party account;
2. the address for payment of income differs from the registered address of the person from the first paragraph of this Article;
unless the person from the first paragraph of this Article before payment submits a statement to the payer of tax that he/she exercises rights from dematerialised financial instruments, on the basis of which income is paid, for this person’s own account and not for a third-party account. If the person from the first paragraph of this Article exercises rights from dematerialised financial instruments partially for this person’s own account and partially for a third-party account, withholding tax according to paragraphs 1 and 2 of this Article is calculated, deducted and paid from income, which this person receives for a third-party account. In this case the person from the first paragraph of this Article shall indicate in the statement the quantity of financial instruments, from which he/she exercises rights for this person’s own account and the quantity of financial instruments, from which he/she exercises rights for a third-party account.

(4) The recipient of statements shall keep statements from the third paragraph of this Article

for at least ten years after expiry of the year, in which income, to which the statement refers, was paid.

Article 383.d
(Withholding tax refund on income from dematerialised financial instruments)

(1) The person, for the account of whom rights from dematerialised financial instruments are exercised (hereinafter: the beneficial holder of dematerialised financial instruments), who has received income, from which in accordance with Article 383.c of this Act the payer of tax has deducted excessive withholding tax in relation to tax obligations of the beneficial holder of dematerialised financial instruments, defined under the taxation act and this Act, may claim refund of excessively deducted and paid tax with a written claim, which is filed at the tax authority. Relevant evidence in relation to tax obligations according to the taxation act and this Act, especially of identity of the beneficial holder of dematerialised financial instruments, of receipt of income, of the base for payment of withholding tax and of withholding tax paid, is a constituent part of the claim.

(2) The previous paragraph shall not influence:
1. the tax refund procedure in cases of benefits, defined in the treaty, under the second sub-section of Section IV of the fourth part of this Act;
2. the tax refund procedure in cases of benefits, which are defined by the taxation act and which are valid for parent companies and subsidiary companies from various EU Member States, and for taxation, which is valid in relation to interest and royalty payments among connected companies from various EU Member States according to Chapter III of the fifth part of this Act;
3. the refund procedure according to Article 383.a of this Act in cases of benefits, which are defined in Article 70 paragraphs 3 to 7 of the ZDDPO-2.

(3) Notwithstanding the first paragraph of this Article, the refund of overpaid tax for recipients from Article 75 paragraphs 1-2 of the ZDDPO-2 is exercised only in accordance with Article 75 paragraph 3 of the ZDDPO-2.

Article 383.e
(Special procedure in relation to withholding tax return
on income from dematerialised financial instruments)

(1) Notwithstanding Article 383.c paragraphs 1-2 of this Act, the payer of tax, defined in accordance with Article 58 of this Act, who pays income from dematerialised financial instruments with the source in Slovenia, charges withholding tax on income from dematerialised financial instruments according to the rate, defined by the taxation act or treaty, which is valid for the beneficial holder of dematerialised financial instruments, on the basis of which income is paid, if the following conditions are fulfilled:
1. income is paid into a foreign state to the person, who has acquired the status of the authorised foreign intermediary from Article 383.g of this Act;
2. the person from item 1of this paragraph delivers data, necessary for tax assessment, for determination of the tax base and for exercising tax relief, benefits according to treaties and identification of the beneficial holder of dematerialised financial instruments, who receives income on the basis of these financial instruments, to the payer of tax until the tenth day in the month following that, in which the income was paid by the person, who is charged by such income.

(2) The payer of tax shall calculate, deduct and pay the amount of withholding tax from the previous paragraph at the same time as withholding tax return, which shall be submitted to the competent tax authority at the latest until the fourteenth day in the month, following that, in which the income was paid by the person, who is charged by such income.

(3) The form, method and subject matter of data from paragraph 1 item 2 of this Article are prescribed by the minister, competent for finance.

(4) If the authorised foreign intermediary fails to deliver all data from paragraph 1 item 2 of this Article to the payer of tax until the tenth day in the month, following that, in which the income is paid by the person, who is charged by such income, then withholding tax is charged in such a way that income is divided into two groups as follows:
1. the group of income, in relation with which the payer of tax has received all data from paragraph 1 item 2 of this Article, from which withholding tax is charged according to the rate from the first paragraph of this Article, and
2. group of income, in relation with which the payer of tax has not received all data from paragraph 1 item 2 of this Article, from which withholding tax is charged according to the rate from Article 383.c paragraphs 1-2 of this Act.

(5) If the payer of tax subsequently receives data from paragraph 1 item 2 of this Article for the group of income (or a part of the group of income) from paragraph 4 item 2 of this Article, he/she may claim the refund of overpaid withholding tax with correction of the return under Article 54 of this Act. The return correction may be submitted at the latest within the time limit of 3 months after the expiry of the time limit for submission of withholding tax return from the second paragraph of this Article of the Act. After that date the payer of tax cannot submit the tax return correction anymore under this paragraph and under Article 54 of this Act.

(6) Notwithstanding the first paragraph of Article 383.d of this Act, the beneficial holder of dematerialised financial instruments, who has received income, from which the payer of tax under Article 383.c of this Act has deducted withholding tax according to Paragraph 4 Item 2 of this Article, may claim in accordance with Article 383.d of this Act the refund of over-deducted and paid tax after expiry of three months after the time limit for submission of withholding tax return from the second paragraph of this Article of the Act.

Article 383.f
(Authorised person)

(1) Notwithstanding Article 58 paragraph 4 of this Act the payer of tax from Article 383.e paragraph 1 of this Act may authorise only the person, who has the status of the authorised person according to this Article to fulfil on his/her behalf the obligations from Article 59 of this Act from payments of income from dematerialised financial instruments with the source in Slovenia to persons, who have acquired the status of the authorised foreign intermediary from Article 383.g of this Act.

(2) The status of the authorised person may be acquired for the period of five years by the person, which is in accordance with the taxation act a resident of the Republic of Slovenia or non-resident's fixed establishment in the Republic of Slovenia and if it is at the same time:
1. a bank, which has acquired a banking authorisation from the Bank of Slovenia on the territory of the Republic of Slovenia;

2. branch of a bank from a third state, which has acquired an authorisation from the Bank of Slovenia for establishment, or
3. branch of a bank from EU Member State, which performs banking activities on the territory of the Republic of Slovenia on the basis of an authorisation from the competent supervisory body for performing these activities;
and if this entity performs an activity, which is or a part of which is receiving income for a third-party account and is due to regular, voluntary and accurate tax compliance and in relation to its organisational structure, type and extent of activities according to tax authority's opinion appropriate for the authorised person.

(3) On the basis of a written application of the person from the previous paragraph the tax authority decides about granting the status of the authorised person. Evidence on fulfilment of conditions according to the previous paragraph shall be enclosed to the application. The tax authority decides about granting the status at the latest in 15 days after the receipt of the application. The tax authority lists the person, who has acquired the status of authorised person, among authorised persons and the list is published on tax authority's website. The list includes data, necessary for identification of authorised persons.

(4) The tax authority rejects the application on granting the status if:
1. the person doesn't fulfil conditions from the second paragraph of this Article;
2. procedure against the responsible person of the person from the second paragraph of this Article is underway before the court due to criminal acts committed against economy or legal transactions;
3. responsible person of the person from the second paragraph of this Article is convicted res judicata due to criminal acts committed against economy or legal transactions;
4. person from the second paragraph of this Article has committed a severe tax offence, but the period of three years has not expired yet after the date when the decision or offence judgment has obtained the force of res judicata, or
5. there are other circumstances, which raise doubts about suitability of the person from the second paragraph of this Article for performing obligations of the authorised person.

(5) The tax authority withdraws the status from the authorised person if it establishes that this person fails to fulfil his/her obligations as the authorised person or if it establishes that there are circumstances from the previous paragraph.

(6) Authorised person's status ceases if cessation of the status is required in writing or if before expiry of five years after issuing of the decision from the third paragraph of this Article this person fails to file a new application for granting.

(7) The tax authority deletes the authorised person from the list of authorised persons after withdrawal of the status or cessation of the status.

(8) The authorised person shall inform the tax authority about every change of data from the second paragraph of this Article, including data for his/her identification, in seven days after its occurrence.

Article 383.g
(Authorised foreign intermediary)

(1) A foreign intermediary may for the period of five years acquire the status of the authorised

foreign intermediary if:

1. he/she is a resident of another EU Member State or state, with which Slovenia has a concluded treaty for the avoidance of double taxation with respect to taxes on income, which enables exchange of information due to implementation of domestic legislation;
2. he/she performs an activity, which is or a part of which is receiving income for a third-party account;
3. he/she is a person, who:
   a. has (or is completely owned by a company, which has) an authorisation from the supervisory body, competent for performing banking activities in the state from item 1 of this paragraph;
   b. is a member of a recognised stock exchange in the state from Item 1 of this paragraph or
   c. is another person, who is according to tax authority's opinion suitable for a foreign intermediary in relation to its organisational structure, type and extent of activities, and
4. he/she provides a statement that this person will:
   a. deliver data, necessary for tax assessment, for determination of the tax base and for exercising tax relief, benefits according to treaties and identification of the beneficial holder of dematerialised financial instruments, who receives income on the basis of these financial instruments, to the payer of tax or his/her authorised person from Article 383.f of this Act within the time limit and according to the terms from Article 383.e paragraphs 1 and 3 of this Act;
   b. from the beneficial holder of dematerialised financial instruments, who has received income on the basis of these financial instruments through intermediary services of this person or this person and another intermediary, acquire a certificate of tax residence of the beneficial holder, as it is defined in paragraph 8 of this Article, and other types of evidence (statements or notices), which are submitted to him/her in connection with payment of income and eligibility for tax relief and benefits according to treaties;
   c. upon request of the payer of tax or his/her authorised person from Article 383.f of this Act or his/her legal successor or tax authority submit the requested evidence from item 4.b of this paragraph to these persons within the time limit, stated in the request;
   d. keep evidence from Item 4.b of this paragraph till expiry of the time limit from paragraph 9 of this Article;
   e. exercise a duty of care and verification of evidence from item 4.b of this paragraph and inform the payer of tax about all types of evidence, for which this person reasonably considers to be factually incorrect and inaccurate at the time, when they were delivered to him/her.

(2) On the basis of a written application of the person from the previous paragraph the tax authority decides about granting the status of the authorised foreign intermediary. Evidence on fulfilment of conditions according to the previous paragraph shall be enclosed to the application. The tax authority decides about granting the status at the latest in 15 days after the receipt of the complete application. The tax authority lists the person, who has acquired the status of authorised foreign intermediary, among authorised foreign intermediaries and the list is published on tax authority's website. The list includes data, necessary for identification of authorised foreign intermediaries.

(3) The tax authority rejects the application on granting the status if the person doesn't fulfil conditions from the first paragraph of this Article.

(4) The tax authority withdraws the status from the authorised foreign intermediary if it establishes that the authorised foreign intermediary doesn't fulfil his/her obligations as the

authorised foreign intermediary.

(5) Authorised foreign intermediary's status ceases if cessation of the status is required in writing or if before expiry of five years after issuing of the decision from the second paragraph of this Article he/she fails to file a new application for granting.

(6) The tax authority deletes the authorised foreign intermediary from the list of authorised foreign intermediaries after withdrawal of the status or cessation of the status.

(7) The authorised foreign intermediary shall inform the tax authority about every change of data from the first paragraph of this Article, including data for his/her identification, in seven days after its occurrence.

(8) The certificate of tax residence from item 4.b of the first paragraph of this Article is issued by the tax authority of the state of tax residence of the beneficial holder of dematerialised financial instruments. The submitted certificate is valid for three years after the date of its issue or till the submission of a new certificate. The beneficial holder of dematerialised financial instruments shall submit a new certificate to the authorised foreign intermediary if the state of his/her tax residence changes. Submission of certificate is not obligatory if the individual income of the beneficial holder, who is an individual, doesn't exceed the amount, which shall be prescribed by the minister of finance. In this case the beneficial holder of dematerialised financial instruments submits a special statement in writing. The statement is valid for three years after the date of its submission to the authorised foreign intermediary or till submission of a new statement. The beneficial holder of dematerialised financial instruments shall submit a new statement to the authorised foreign intermediary if data from the statement changes. The statement shall include:
1. first name and family name or title of the beneficial holder;
2. date of birth or identification number of the beneficial holder;
3. statement that the beneficial holder is not a resident of Slovenia;
4. indication of the state, a resident of which the beneficial holder is, and the address of the beneficial holder in this state;
5. addresses of all other places of residence, which the beneficial holder has anywhere in the world;
6. statement that the beneficial holder receives income for this person's own account and that this person is not obliged to send it to a third person;
7. statement that income doesn't belong to a Slovenian fixed establishment and
8. type of income received.

(9) The person, who is listed among the authorised foreign intermediaries, shall in accordance with provisions of this Act keep evidence from paragraph 1 item 4.b of this Article for at least ten years after expiry of the year, to which it refers.

(10) The recognised stock exchange from paragraph 1 item 3.b of this Article is a stock exchange, the organiser of which is a full member of the World Federation of Exchanges – WFE or Federation Internationale des Bourses de Valeurs – FIBV.

(11) Notwithstanding paragraph 1 item 4 of this Article, the minister, competent for finance, may prescribe a special procedure for delivery of data, acquisition, submission and keeping of certificates and evidence in cases if the beneficial holder of dematerialised financial

instruments receives income on the basis of these financial instruments through intermediary services of several authorised foreign intermediaries.