

**Protocol amending
the Agreement of
29 November 1996 between
the Republic of Estonia
and
the Federal Republic of Germany
for the Avoidance of Double Taxation with respect to Taxes on Income
and on Capital**

The Republic of Estonia and the Federal Republic of Germany,

Desiring to conclude a Protocol amending the Agreement of 29 November 1996 between the Republic of Estonia and the Federal Republic of Germany for the Avoidance of Double Taxation with respect to Taxes on Income and on Capital,

Have agreed as follows:

Article 1

The Title shall read as follows:

“Agreement
between
the Republic of Estonia
and
the Federal Republic of Germany
for the Elimination of Double Taxation and the Prevention of Tax Evasion and Avoidance
with respect to Taxes on Income and on Capital”.

Article 2

The Preamble shall read as follows:

“The Republic of Estonia and the Federal Republic of Germany,

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

Intending to eliminate double taxation with respect to the taxes covered by this Agreement 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 3

The wording of Article 9 shall be paragraph 1 of Article 9. After this paragraph, a new paragraph 2 shall be inserted as follows:

“(2) Where a Contracting State includes in the profits of an enterprise of that State – and taxes accordingly – profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other 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 4

Sub-paragraph a) of paragraph 2 of Article 10 shall read as follows:

“a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends throughout a 365 day period that includes the day of the payment of the dividends (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 holds the shares or that pays the dividends);”.

Article 5

(1) Paragraph 1 of Article 13 shall read as follows:

“(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 State.”.

(2) A new paragraph (1a) shall be inserted after paragraph 1 of Article 13 of the Agreement as follows:

“(1a) Gains derived by a resident of a Contracting State from the alienation of shares 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 more than 50 per cent of their value directly or indirectly from immovable property, as defined in Article 6, situated in that other State.”.

Article 6

(1) A new Article 27 shall be inserted after Article 26 with the following wording:

“Article 27 Prevention of Treaty Abuse

Notwithstanding the other provisions of this Agreement, a benefit under this Agreement shall not be granted in respect of an item of income or capital 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 this Agreement.”.

(2) Article 27, 28 and 29 shall become Article 28, 29 and 30.

Article 7

The text following the headline of paragraph 4 of the Protocol to the Agreement shall become sub-paragraph a). After this sub-paragraph, a new sub-paragraph b) shall be inserted as follows:

“b) It is understood, that the required minimum holding period laid down in sub-paragraph a) of paragraph 2 of Article 10 can also be met subsequently to the day of the payment of the dividend.”.

Article 8

Paragraph 8 of the Protocol to the Agreement shall read as follows:

“8. With reference to Article 26:

The processing of personal data under the Agreement shall be in conformity with the relevant EU law and any domestic data protection rules adopted by the Contracting State concerned.”.

Article 9

Each of the Contracting States shall notify the other Contracting State in writing of the completion of the procedures required by its laws for the entry into force of this Amending Protocol. This Amending Protocol shall enter into force on the date of receipt of the later of these notifications and shall have effect:

- a) in respect of taxes withheld at source, in respect of amounts paid on or after the first day of January of the calendar year next following that in which this Amending Protocol entered into force;

- b) in respect of taxes which are levied for any assessment period beginning on or after the first day of January in the calendar year next following that in which this Amending Protocol entered into force.

Done at Tallinn, 15 December 2020, in two originals, each in the Estonian, German and English languages, all three texts being authentic. In the case of divergent interpretation of the Estonian and the German texts, the English text shall prevail.

For the
Republic of Estonia

Urmas Reinsalu

For the
Federal Republic of Germany

Christiane Hohmann