

**Iki gezek salgyt salynmagyny aradan aýyrmak we
girdeji üçin salgytlar babatda boýun gaçyrylmagynyň
öňüni almak hakynda Türkmenistanyň Hökümeti
bilen Estoniýa Respublikasynyň Hökümetiniň arasynda
KONWENSIÝA**

Türkmenistanyň Hökümeti we Estoniýa Respublikasynyň Hökümeti Girdeji üçin salgytlar babatda iki gezek salgyt salynmagyny aradan aýyrmak hakynda Konwensiýa baglaşmagy isläp, **şular barada ylalaşdy:**

**1-nji madda
Konwensiýa özi barada ulanylýan taraplar**

Şu Konwensiýa Ylalaşýan Döwletleriň biriniň ýa-da ikisiniň-de dahyllsý bolup durýan taraplar babatda ulanylýar.

**2-nji madda
Öz içine alýan salgytlary**

1. Şu Konwensiýa Ylalaşýan Döwletiň adyndan ýa-da onuň edara ediş düzümi, ýa-da ýerli öz-özüni dolandyryş edarasy tarapyndan girdeji üçin salgytlary almagyň usulyna garamazdan, şol salgytlar babatda ulanylýar.

2. Girdejileriň umumy möçberinden ýa-da girdejiniň aýry-aýry böleklerinden alynýan ähli salgytlar, şol sanda gozgalýan ýa-da gozgalmaýan emlägi aýrybaşgalamakdan alynýan girdejiler üçin salgytlar, kärhanalar tarapyndan tölenilýän zähmet ýa-da aýlyk hakynyň umumy möçberinden alynýan salgytlar girdeji üçin salgyt hasaplanylýar.

3. Konwensiýa degişli bolan salgytlar, hususan-da, şular bolup durýar:

a) Türkmenistan babatda:

edara görnüşli taraplaryň peýdasy (girdejisi) üçin salgyt;

şahsy adamlaryň girdejileri üçin salgyt

(mundan beýläk «türkmen salgydy» diýlip atlandyrylýar);

b) Estoniýa babatda:

girdeji üçin salgyt

(mundan beýläk «eston salgydy» diýlip atlandyrylýar).

4. Şeýle hem şu Konwensiýa oňa gol çekilen seneden soň bar bolan salgytlara goşmaça ýa-da olaryň ýerine alynjak birmeňzeş ýa barabar salgytlar babatda ulanylýar. Ylalaşýan Döwletleriň ygtyýarly edaralary öz salgyt kanunlaryna girizilen islendik düýpli üýtgetmeler barada bir-birine habar bererler.

3-nji madda Umumy kesgitlemeler

1. Eger ýazgydan başgaça many gelip çykmaýan bolsa, şu Konwensiýanyň maksatlary üçin:

a) «Türkmenistan» adalgasy – halkara hukugyna laýyklykda Türkmenistanyň özygtyýarly hukuklaryny we ýurisdiksiýasyny amala aşyrýan «deňiz zoloklary» (şol sanda deňiz we suwasty zoloklary) bilen bilelikde guryýer serhetlerini özüne birleşdirýän Türkmenistanyň çäklerini aňladýar;

b) «Estoniýa» adalgasy – Estoniýa Respublikasyny we geografiki manyda ulanylanda Estoniýanyň çäklerini we Estoniýanyň kanunçylygy boýunça hem-de halkara hukugyna laýyklykda Estoniýanyň deňiz kenary we onuň düýbi, şeýle hem tebigy serişdeleri babatda ulanyp bilinjek territorial suwlaryna ýanaşyk islendik beýleki çäkleri aňladýar;

ç) «tarap» adalgasy islendik şahsy adamy, kompaniýany ýa-da taraplaryň islendik beýleki birleşigini aňladýar;

d) «kompaniýa» adalgasy islendik edara gömüşli tarapy ýa-da salgyt salmak maksatlary üçin edara gömüşli tarap hökmünde garalýan islendik beýleki birleşmäni aňladýar;

e) «kärhana» adalgasy islendik telekeçilik işini amala aşyrmak üçin ulanylýar;

ä) «Ylalaşýan Döwletleriň biriniň kärhanasy» we «Ylalaşýan Döwletleriň beýlekisiniň kärhanasy» adalgasy degişlilikde Ylalaşýan Döwletleriň biriniň dahyllysy tarapyndan dolandyrylýan kärhanany we Ylalaşýan Döwletleriň beýlekisiniň dahyllysy tarapyndan dolandyrylýan kärhanany aňladýar;

f) «halkara gatnatmasy» adalgasy Ylalaşýan Döwletleriň kärhanasy tarapyndan ulanylýan deňiz ýa-da howa gämisiniň amala aşyrylan islendik gatnatmasyny aňladýar, şeýle deňiz ýa-da howa gämisiniň diňe Ylalaşýan Döwletleriň beýlekisinde ýerleşýän ýerleriň arasynda gatnatma üçin ulanylýan halatlary muňa girmeýär;

g) «ygtyýarly edara» adalgasy:

(i) Türkmenistan barada ulanylanda – Türkmenistanyň Maliýe ministriligini we Türkmenistanyň Baş döwlet salgyt gullugyny ýa-da olaryň ygtyýarly edilen wekilini;

(ii) Estoniýa barada ulanylanda – Maliýe ministriligini ýa-da onuň ygtyýarly edilen wekilini;

(i) «milli tarap» adalgasy:

(i) Ylalaşýan Döwletiň raýatlygy bolan islendik şahsy adamy; we

(ii) şeýle derejeli hukuk ýagdaýyny şol Ylalaşýan Döwletde hereket edýän kanunlar esasynda alan islendik edara görnüşli tarapy, şereketi ýa-da assosiasıýany aňladýar.

(j) «telekeçilik işi» adalgasy hünär hyzmatlaryny etmegi we garaşsyz häsiýetli beýleki işi ýerine ýetirmegi öz içine alýar.

2. Eger ýazgydan başgaça many gelip çykmaýan bolsa, Ylalaşýan Döwletiň şu Konwensiýany islendik wagtda ulanan mahaly Konwensiýada kesgitlemesi berilmedik islendik adalga şol Döwletiň Konwensiýa degişli bolan salgytlar baradaky kanunçylygynda oňa berýän manysyna eýe bolmalydyr. Şunda bu Döwletiň hereket edýän salgyt kanunçylygyna laýyklykda onuň islendik manysyna bu Döwletiň beýleki kanunlaryna laýyklykda bu adalga berilýän manysyndan ýokary many berilýär.

4-nji madda **Dahyllsý**

1. Şu Konwensiýanyň maksatlary üçin «Ylalaşýan Döwletiň dahyllsý» adalgasy şol Döwletiň kanunçylygy boýunça ýaşayan ýeri, hukuk salgysy, hemişelik bolýan ýeri, inkorporasiýa ýeri ýa-da islendik şuna meňzeş ölçegleri esasynda salgyt salynmagyna degişli islendik tarapy aňladýar, şeýle hem şol Döwleti we onuň islendik syýasy birligini ýa-da ýerli häkimiýet edarasyny öz içine alýar. Emma bu aňlatma diňe şol Döwletde çeşmelerden alnan girdejiler babatda salgyt salynmaga degişli tarapy öz içine almaýar.

2. Eger şahsy tarap 1-nji bölümiň düzgünlerine laýyklykda Ylalaşýan Döwletleriň ikisiniň-de dahyllsý bolup durýan bolsa, onuň hukuk ýagdaýy şu usulda kesgitlenilýär:

a) ol hemişelik we elýeterli ýaşayyş jaýy bolan Döwletiniň dahyllsý hasaplanylýar; eger onuň Döwletleriň ikisinde-de hemişelik we elýeterli ýaşayyş jaýy bar bolsa, onda ol onuň haýsy Döwletde has ysnyşykly şahsy we ykdysady aragatnaşyklary (wajyp bähbitleriniň merkezi) bar bolsa, şol Döwletiň dahyllsý hasaplanylýar;

b) eger onuň wajyp bähbitleriniň merkezi bar bolan Döwletini kesgitlep bolmasa ýa-da onuň Döwletleriň hiç birinde hemişelik we elýeterli ýaşayyş jaýy bolmasa, ol diňe adaty ýaşayan ýeri bolan Döwletiň dahyllsý hasaplanylýar;

ç) eger ol, adaty Döwletleriň ikisinde-de ýaşayan bolsa ýa-da adaty olaryň hiç birinde hem ýaşamaýan bolsa, ol diňe haýsy Döwletiň milli tarapy bolup durýan bolsa, şol Döwletiň dahyllsý hasaplanylýar;

d) eger ol Döwletleriň ikisiniň-de milli tarapy bolup durýan bolsa ýa-da olaryň hiç biriniň milli tarapy bolmasa, onda Ylalaşýan Döwletleriň ygtyýarly edaralary bu meseläni özara ylalaşmak boýunça çözüär.

3. Şahsy tarap däl bolan tarap 1-nji bölümiň düzgünlerine laýyklykda Ylalaşýan Döwletleriň ikisiniň-de dahyllysy bolup durýan bolsa, onda Ylalaşýan Döwletleriň ygtyýarly edaralary bu meseläni onuň hakyky dolandyryş ýerini we inkorporasiýa ýerini göz önünde tutup, özara ylalaşmak boýunça çözüärler.

5-nji madda **Hemişelik wekilçilik**

1. Şu Konwensiýanyň maksatlary üçin «hemişelik wekilçilik» adalgasy kärhananyň telekeçilik işini doly ýa-da bölekleyin amala aşyran telekeçilik işiniň hemişelik ýerini aňladýar.

2. «Hemişelik wekilçilik» adalgasy, hususan-da, şulary öz içine alýar:

a) dolandyryş ýerini;

b) bölümi;

ç) edarany;

d) fabrigi;

e) ussahanany; we

ä) şahtany, nebit ýa-da gaz guýusyny, karýeri ýa-da tebigy serişdeleri gözlemek, çykarmak we işläp geçmek bilen bagly iş geçirilýän başga bir islendik ýeri.

3. Gurluşyk meýdançasý ýa-da ýygnaýyş ýa-da gurnama desgasy diňe olar on iki aýdan köp bolanda hemişelik wekilçiligi emele getirýär.

4. Ylalaşýan Döwletiň kärhanasy tarapyndan şu maksat üçin kärhananyň işgärleriniň ýa-da hakyna tutan beýleki işgärleriň kömegi bilen beýleki Ylalaşýan Döwletde hyzmatlary etmäge, şol sanda geňeşdarlyk ýa-da dolandyryş hyzmatlaryny etmäge diňe, eger şeýle häsiýetli iş on iki aýlyk döwrüň dowamynda jemi 6 aýdan köp bolan döwrüň ýa-da döwürleriň dowamynda amala aşyrylýan halatda rugsat berilýär.

5. Şu maddanyň ýokardaky düzgünlerine garamazdan, «hemişelik wekilçilik» adalgasy şulary öz içine almaýar diýip hasap edilýär:

a) desgalaryň diňe şu kärhana degişli harytlary ýa-da önümleri saklamak, görkezmek ýa-da ibermek maksatlary üçin ulanylmagyny;

b) şu kärhana degişli harytlaryň ýa-da önümleriň gorlarynyň diňe saklamak, görkezmek we ibermek maksatlary üçin saklanylmagyny;

ç) şu kärhana degişli harytlaryň ýa-da önümleriň gorlarynyň diňe başga bir kärhana tarapyndan gaýtadan işlemek maksatlary üçin saklanylmagyny;

d) hemişelik telekeçilik iş ýeriniň diňe harytlary ýa-da önümleri satyn almak maksatlary üçin ýa-da bu kärhana maglumatlary toplamak üçin saklanylmagyny;

e) hemişelik telekeçilik iş yeriniň diňe şu kärhana üçin taýýarlyk görüji ýa-da kömekçi häsiýetli başga bir islendik işi amala aşyrmak maksady bilen saklanylmagyny;

ä) hemişelik telekeçilik iş yeriniň diňe işiň (a)-dan – (e) çenli kiçi bölümlerde görkezilen görnüşleriniň islendik usulda utgaşdyrylmagy üçin saklanylmagyny, hemişelik iş yeriniň şeýle utgaşdyrma netijesinde ýüze çykýan jemi işiň taýýarlyk görüji ýa-da kömekçi häsiýetli bolan şertinde.

6. 1-nji we 2-nji bölümleriň düzgünlerine garamazdan, eger özi barada 7-nji bölüm ulanylýan garaşsyz derejeli ýumuşçydan başga bir tarap Ylalaşýan Döwletde kärhananyň adyndan hereket edýän bolsa we şol kärhananyň adyndan şertnamalary baglaşmaga ygtyýarlygy bar bolsa we adaty şol ygtyýarlygy ulanýan bolsa, onda eger şol tarapyň 5-nji bölümde ýatlanan işiniň görnüşleri bilen çäklenmän, şu bölümiň düzgünlerine laýyklykda hemişelik wekilçiligi hemişelik telekeçilik yerine öwürmän, hatda eger telekeçilik işini hemişelik yeriniň üsti bilen amala aşyryýan bolsa-da, şol tarapyň kärhananyň peýdasyna islendik işi babatda şol Döwletde hemişelik wekilçiligi bar kärhana hasaplanýar.

7. Eger kärhana beýleki Ylalaşýan Döwletde telekeçilik işini diňe araçynyň, dellalyň ýa-da garaşsyz hukuk ýagdaýy bolan başga bir islendik ýumuşçynyň üsti bilen amala aşyryýan bolsa, şol taraplar öz adaty telekeçilik işiniň çäklerinde hereket edýän şertde kärhana şol Döwletde hemişelik wekilçiligi bar hökmünde garalmaz. Ýöne şeýle ýumuşçynyň işi doly ýa-da doly diýen ýaly şu kärhana bagyşlanan bolsa, onda oňa şu bölümiň düzgünleri boýunça garaşsyz hukuk ýagdaýy bolan ýumuşçy hökmünde garalmaz.

8. Ylalaşýan Döwletiň biriniň dahyllysy bolan kompaniýanyň beýleki Ylalaşýan Döwletiň dahyllysy bolan kompaniýa gözegçilik edýän ýa-da ol tarapyndan gözegçilik edilýän bolsa, ýa-da şol beýleki Döwletde telekeçilik işini (ýa hemişelik wekilçiligiň üsti bilen, ýa-da başga bir usulda) amala aşyryýan bolsa, bu ýagdaýyň özi şol kompaniýalaryň biriniň beýleki kompaniýanyň hemişelik wekilçiligine öwrülýändigini aňlatmaýar.

6-njy madda

Gozgalmaýan emläkden alynýan girdejiler

1. Ylalaşýan Döwletiň biriniň dahyllysynyň beýleki Ylalaşýan Döwletde ýerleşýän gozgalmaýan emläkden alyan girdejilerine (şol sanda oba ýa-da tokaý hojalygyndan alyan girdejisine) şol beýleki Döwletde salgytlar salnyp bilner.

2. «Gozgalmaýan emläk» adalgasy garalýan emlägiň ýerleşýän yeri bolan Ylalaşýan Döwletiň kanunçylygyna laýyklykda bar bolan mana eýedir. Bu adalga islendik halatda gozgalmaýan emläk babatdaky kömekçi

emlägi, oba we tokaý hojalygynda ulanylýan mallary we enjamlary, özi barada ýer eýeçiligi babatdaky kanunçylygyň düzgünleri ulanylýan hukuklary, gozgalmaýan emläk babatda gozgalmaýan emlägiň uzufrukty hökmünde belli bolan hukugy, islendik talap hukugyny hem-de gazylyp alynýan peýdaly baýlyklary, çeşmeleri we beýleki tebigy serişdeleri işläp geçmek üçin öwezini dolma hökmünde tölenilýän üýtgeýän we kesgitli tölegler üçin hukuklary ýa-da gazylyp alynýan peýdaly baýlyklary, çeşmeleri we beýleki tebigy serişdeleri işläp geçmek üçin hukugy öz içine almalydyr; deňiz, derýa we howa gämilerine gozgalmaýan emläk hökmünde garalmaýar.

3. 1-nji bölümiň düzgünleri gozgalmaýan emlägi göni peýdalanmaktan, kärendä bermekden ýa-da başga bir islendik görnüşde peýdalanmaktan alynýan girdejiler babatda hem ulanylýar.

4. 1-nji we 3-nji bölümleriň düzgünleri kärhananyň gozgalmaýan emläginden alynýan girdejiler babatda hem ulanylýar.

7-nji madda

Telekeçilik işinden alynýan peýda

1. Eger Ylalaşýan Döwletleriň biriniň kärhanasy beýleki Ylalaşýan Döwletde ýerleşýän hemişelik wekilçiliginiň üstünden telekeçilik işini amala aşyрмаýan bolsa, şol kärhananyň alýan peýdasy diňe şol Döwletde salgyt salynmaga degişlidir. Eger kärhana telekeçilik işini ýokarda agzalan görnüşde amala aşyrýan bolsa, onda kärhananyň peýdasyna beýleki Döwletde, diňe onuň şu hemişelik wekilçilige degişli bölegi babatda salgyt salnyp bilner.

2. 3-nji bölümiň düzgünlerini nazara almak bilen, eger bir Ylalaşýan Döwletiň kärhanasy beýleki Ylalaşýan Döwletde telekeçilik işini şol ýerde ýerleşýän hemişelik wekilçiligiň üsti bilen amala aşyrýan bolsa, onda şol wekilçiligiň hut şonuň ýaly ýa-da barabar şertlerde hut şonuň ýaly ýa barabar iş bilen meşgullanýan aýrybaşgalanan we aýratyn kärhana bolan hem-de özi hemişelik wekilçiligi bolan kärhanadan doly garaşsyz hereket edende alyp biljek peýdasy Ylalaşýan Döwletleriň her birinde şol hemişelik wekilçilige degişlidir.

3. Hemişelik wekilçiligiň peýdasynyň möçberi kesgitlenilen mahaly şeýle hemişelik wekilçiligiň maksatlary üçin çeken çykdaýylarynyň, şol sanda dolandyryş we umumy edara ediş çykdaýylarynyň hemişelik wekilçiligiň ýerleşýän ýeri bolan Döwletde ýa-da onuň çäklerinden daşarda çekilendigine garamazdan, şol çykdaýylaryň kemilmegine rugsat berilýär.

4. Eger Ylalaşýan Döwletde hemişelik wekilçilige degişli peýdany kärhananyň peýdasynyň umumy möçberini onuň dürli düzüm birlikleriniň arasynda barabarlykda paýlamak esasynda kesgitlemek adaty tejribe bolsa,

onda 2-nji bölümde hiç bir zat bu Ylalaşýan Döwlete salgyt salynmaga degişli peýdany adaty kabul edilen paýlamak arkaly kesgitlemegi gadagan etmeyär, ýöne paýlamagyň saýlanyp alnan şu maddadaky degişli ýörelgelere laýyk gelýän netijeleri bermelidir.

5. Hiç bir peýda diňe hemişelik wekilçiligiň kärhana üçin harytlary ýa-da önümleri satyn almagy esasynda oňa degişli edilip bilinmez.

6. Eger muny üýtgetmek üçin degerli we ýeterlik sebäpler bolmasa, ýokardaky bölümleriň maksatlary üçin hemişelik wekilçilige degişli peýda her ýyl şol bir usul arkaly kesgitlenilýär.

7. Eger peýda girdejileriň şu Konwensiýanyň beýleki maddalarynda aýratyn gürrüni edilýän görnüşlerini öz içine alýan bolsa, onda şu maddanyň düzgünleri şol maddalaryň düzgünlerine täsir etmeyär.

8-nji madda

Deňiz we howa gatnatmalary

1. Ylalaşýan Döwletiň kärhanasynyň deňiz ýa-da howa gämilerini halkara gatnawlarynda ulanmaktan alýan peýdasyna diňe şol Ylalaşýan Döwletde salgyt salynýar.

2. 1-nji bölümiň düzgünleri ulag serişdelerini işletmek boýunça pul-a, bilelikdäki kärhana ýa-da halkara guramasyna gatnaşmaktan alynýan peýda babatda hem ulanylýar.

9-njy madda

Şarikli kärhanalar

1. Eger:

a) bir Ylalaşýan Döwletiň kärhanasy beýleki Ylalaşýan Döwletiň kärhanasyny dolandyrmaga, oňa gözegçilik etmäge ýa-da onuň maýasyna göni ýa keseden gatnaşýan, ýa-da

b) şol bir adamlar Ylalaşýan Döwletiň biriniň kärhanasyny we Ylalaşýan Döwletiň beýlekisiniň kärhanasyny dolandyrmaga, gözegçilik etmäge ýa-da onuň maýasyna göni ýa-da keseden gatnaşýan bolsa,

we agzalan islendik halatda iki kärhananyň arasynda olaryň täjirçilik we maliýe gatnaşyklarynda iki garaşsyz kärhananyň arasynda bolmalysyndan tapawutlanýan şertler döredilýän ýa-da belleniýän bolsa, onda kärhanalaryň birine geçirilip bilinjek, ýöne şol şertleriň bolmagy sebäpli geçirilmedik islendik peýda şol kärhananyň peýdasyna goşulyp we degişlilikde oňa salgyt salnyp bilner.

2. Eger Ylalaşýan Döwlet şol Ylalaşýan Döwletiň kärhanasynyň şol beýleki Döwletde salgyt salnan peýdasyny birinji Döwletiň kärhanasynyň peýdasyna goşanda we degişlilikde salgyt salanda we şeýlelikde goşulan

peýda iki kärhananyň arasynda bellenen şertler iki garaşsyz kärhananyň arasyndaky ýaly bolan şertde birinji agzalan Döwletiň kärhanasynyň adyna hasaplanylýan peýda bolup durýan halatda, onda şol beýleki Döwlet şol peýda üçin özünde hasaplanylýan salgyt barada degişli düzedişi girizer. Şeýle düzediş kesgitlenilen mahaly şu Konwensiýanyň beýleki düzgünleri bolmalysy ýaly nazara alnar, Ylalaşýan Döwletleriň ygtyýarly edaralary bolsa zerur mahaly bir-biri bilen maslahatlaşar.

10-njy madda Diwidendler

1. Bir Ylalaşýan Döwletiň dahyllysy bolan kompaniýanyň beýleki Ylalaşýan Döwletiň dahyllysyna töleýän diwidendlerine şol beýleki Döwletde salgyt salnyp bilner.

2. Ýöne şeýle diwidendlere olary töleýän kompaniýanyň öz dahyllysy bolan Ylalaşýan Döwletinde hem onuň kanunçylygyna laýyklykda salgytlar salnyp bilner; emma diwidendlerden peýda alýan beýleki Ylalaşýan Döwletiň dahyllysy bolsa, onda şeýle usulda alynýan salgyt diwidendleriň jemi möçberiniň 10 göteriminden köp bolmaly däldir.

Bu bölüm kompaniýa ujundan diwidendler tölenilýän peýda babatda salgyt salynmagyna täsir etmeyär.

3. «Diwidendler» adalgasy şu maddada ulanylýan mahaly paýnamalardan we bergi talaplary bolup durmaýan, ýöne peýda gatnaşmaga hukuk berýän beýleki hukuklardan alynýan girdejileri, şeýle hem peýdany paýlaýan kompaniýa dahyllysy bolup durýan şol Döwletiň kanunçylygyna laýyklykda paýnamalardan alynýan girdejiler ýaly şeýle salgyt salynmagyna degişli beýleki korporatiw hukuklardan alynýan girdejileri hem aňladýar.

4. Eger diwidendleriň hakyky eýesi, bir Ylalaşýan Döwletiň dahyllysy bolmak bilen, diwidendleri töleýän kompaniýa öz dahyllysy bolan beýleki Ylalaşýan Döwletde telekeçilik işini şol ýerdäki hemişelik wekilçiligiň üsti bilen amala aşyryýan bolsa we diwidendleri tölemek babatdaky gatnaşygy şeýle hemişelik wekilçilik bilen hakykatdan hem bagly bolsa, şu maddanyň 1-nji we 2-nji bölümleriniň düzgünleri ulanylmaýar. Şeýle halatda 7-nji maddanyň düzgünleri ulanylýar.

5. Eger Ylalaşýan Döwletleriň biriniň dahyllysy bolup durýan kompaniýa beýleki Ylalaşýan Döwletden peýdany ýa-da girdejileri alýan bolsa, onda şol beýleki Döwlet şol kompaniýanyň töleýän diwidendlerinden hiç hili salgytlary alyp bilmez, şol diwidendler şol beýleki Döwletiň dahyllysyna tölenilýän ýa-da özi barada diwidendler hakykatdan-da şol beýleki Döwletde ýerleşýän hemişelik wekilçilik bilen bagly bolsa, kompaniýanyň paýlanylmadyk peýdasyna salgyt salmak, hatda tölenýän diwidendler ýa-da paýlanylmadyk peýda şol beýleki Döwletde emele gelýän

peýdadan ýa-da girdejiden doly ýa-da kem-käs ybarat bolsa hem bu kada ulanylmaýar.

11-nji madda Göterimler

1. Ylalaşýan Döwletleriň birinde emele gelyän we beýleki Ylalaşýan Döwletiň dahyllysyna tölenilýän göterimlere şol beýleki Döwletde salgyt salnyp bilner.

2. Ýöne şeýle göterimlere olar emele gelyän Ylalaşýan Döwletde hem şol Döwletiň kanunçylygyna laýyklykda salgyt salnyp bilner, emma şeýle göterimleriň eýesi beýleki Ylalaşýan Döwletiň dahyllysy bolsa, şeýle görnüşde alynýan salgyt göterimleriň jemi möçberiniň 10 göteriminden köp bolmaly däldir.

3. 2-nji bölümiň düzgünlerine garamazdan:

a) Türkmenistanda emele gelyän we Estoniýa Respublikasynyň Hökümetine ýa-da Estoniýanyň Merkezi bankyna tölenen göterimler Türkmenistanyň salgydyndan boşadylýar;

b) Estoniýada emele gelyän we Türkmenistanyň Hökümetine ýa-da Türkmenistanyň Merkezi bankyna tölenen göterimler Estoniýanyň salgydyndan boşadylýar.

4. «Göterimler» adalgasy şu maddada ulanylan mahaly gozgalmaýan emläk üçin berilýän karzyň zamun üpjünçiligine we bergidaryň girdejilerine gatnaşmak üçin hukugynyň bardygyna garamazdan, islendik görnüşdäki bergi talaplaryndan girdejini we hususan-da, döwletiň gymmatly kagyzlaryndan, obligasiýalaryndan ýa-da bergi borçnamalaryndan girdejini, şol sanda şol gymmatly kagyzzar we obligasiýalar ýa-da bergi borçnamalary boýunça baýraklary we utuşlary aňladýar. Wagty geçirilen tölegler üçin jerimelere şu maddanyň maksatlary üçin göterimler hökmünde garalmaýar.

5. Eger göterimleriň hakyky eýesi Ylalaşýan Döwletleriň biriniň dahyllysy bolmak bilen, göterimler emele gelyän beýleki Ylalaşýan Döwletde telekeçilik işini şol ýerdäki hemişelik wekilçiligiň üsti bilen amala aşyrylan bolsa hem-de göterimleriň tölenilmegine esas bolýan bergi talaby şeýle hemişelik wekilçilik bilen hakykatda bagly bolsa, 1-nji we 2-nji bölümleriň düzgünleri ulanylmaýar. Şeýle halatda 7-nji maddanyň düzgünleri ulanylýar.

6. Eger göterimleri töleýji şol Ylalaşýan Döwletiň dahyllysy bolsa, göterimler Ylalaşýan Döwletde emele gelyär diýlip hasaplanylýar. Eger göterimleri töleýji tarapyň Ylalaşýan Döwletiň dahyllysydygyna ýa-da däldigine garamazdan, Ylalaşýan Döwletde onuň göterimleriň tölenilmegine esas bolan hemişelik wekilçiligi bar bolsa we şol göterimleri hem-de olary tölemek boýunça çykdaýlary şeýle hemişelik wekilçilik

çekýän bolsa, onda şeýle göterimler hemişelik wekilçilik ýerleşýän Döwletde emele gelyär diýlip hasaplanylýar.

7. Eger göterimleriň töleýjisiniň we hakyky eýesiniň arasyndaky ýa-da olaryň ikisiniň we haýsy-da bolsa başga bir tarapyň arasyndaky aýratyn gatnaşyklar sebäpli göterimleriň tölenilmegine esas bolan bergi talabyna degişli göterimleriň jemi, göterimleriň töleýjisiniň we hakyky eýesiniň arasynda şeýle gatnaşyklar ýok mahaly ylalaşylyp bilinjek möçberden köp bolsa, onda şu maddanyň düzgünleri diňe soňky agzalan möçber babatda ulanylýar. Şeýle halatda tölegiň artýan bölegi şu Konwensiýanyň beýleki düzgünlerini nazara almak bilen, her bir Ylalaşýan Döwletiň kanunçylygyna laýyklykda salgyt salynmaga öňküsi ýaly degişlidir.

12-nji madda

Awtorlyk hukuklaryndan we ygtyýarnamalardan alynýan girdejiler

1. Ylalaşýan Döwletleriň birinde döreyän we hakyky eýesi beýleki Ylalaşýan Döwletiň dahyllysy bolup durýan awtorlyk hukuklaryndan we ygtyýarnamalardan alynýan girdejlere şol beýleki Ylalaşýan Döwletde salgyt salnyp bilner.

2. Emma, awtorlyk hukuklaryndan we ygtyýarnamalardan alynýan şeýle girdejlere hem olaryň döreyän Ylalaşýan Döwletinde bu Döwletiň kanunçylygyna laýyklykda salgyt salnyp bilner, ýöne, eger awtorlyk hukuklaryndan we ygtyýarnamalardan alynýan şeýle girdejileriň hakyky eýesi beýleki Ylalaşýan Döwletiň dahyllysy bolup durýan bolsa, şeýle ýagdaýda salynýan salgyt awtorlyk hukuklaryndan we ygtyýarnamalardan alynýan girdejileriň umumy möçberiniň 10 göteriminden geçmeli däldir.

3. «Awtorlyk hukuklaryndan we ygtyýarnamalardan girdejiler» adalgasy şu maddada ulanylan mahaly islendik edebiýat, sungat ýa-da ylmy eserler, şol sanda kinofilmler üçin awtorlyk hukuklarynyň, islendik patentiň, söwda belgisiniň, dizaýnyň ýa-da modeliň, ülnüniň, gizlin formulalaryň ýa-da amallar ulgamynyň ulanylmagy ýa-da ulanmaga hukuk üçin hak, şeýle hem senagat, täjirçilik, ýa-da ylmy tejribä degişli maglumatlary peýdalanmak üçin hak hökmünde alynýan islendik görnüşdäki tölegleri aňladýar.

4. Eger awtorlyk hukuklaryndan we ygtyýarnamalardan alynýan girdejileriň hakyky eýesi, Ylalaşýan Döwletleriň biriniň dahyllysy bolmak bilen, awtorlyk hukuklaryndan we ygtyýarnamalardan girdejiler emele gelyän beýleki Ylalaşýan Döwletde telekeçilik işini şol ýerdäki hemişelik wekilçiligiň üsti bilen amala aşyrylan bolsa, awtorlyk hukuklaryndan we

ygtyýarnamalardan girdejiler tölenýän hukuk ýa-da emläk şol hemişelik wekilçilik bilen hakykatdan hem bagly bolsa, 1-nji we 2-nji bölümleriň düzgünleri ulanylmaýar. Şeýle halatda 7-nji maddanyň düzgünleri ulanylýar.

5. Töleýji Ylalaşýan Döwletiň dahyllysy bolan halatda roýalti şol Döwletde ýüze çykdy diýlip hasaplanýar. Ýöne, eger roýaltini töleýjiniň Ylalaşýan Döwletiň dahyllysydygyna ýa-da däldigine garamazdan, şol Ylalaşýan Döwletde roýaltleri tölemek boýunça özi barada borçnamalar döreyän hemişelik wekilçilik bar bolsa we şeýle roýaltleri şol hemişelik wekilçilikde ýüze çykýan bolsa, onda şeýle roýaltleri hemişelik wekilçilik ýerleşýän şol Döwletde ýüze çykdy diýip hasaplamaly.

6. Eger awtorlyk hukuklaryndan we ygtyýarnamalardan girdejileri töleýjileriň we hakyky eýesiniň arasyndaky ýa-da olaryň ikisiniň we haýsydyr başga bir tarapyň arasyndaky aýratyn gatnaşyklar sebäpli, özleri üçin tölenýän hukuga ýa-da maglumatlara degişli awtorlyk hukuklaryndan we ygtyýarnamalardan alynýan girdejileriň möçberi töleýjiniň we hakyky eýesiniň arasynda şeýle gatnaşyklar ýok mahaly ylalaşylyp bilinjek möçberden köp bolsa, onda şu maddanyň düzgünleri diňe soňky agzalan möçber barada ulanylýar. Şeýle halatda tölegiň artýan bölegi şu Konwensiýanyň beýleki düzgünlerini nazara almak bilen, her bir Ylalaşýan Döwletiň kanunçylygyna laýyklykda salgyt salynmaga öňküsi ýaly degişlidir.

13-nji madda **Maýanyň artmagy**

1. Ylalaşýan Döwletleriň biriniň dahyllysynyň 6-njy maddada atlandyrylan we beýleki Ylalaşýan Döwletde ýerleşýän gozgalmaýan emlägi aýrybaşgalamakdan alýan girdejlere şol beýleki Döwletde salgyt salnyp bilner.

2. Ylalaşýan Döwletleriň biriniň kärhanasynyň beýleki Ylalaşýan Döwletde bar bolan hemişelik wekilçiliginiň täjirçilik emläginiň bir bölegini düzýän gozgalýan emläginiň aýrybaşgаланmagyndan alynýan girdejlere, şol sanda şeýle hemişelik wekilçiligiň (aýratynlykda ýa-da tutuş kärhana bilen bilelikde) aýrybaşgаланmagyndan alynýan girdejlere şol beýleki Döwletde salgyt salnyp bilner.

3. Ylalaşýan Döwletiň kärhanasynyň halkara gatnatmalarynda deňiz ýa-da howa gämilerini ulanmakdan, deňiz ýa-da howa gämileriniň ýa-da şeýle deňiz ýa bolmasa howa gämileriniň ulanylmagy bilen bagly gozgalýan emlägiň aýrybaşgаланmagyndan alynýan girdejiler diňe şol Ylalaşýan Döwletde salgyt salynmaga degişlidir.

4. Ylalaşyan Döwletleriň biriniň dahyllysynyň bahasy beýleki Ylalaşyan Döwletde ýerleşen gozgalmaýan emläk bilen gönüden-göni ýa-da gytaklaýyn baglylykda 50 göterimden köp bolan paýnamalaryň aýrybaşgalanmagyndan alýan girdejilerine şol beýleki Döwletde salgyt salnyp bilner.

5. 1, 2, 3-nji we 4-nji bölümlerde gürrüňi edilýänden başga islendik emlägiň aýrybaşgalanmagyndan alnan girdejiler diňe emlägi aýrybaşgalaýan tarap dahyllysy bolan Ylalaşyan Döwletde salgyt salynmaga degişlidir.

14-nji madda **Hakynatutma boýunça işden alynýan girdejiler**

1. 15, 17-nji we 18-nji maddalaryň düzgünlerini nazara almak bilen, eger diňe hakynatutma boýunça iş beýleki Ylalaşyan Döwletde amala aşyrylmaýan bolsa, Ylalaşyan Döwletleriň biriniň dahyllysynyň hakynatutma boýunça iş bilen bagly alýan zähmet haky we beýleki şuna meňzeş hak, diňe şol Döwletde salgyt salynmaga degişlidir. Eger hakynatutma boýunça iş şeýle görnüşde amala aşyrylýan bolsa, onda şunuň bilen bagly alnan haka şol beýleki Ylalaşyan Döwletde salgyt salnyp bilner.

2. 1-nji bölümiň düzgünlerine garamazdan, Ylalaşyan Döwletleriň biriniň dahyllysynyň beýleki Ylalaşyan Döwletde hakynatutma boýunça amala aşyrylýan iş bilen bagly alýan hakyna şu şertlere laýyk gelse, diňe birinji agzalan Döwletde salgyt salynýar:

a) alyjy degişli maliýe ýylynda başlanýan ýa-da tamamlanýan islendik on iki aýlyk döwürde jemi alnanda 183 günden geçmeýän döwriň ýa-da döwürleriň dowamynda beýleki Döwletde bolsa,

b) töleg şol beýleki Döwletiň dahyllysy bolmadyk hakyna tutujy tarapyndan ýa-da onuň adyndan tölenilýän bolsa; we

ç) tölegleri tölemek boýunça çykdajylary hakyna tutujynyň beýleki Döwletdäki hemişelik wekilçiligi çekmeýän bolsa.

3. Şu maddanyň ýokardaky düzgünlerine garamazdan, Ylalaşyan Döwletiň kärhanasy tarapyndan halkara gatnawlarynda ulanylýan deňiz ýa-da howa gämisiniň bortunda hakynatutma boýunça amala aşyrylýan iş bilen bagly alynýan haka şol Döwletde salgyt salnyp bilner.

15-nji madda **Direktorlaryň gonorarlary**

Direktorlaryň gonorarlary we Ylalaşyan Döwletleriň biriniň dahyllysynyň beýleki Ylalaşyan Döwletiň dahyllysy bolan kompaniýanyň Direktorlar geňeşiniň ýa-da islendik beýleki şuna meňzeş edarasynyň

agzasy hökmünde alýan şonuň ýaly beýleki haklaryna şol beýleki Döwletde salgyt salnyp bilner.

16-njy madda **Artistler we sportsmenler**

1. 7-nji we 14-nji maddalaryň düzgünlerine garamazdan, Ylalaşýan Döwletleriň biriniň dahyllysynyň teatryň, kinonyň, radionyň we telewideniýäniň artisti ýa-da sazandasy ýaly sungat işgäri hökmünde ýa-da sportsmen hökmünde beýleki Ylalaşýan Döwletde amala aşyrylan öz şahsy işinden alýan girdejisine şol beýleki Döwletde salgyt salnyp bilner.

2. Eger sungat işgäriniň ýa-da sportsmeniň amala aşyrylan şahsy işinden alýan girdejisi sungat işgäriniň ýa-da sportsmeniň öz adyna däl-de, başga bir tarapyň adyna geçirilýän bolsa, onda 7-nji we 14-nji maddalaryň düzgünlerine garamazdan, şol girdejä sungat işgäriniň ýa-da sportsmeniň işi amala aýyrylýan Ylalaşýan Döwletde salgyt salnyp bilner.

3. Eger Ylalaşýan Döwletde olaryň bolmagy esasan, Ylalaşýan Döwletleriň biriniň ýa-da ikisiniň hem jemgyýetçilik gaznalary ýa bolmasa ýerli häkimiýet edaralary tarapyndan goldanýan bolsa, sungat işgäriniň ýa-da sportsmeniň şol Ylalaşýan Döwletde amala aşyrylan işinden alynýan girdejä 1-nji we 2-nji bölümleriň düzgünleri ulanylmaýar. Şeýle halatda girdejä diňe şol sungat işgäri ýa-da sportsmen dahyllysy bolan Ylalaşýan Döwletde salgyt salynýar.

17-nji madda **Pensiýalar**

Ylalaşýan Döwletiň dahyllysyna tölenýän pensiýalar diňe şol Ylalaşýan Döwletde salgyt salnмага degişlidir.

18-nji madda **Döwlet gullugyndan alynýan girdejliler**

1. a) Ylalaşýan Döwlet ýa-da onuň edara ediş düzümi, ýa-da ýerli öz-özünü dolandyryş edarasy tarapyndan şahsy adama şol Döwlete, onuň düzümlerine ýa-da edarasyna edýän gullugy üçin tölenýän zähmet haky we şunuň ýaly beýleki hak diňe şol Döwletde salgyt salnмага degişlidir;

b) Emma şeýle zähmet haky we beýleki şunuň ýaly hak, eger gulluk beýleki Ylalaşýan Döwletde amala aşyrylýan bolsa we şahsy adam şol Döwletiň dahyllysy bolsa, diňe şol Döwletde salgyt salmaga degişlidir, ol:

(i) şol Döwletiň milli tarapy bolmaly; ýa-da

(ii) diňe gulluk etmek maksady bilen, şol Döwletiň dahyllysy bolmadyk bolmaly.

2. 14, 15-nji we 16-njy maddalaryň düzgünleri Ylalaşýan Döwletiň, onuň edara ediş düzüminiň ýa-da ýerli öz-özüňi dolandyryş edarasynyň telekeçilik işi bilen bagly edilýän gulluk üçin zähmet haky, pensiýalar we şuna meňzeş beýleki hak barada ulanylýar.

19-njy madda **Talyplar**

Ylalaşýan Döwletleriň birine gelmeginden öň beýleki Ylalaşýan Döwletiň dahyllysy bolup durýan ýa-da bolan we birinji agzalan Döwletde diňe okamak ýa-da tejribe geçmek maksady bilen bolýan talyp ýa-da tejribe geçýän tarapyndan ýaşamak, okamak ýa-da tejribe geçmek maksady üçin alynýan tölegler şol Döwletiň çäklerinden daşardaky çeşmelerden tölenýän şertlerinde, olara salgyt salynmaýar.

20-nji madda **Beýleki girdejiler**

1. Ylalaşýan Döwletleriň biriniň dahyllysynyň girdejileriniň şu Konwensiýanyň ýokardaky maddalarynda görkezilmedik görnüşleri olaryň dörän çeşmesine garamazdan, diňe şol Döwletde salgyt salynmaga degişlidir.

2. Eger 6-njy maddanyň 2-nji bölümünde kesgitlemesi berlen gozgalmaýan emläkden alynýan girdejileriň alyjysy Ylalaşýan Döwletleriň biriniň dahyllysy bolmak bilen, beýleki Ylalaşýan Döwletde telekeçilik işini onda ýerleşýän hemişelik wekilçiligiň üsti bilen amala aşyrylan we girdejiniň tölenmegi baradaky hukuk ýa-da emläk şeýle hemişelik wekilçilik bilen hakykatdan-da bagly bolsa, onda 1-nji bölümüň düzgünleri 6-njy maddanyň 2-nji bölümünde kesgitlemesi berlen gozgalmaýan emläkden alynýanlardan başga girdejiler barada ulanylmaýar. Şeýle halatda 7-nji maddanyň düzgünleri ulanylýar.

21-nji madda **Iki gezek salgyt salynmagyny** **aradan aýyrmagyň usullary**

1. Türkmenistan iki gezek salgyt salynmagyny şeýle ýagdaýda aradan aýyrylan halatda:

eger Türkmenistanyň dahyllysynyň alýan girdejisine Estoniýada şu Konwensiýanyň düzgünlerine laýyklykda salgyt salnyp bilinjek bolsa,

Türkmenistan şeýle dahyllynyň girdejisine salgytdan Estoniýada tölenen salgyda barabar möçberi kemmäge rugsat berýär.

2. Estoniýa iki gezek salgyt salynmagyny şeýle ýagdaýda aradan aýyrýan halatda:

a) eger Estoniýanyň dahyllysynyň alýan girdejisi şu Konwensiýanyň düzgünlerine laýyklykda Türkmenistanda salgyt salynmaga degişli bolsa, Estoniýa hem b kiçi bölüme hem-de 3-nji we 4-nji paragraflara degişli şeýle girdejini salgyt salynmagyndan boşadýar, we;

b) eger Estoniýanyň dahyllysy 10-njy, 11-nji ýa-da 12-nji maddalaryň 2-nji paragraflaryna laýyklykda alýan girdejisine Türkmenistanda salgyt salnyp bilinjek bolsa, Estoniýa şeýle dahyllynyň Türkmenistanda tölenen salgyda barabar möçberi girdeji üçin salgydyndan kemmäge rugsat berýär.

3. Ýöne şu maddada beýan edilen kemilýän şeýle möçberler islendik halatda girdeji üçin salgydyň kemilmegine rugsat berilmeginden öň hasaplanan, ýagdaýlara baglylykda beýleki Ylalaşýan Döwletde salgyt salnyp bilinjek girdejä degişli böleginden köp bolmaz.

4. Eger şu Konwensiýanyň islendik düzgünine laýyklykda, Ylalaşýan Döwletleriň biriniň dahyllysynyň alýan girdejisi ýa-da maýasy şol Döwletde salgytdan boşadylan bolsa, şol Döwlet muňa garamazdan, şol dahyllynyň girdejisiniň ýa-da maýasynyň galan bölegine salgydyň möçberi hasaplanan mahaly salgytdan boşadylan girdejini hasaba alyp biler.

22-nji madda **Kemsitmezlik**

1. Ylalaşýan Döwletleriň biriniň milli taraplary beýleki Ylalaşýan Döwletde şol beýleki Döwletiň hut şol ýagdaýlarda, hususan-da dahyllylyk babatda milli taraplarynyň sezewar edilýän ýa-da sezewar edilip bilinjek salgyt salynmagyndan ýa-da şonuň bilen bagly talaplardan başga, ýa bolmasa has agyr salgyt salmak bilen bagly islendik salgyt salynmagyna, ýa-da onuň bilen bagly talaplara sezewar edilmeli däldir. Şu düzgün 1-nji maddanyň düzgünlerine garamazdan, Ylalaşýan Döwletleriň biriniň ýa-da ikisiniň hem dahyllysy bolup durmaýan taraplar barada hem ulanylýar.

2. Ylalaşýan Döwletleriň biriniň kärhanasynyň beýleki Ylalaşýan Döwletdäki hemişelik wekilçiligi babatdaky salgyt salmak düzgüni şol beýleki Döwletiň şeýle işi amala aşyryýan kärhanalar baradaky salgyt salmak düzgüninden az amatly bolmaly däldir. Şu düzgün Ylalaşýan Döwletleriň birini öz dahyllylaryna olaryň raýatlyk hukuk ýagdaýy ýa-da maşgala ýagdaýy esasynda salgyt salmak maksady bilen berýän haýsydyr bir şahsy salgyt ýeňillikleri, kemmeleri we indirimleri beýleki Ylalaşýan Döwletiň dahyllysyna üpjün etmäge borçly edýän hökmünde düşündirilmeli däldir.

3. 9-njy maddanyň 1-nji bölümüniň, 11-nji maddanyň 7-nji bölümüniň ýa-da 12-nji maddanyň 5-nji bölümüniň düzgünleri ulanylandan başga halatlarda Ylalaşýan Döwletleriň biriniň kärhanasynyň beýleki Ylalaşýan Döwletiň dahyllysyna töleýän göterimleri, roýaltileri we beýleki tölegleri şeýle kärhananyň salgyt salynýan peýdasyny kesgitlemek maksady bilen, olar birinji agzalan Döwletiň dahyllysyna tölenendäki ýaly şertlerde kemilmäge degişlidir.

4. Ylalaşýan Döwletleriň biriniň maýasy beýleki Ylalaşýan Döwletiň bir ýa-da birnäçe dahyllysyna doly ýa-da gytaklaýyn degişli bolan ýa-da olar tarapyndan gözegçilik edilýän kärhanasy birinji agzalan Döwletde şol Döwletiň şonuň ýaly beýleki kärhanalary babatda sezewar edilýän ýa-da sezewar edilip bilinjek salgyt salynmagyndan we onuň bilen bagly talaplardan başga ýa-da has agyr islendik salgyt salynmagyna ýa-da onuň bilen bagly islendik talaplara sezewar edilmeli däldir.

5. 2-nji maddanyň düzgünlerine garamazdan, şu maddanyň düzgünleri islendik görnüşli we kysymly salgytlar barada ulanylýar.

23-nji madda **Özara ylalaşmak amaly**

1. Eger tarap Ylalaşýan Döwletleriň biriniň ýa-da ikisiniň hem hereketleri şu Konwensiýanyň düzgünlerine laýyk gelmeýän salgytlaryň salynmagyna eltýär ýa-da elter diýip hasap edýän bolsa, ol şu Döwletleriň içerki kanunçylygynda göz önünde tutulan gorag serişdelerine garamazdan, özi dahyllysy bolup durýan Ylalaşýan Döwletiň ýa-da onuň işi 23-nji maddanyň 1-nji bölümüniň täsirine düşýän bolsa, onda özi milli tarapy bolan Ylalaşýan Döwletiň ygtyýarly edarasyna arza berip biler. Arza şu Konwensiýanyň düzgünlerine laýyk gelmeýän salgytlaryň salynmagyna getirýän hereketler hakyndaky ilkinji habarnamanyň pursadyndan başlap, üç ýylyň dowamynda berilmelidir.

2. Ygtyýarly edara arzany esasly hasap etse we özi kanagatlanarly çözüde gelip bilmeýse, şu Konwensiýa laýyk gelmeýän salgytlaryň salynmagyny aradan aýyrmak maksady bilen, işi beýleki Ylalaşýan Döwletiň ygtyýarly edarasy bilen özara ylalaşmak boýunça çözmäge çalşar. Ylalaşyk ygtyýarly edaralar tarapyndan resmi däl ýagdaýda goýlandan soň iki ýylyň dowamynda gazanylýar we ylalaşyk Ylalaşýan Döwletleriň içerki kanunçylygynda bar bolan islendik wagtlaýyn çärklendirmelere garamazdan, ýerine ýetiriler.

3. Ylalaşýan Döwletleriň ygtyýarly edaralary Konwensiýa düşündirililen ýa-da ulanylan mahaly ýüze çykýan islendik kynçylyklary ýa-da şübhelenmeleri özara ylalaşmak boýunça çözmäge çalşarlar. Olar şeýle

hem şu Konwensiýada göz önünde tutulmadyk halatlarda iki gezek salgyt salynmagyny aradan aýyrmak maksadyna eýerip, bir-biri bilen geňeşerler.

4. Ylalaşýan Döwletleriň ygtyýarly edaralary ýokardaky bölümlere düşünmekde ylalaşyk gazanmak maksadyna eýerip, bir-biri bilen, şol sanda olaryň özlerinden ýa-da wekillerinden düzülen bilelikdäki toparyň üsti bilen göni gatnaşykda bolup bilerler.

24-nji madda **Maglumatlary alyşmak**

1. Şeýle derejede salgyt salynmagy şu Konwensiýa ters gelmeýän bolsa, Ylalaşýan Döwletleriň ygtyýarly edaralary şu Konwensiýanyň düzgünlerini ýerine ýetirmek ýa-da Ylalaşýan Döwletleriň ýa-da olaryň edara ediş düzümleriniň, ýa bolmasa ýerli öz-özünü dolandyryş edarasynyň adyndan alynýan salgytlaryň islendik görnüşine we teswirine degişli içerki kanunçylygy dolandyrmak ýa-da ulanmak üçin zerur maglumatlary alyşýarlar. Maglumatlary alyşmak 1-nji we 2-nji maddalar bilen çäklenmeýär.

2. Şertleşýän Döwletleriň birinden 1-nji bölüme laýyklykda alnan islendik maglumat şol Döwletiň içerki kanunçylygyna laýyklykda alnan maglumat ýaly aýan edilmesiz hasap edilýär we diňe 1-nji bölümde görkezilen salgytlar babatdaky maglumatlara baha bermek ýa-da toplamak, mejburi töletdirmek ýa bolmasa kazyýet taýdan yzarlamak, ýa-da şikayatlara garamak, ýokarda aýdylanlaryň ählisine gözegçilik etmek bilen meşgullanýan taraplara ýa-da edaralara (şol sanda kazyýetler we dolandyryş edaralary) habar berilýär.

3. Hiç bir halatda 1-nji we 2-nji bölümleriň düzgünleri Ylalaşýan Döwletiň üstüne şu borçlary ýükleyän hökmünde düşündirilmez:

a) ol ýa-da beýleki Ylalaşýan Döwletiň kanunçylygyna ýa-da edara ediş tejribesine ters gelyän edara ediş çärelerini geçirmek;

b) ol ýa-da beýleki Ylalaşýan Döwletiň kanunçylygy boýunça ýa-da adaty edara ediş tejribesiniň barşynda alyp bolmaýan maglumatlary bermek;

ç) söwda, telekeçilik, senagat, täjirçilik ýa-da hünär syryny, ýa bolmasa söwda amalyny aýan etjek maglumatlary, ýa-da aýan edilmegi döwlet syýasatyna (ordre public) ters geljek maglumatlary bermek.

4. Eger maglumatlar şu madda laýyklykda Ylalaşýan Döwletleriň biri tarapyndan soralan bolsa, beýleki Ylalaşýan Döwlet hatda eger şeýle maglumat öz salgyt maksatlary üçin beýleki Döwlete zerur bolmasa-da, soralan maglumatlary almak üçin maglumatlary toplamak boýunça ol öz çärelerini peýdalanmalydyr. Ýokardaky sözlemdäki borçnama 3-nji bölümiň düzgünleri bilen çäklendirilendir, ýöne hiç bir halatda şeýle çäklendirme özünde diňe içerki gyzyklanmanyň ýokdugy sebäpli,

maglumatlary bermekden boýun gaçyrmaga Ylalaşýan Döwletlere rugsat berýän hökmünde düşündirilip bilinmez.

5. Hiç bir halatda 3-nji bölümiň düzgünleri diňe maglumatlaryň eýesi bank, beýleki maliýe edarasy, nominal saklaýjy ýa-da ýumuşçy ýa bolmasa ynanylan tarap bolup durýandygy sebäpli, ýa bolmasa maglumatyň taraplaryň eýeçilik hukugyna degişlidigi sebäpli, Ylalaşýan Döwletlere maglumatlary bermekden boýun gaçyrmaga rugsat berýän hökmünde düşündirilmez.

25-nji madda **Diplomatik wekilhanalaryň we konsullyk** **edarylaryň işgärleri**

Şu Konwensiýanyň hiç bir düzgüni diplomatik wekilhanalaryň we konsullyk edarylaryň işgärleriniň halkara hukugynyň umumy kadalary ýa-da ýörite ylalaşyklaryň düzgünleri arkaly berlen salgyt ýeňilliklerine täsir etmeýär.

26-njy madda **Güýje girmegi**

1. Ylalaşýan döwletler Şu Konwensiýanyň güýje girmegi üçin zerur bolan amallary olaryň içerki kanunçylyklaryna laýyklykda ýerine yetirendikleri barada diplomatik ýollar boýunça ýazmaça habarnamany bir-birine bererler. Şu Konwensiýa şeýle habarnamalaryň soňkusynyň alnan senesinden güýje girer.

2. Şu Konwensiýanyň düzgünleri:

a) çeşmesinden alynýan salgytlar babatda – Konwensiýanyň güýje giren ýylyndan soňky ýylyň birinji ýanwarynda ýa-da şondan soň alnan girdejiler barada;

b) girdejiler üçin beýleki salgytlar babatda – Konwensiýanyň güýje giren ýylyndan soňky ýylynyň birinji ýanwarynda ýa-da şondan soň başlanýan islendik maliýe ýyly üçin tölenýän salgytlar barada ulanylýar.

27-nji madda **Hereketiniň bes edilmegi**

Şu Konwensiýa Ylalaşýan Döwletleriň biri onuň hereketini bes edýänçä güýjünde galýar. Islendik Ylalaşýan Döwlet Konwensiýa güýje giren seneden başlap, baş ýyllyk döwürden soň gelyän senenama ýylynyň ahyryna çenli azyndan alty aý öň hereketini bes etmek baradaky habarnamany diplomatik ýollar boýunça bermek arkaly şu Konwensiýanyň hereketini bes edip biler.

Şeýle halatda şu Konwensiýa:

a) güýjüni ýatyrmak baradaky habarnama berlen ýyldan soň gelyän ýylyň 1-nji ýanwarynda ýa-da şondan soň alnan girdeji boýunça çeşmeden tutulyp alynýan salgytlar babatda;

b) güýjüni ýatyrmak hakyndaky habarnama berlen ýyldan soň gelyän ýylyň 1-nji ýanwarynda ýa-da 1-nji ýanwaryndan soň başlanýan islendik tölenýän salgytlar, girdeji salynýan beýleki salgytlar barada öz hereketini bes edýär.

MUÑA GÜWÄ GEÇMEK HÖKMÜNDE degişli derejede ygtyýarly edilen aşakda gol çekenler şu Konwensiýa gol çekdiler.

Aşgabat şäherinde 2011-nji ýylyň noýabrynda «28» türkmen, eston we inlis dillerinde iki nusgada amal edildi, özi-de, ähli nusgalaryň hem birmeňzeş güýji bardyr. Ýazgylaryň arasynda çaprazlyklar ýüze çykan halatda inlisçe ýazgy iş ýazgysy bolup durýar.

**Türkmenistanyň
Hökümetiniň adyndan**

**Estoniýa Respublikasynyň
Hökümetiniň adyndan**

KONWENSIÝA 15.03.2013 ÝYLYDA GÜÝJE GIRDI

CONVENTION

between the Government of Turkmenistan and the Government of the Republic of Estonia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income

The Government of Turkmenistan and the Government of the Republic of Estonia, desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income, have agreed as follows:

Article 1

PERSONS COVERED

This Convention shall apply to persons who are residents of one or both of the Contracting States.

Article 2

TAXES COVERED

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State or of its administrative subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises.
3. The existing taxes to which the Convention shall apply are in particular:
 - a) in the case of Turkmenistan:
the tax on profits (income) of juridical persons;
the tax on income of individuals;

(hereinafter referred to as "Turkmen tax").

b) in the case of Estonia, the income tax;

(hereinafter referred to as "Estonian tax").

4. The Convention shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their taxation laws.

Article 3

GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:
 - a) the term "Turkmenistan" means the territory of Turkmenistan comprised within its land borders together with the maritime zones (including both marine and sub-marine zones) over which Turkmenistan exercises sovereign or jurisdictional rights under international law;
 - b) the term "Estonia" means the Republic of Estonia and, when used in the geographical sense, the territory of Estonia and any other area adjacent to the territorial waters of Estonia within which, under the laws of Estonia and in accordance with international law, the rights of Estonia may be exercised with respect to the sea bed and its sub-soil and their natural resources;
 - c) the term "person" includes an individual, a company and any other body of persons;
 - d) the term "company" means any legal person or any entity that is treated as a legal person for tax purposes;
 - e) the term "enterprise" applies to the carrying on of any business;
 - f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
 - g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

h) the term "competent authority" means:

- (i) in the case of Turkmenistan – the Ministry of Finance and the Main State Tax Service or their authorized representative, and;
- (ii) in the case of Estonia – the Minister of Finance or his authorized representative;

i) the term "national" means:

- (i) any individual possessing the nationality of that Contracting State, and;
- (ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State;

j) the term "business" includes the performance of professional services and of other activities of an independent character.

2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies. Any meaning under the applicable tax laws of that State prevails over a meaning given to the term under other laws of that State.

Article 4

RESIDENT

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature, and also includes that State and any administrative subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

- a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre

- b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;
 - c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;
 - d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall settle the question by mutual agreement having regard to such factors as the place of effective management and the place of incorporation

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially:
 - a) a place of management;
 - b) a branch;
 - c) an office;
 - d) a factory;
 - e) a workshop, and
 - f) a mine, an oil or gas well, a quarry or any other place of exploration, extraction and development of natural resources.
3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than 12 months.
4. The furnishing of services, including consultancy or managerial services, by an enterprise of a Contracting State through employees or other personnel engaged by the enterprise for such purpose, in the other Contracting State constitutes a permanent establishment only if activities of that nature continue for a period or periods aggregating more than 6 months in a twelve month period.

5. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

- a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

6. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 7 applies – is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 5 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

7. An enterprise shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph.

8. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other

Article 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.
2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, any rights of claim in respect of immovable property, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources. Ships and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.

Article 7

BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

SHIPPING AND AIR TRANSPORT

1. Profits derived by an enterprise of Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that Contracting State.

2. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9

ASSOCIATED ENTERPRISES

1. Where

a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations 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.

2. Where a Contracting State includes in the profits of an enterprise of that Contracting 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 Contracting 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 Convention and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11

INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State in which it arises, and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in:

- a) Turkmenistan and paid to the Government of the Republic of Estonia or to the Central Bank of Estonia shall be exempt from Turkmen tax;
- b) Estonia and paid to the Government of Turkmenistan or to the Central Bank of Turkmenistan shall be exempt from Estonian tax.

4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. The term "interest" shall not include any income, which is treated as a dividend under the provisions of Article 10. Penalty charges for late payment shall not be regarded as interest for the purposes of this Article.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that Contracting State. Where, however, the person paying the interest, whether he is a resident of a State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12

ROYALTIES

1. Royalties arising in a Contracting State and beneficially owned by a resident of the other Contracting State may be taxed in that other Contracting State.

2. However, such royalties may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that Contracting State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13

CAPITAL GAINS

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. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment, may be taxed in that other Contracting State.

3. Gains derived by an enterprise of a Contracting State operating ships or aircraft in international traffic from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in that Contracting State.

4. Gains derived by a resident of a Contracting State from the alienation of shares deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.

5. Gains from the alienation of any property, other than that referred to in paragraphs 1, 2, 3 and 4, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Contracting State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if all the following conditions are met:

- a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned,
- b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State,
- c) the remuneration is not borne by a permanent establishment which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State, may be taxed in that State.

Article 15

DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or any other similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 16

ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 7 and 14, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.
3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities exercised in a Contracting State by an entertainer or a sportsman if the visit to that Contracting State is mainly supported by public funds of one or both of the Contracting States or of its administrative subdivision or local authorities thereof. In such case, the income shall be taxable only in the Contracting State of which the entertainer or a sportsman is a resident.

Article 17

PENSIONS

Pensions paid to a resident of a Contracting State shall be taxable only in that Contracting State.

Article 18

GOVERNMENT SERVICE

1. a) Salaries, wages and other similar remuneration, paid by a Contracting State or an administrative subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
 - (i) is a national of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.

2. The provisions of Articles 14, 15 and 16 shall apply to salaries, wages and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or an administrative subdivision or a local authority thereof.

Article 19

STUDENTS

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Article 20

OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

Article 21

METHODS FOR ELIMINATION OF DOUBLE TAXATION

1. In the case of Turkmenistan, double taxation shall be avoided as follows:

where a resident of a Turkmenistan derives income which, in accordance with the provisions of this Convention, may be taxed in Estonia, Turkmenistan shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Estonia.

2. In the case of Estonia, double taxation shall be avoided as follows:
 - a) where a resident of Estonia derives income which, in accordance with the provisions of this Convention, has been taxed in Turkmenistan, Estonia shall, subject to the provisions of subparagraph b and paragraphs 3 and 4, exempt such income from tax, and;
 - b) where a resident of Estonia derives income which in accordance with the provisions of paragraph 2 of Articles 10, 11 or 12 may be taxed in Turkmenistan, Estonia shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Turkmenistan.
3. Deductions described in this Article shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable, to the income which may be taxed in other Contracting State.
4. Where in accordance with any provision of the Convention income derived by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

Article 22

NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other Contracting State in the same circumstances are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned Contracting State are or may be subjected.

5. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 23

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident, or if his case comes under paragraph 1 of Article 22, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. An agreement shall be reached within a period of two years after the question was formally raised by the competent authority and the agreement shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly, including through a joint commission consisting of themselves or their representatives for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 24

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting State or of their administrative subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

- a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (*ordre public*).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other Contracting State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

Article 25

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

Article 26

ENTRY INTO FORCE

1. The Contracting States shall notify each other in writing, through diplomatic channels, of the completion of the procedures required by their domestic laws for the entry into force of this Convention. The Convention shall enter into force on the date of the later of these notifications.

2. The provisions of the Convention shall have effect:

- a) in respect of taxes withheld at source, on income derived on or after the first day of January next following the year in which the Convention enters into force;
- b) in respect of other taxes on income, for taxes chargeable for any fiscal year beginning on or after the first day of January next following the year in which the Convention enters into force.

Article 27

TERMINATION

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the period of five years from the date on which the Convention entered into force.

In such event, the Convention shall cease to have effect:

- a) in respect of taxes withheld at source, on income derived on or after the first day of January next following the year in which the notice is given;
- b) in respect of other taxes on income, for taxes chargeable for any taxation year beginning on or after the first day of January next following the year in which the notice is given.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Convention.

Done in duplicate at Ashgabat, on “ 28 ” November 2011, in Turkmen, Estonian and English language, all texts being equally authentic. In case of divergence between the texts, the English text shall be the operative one.

**For the Government of
Turkmenistan**

**For the Government of
the Republic of Estonia**

**Türkmenistani valitsuse ja
Eesti Vabariigi valitsuse**

vaheline

**tulumaksudega topeltmaksustamise vältimise
ning maksudest hoidumise tõkestamise
leping**

Türkmenistani valitsus ja Eesti Vabariigi ja valitsus.

soovides sõlmida lepingu tulumaksudega topeltmaksustamise vältimiseks ning maksudest hoidumise tõkestamiseks,

on kokku leppinud järgmises.

Artikkel 1

Lepingu subjekt

Lepingut kohaldatakse selle isiku suhtes, kes on ühe või mõlema lepinguosalise riigi resident.

Artikkel 2

Lepingu ese

1. Lepingut kohaldatakse lepinguosalise riigi, selle kohaliku omavalitsuse üksuse või muu haldusüksuse kehtestatud tulumaksude suhtes, sõltumata nende kogumise viisist.
2. Tulumaksuna käsitatakse tulult või selle osalt, sealhulgas vallas- või kinnisvara võõrandamisest saadud kasult võetavat maksu ning ettevõtja tasutud maksu palga kogusummalt.
3. Maksud, mille suhtes lepingut eelkõige kohaldatakse, on:
 - a) Eestis tulumaks (edaspidi *Eesti maks*);
 - b) Türgmenistanis:
juriidiliste isikute kasumimaks (tulumaks);
füüsiliste isikute tulumaks;
(edaspidi *Türgmenistani maks*).
4. Lepingut kohaldatakse ka samasele või sama laadi maksule, mis kehtestatakse olemasoleva maksu asemele või sellele lisaks pärast lepingu allakirjutamist. Lepinguosaliste riikide pädevad ametiisikud teevad teineteisele teatavaks maksuseaduste iga tähtsa muudatuse.

Artikkel 3

Põhimõisted

1. Kui kontekst ei nõua teisiti, kasutatakse selles lepingus mõisteid järgmises tähenduses:
 - a) *Türgmenistan* tähendab Türgmenistani maapiiride ja merealaga (nii veepealne kui veealune ala) hõlmatud territooriumi, kus Türgmenistan võib kooskõlas rahvusvahelise õigusega teostada oma suveräänseid õigusi ja pädevust;
 - b) *Eesti* tähendab Eesti Vabariiki ja geograafilises mõttes Eesti territooriumi ning Eesti territoriaalvetega külgnevaid alasid, kus Eesti võib oma seaduste kohaselt ja kooskõlas rahvusvahelise õigusega teostada oma õigusi merepõhja ja maapõue ning seal leiduvate loodusvarade suhtes;
 - c) *isik* hõlmab füüsilist isikut, äriühingut ja muud isikute ühendust;
 - d) *äriühing* on juriidiline isik või muu üksus, mida maksustatakse kui juriidilist isikut;

- e) *ettevõtja* mõistet kohaldatakse mis tahes äritegevuse suhtes;
 - f) *lepinguosalise riigi ettevõtja* ja *teise lepinguosalise riigi ettevõtja* on kontekstist olenevalt kas ühe või teise lepinguosalise riigi residentist ettevõtja;
 - g) *rahvusvaheline vedu* on lepinguosalise riigi ettevõtja mere- või õhuvedu, välja arvatud juhul, kui mere- või õhuvedu toimub ainult teises lepinguosaliselises riigis;
 - h) *pädev ametiisik* on:
 - i) Eestis rahandusminister või tema volitatud esindaja;
 - ii) Türgmenistanis rahandusministeerium ja riigi maksuameti keskasutus või nende volitatud esindaja;
 - i) *kodanik* on:
 - i) lepinguosalise riigi kodakondsusega füüsiline isik ja
 - ii) juriidiline isik või muu isikute ühendus, mis on asutatud lepinguosalise riigi seaduste alusel;
 - j) *äritegevus* hõlmab kutsetegevust ja muud ettevõtlust
2. Kui lepinguosaline riik kasutab lepingut kohaldades selles määratlemata mõistet ja kui kontekstist ei tulene teisiti, lähtub ta lepingus käsitletud maksudega seotud mõistet tõlgendades selle lepinguosalise riigi seadustes sellel ajal kasutatud määratlusest. Maksuseadustes määratletud mõisted on ülimuslikud teistes seadustes määratletud mõistete suhtes.

Artikkel 4

Resident

1. Selles lepingus tähendab termin *lepinguosalise riigi resident* isikut, kes on selle lepinguosalise riigi seaduste alusel maksukohustuslane elu- või asukoha, juhtkonna asukoha, asutamise koha või muu sellise kriteeriumi järgi; termin hõlmab ka lepinguosalist riiki, selle kohaliku omavalitsuse üksust või muud haldusüksust. Termin ei hõlma isikut, kes on selle riigi maksukohustuslane üksnes seetõttu, et tema tuluallikas asub selles riigis.
2. Kui lõike 1 kohaselt on füüsiline isik mõlema lepinguosalise riigi resident, määratakse tema staatus järgmiselt:
 - a) ta on selle riigi resident, kus tal on kodu; kui tal on kodu mõlemas riigis, siis on ta selle riigi resident, millega tal on tihedamad isiklikud ja majanduslikud sidemed (*ehuliste huvide keskus*);
 - b) kui eluliste huvide keskust ei ole võimalik kindlaks määrata või tal ei ole kodu kummaski riigis, siis on ta selle riigi resident, kus ta tavaliselt viibib;
 - c) kui isik viibib tavaliselt mõlemas riigis või kui ta ei viibi tavaliselt kummaski neist, siis on ta selle riigi resident, mille kodanik ta on;

- d) kui isik on mõlema riigi kodanik või kui ta ei ole kummagi riigi kodanik, lahendatakse küsimus lepinguosaliste riikide pädevate ametiisikute kokkuleppel.
3. Kui isik on lõike 1 kohaselt mõlema lepinguosalise riigi resident, siis lahendatakse küsimus lepinguosaliste riikide pädevate ametiisikute kokkuleppel, arvestades kõrgeima juhtimisorgani asukohta ja isiku asutamise kohta; see ei kehti füüsilise isiku kohta.

Artikkel 5

Püsiv tegevuskoht

1. Selles lepingus tähendab termin *püsiv tegevuskoht* äritegevuse kindlat kohta, mille kaudu täielikult või osaliselt toimub ettevõtja äritegevus.
2. Püsivaks tegevuskohaks peetakse esmajoones:
 - a) juhtkonna asukohta;
 - b) filiaali;
 - c) kontorit;
 - d) tehast;
 - e) töökoda ja
 - f) kaevandust, nafta- ja gaasipuurauku, karjääri või muud loodusvarade uurimise ja kaevandamise kohta.
3. Ehitusplatsi või ehitus- või seadmestamistöid käsitatakse püsiva tegevuskohana üksnes juhul, kui seal tegutsetakse või selliseid töid tehakse üle kaheteistkümne kuu.
4. Teenuste pakkumist, sealhulgas nõustamis- või juhtimisteenust, millega tegelevad lepinguosalise riigi ettevõtja töötajad või selleks palgatud muud isikud teises lepinguosalisel riigis, käsitatakse püsiva tegevuskohana üksnes juhul, kui selline tegevus kestab vähemalt kuus kuud 12-kuulise ajavahemiku jooksul.
5. Eelmistest lõigetest olenemata ei peeta püsivaks tegevuskohaks ettevõtja äritegevuse kindlat kohta, kus:
 - a) ettevõtja kasutab ehitist üksnes talle kuuluva kauba ladustamiseks, väljapanekuks või kohaletoimetamiseks;
 - b) ettevõtja hoiab oma kaubavaru üksnes ladustamiseks, väljapanekuks või kohaletoimetamiseks;
 - c) ettevõtja hoiab endale kuuluvat ja teisele ettevõtjale üksnes töötlemiseks antavat kaupa;

- d) ostetakse üksnes ettevõtjale vajalikku kaupa või kogutakse talle vajalikku teavet;
 - e) tehakse muid üksnes ettevõtjale vajalikke ettevalmistus- või abitöid;
 - f) tehakse ettevõtjale vajalikke ettevalmistus- või abitöid mitmel punktides a–e loetletud eesmärgil.
6. Kui isik tegutseb ettevõtja nimel ning on volitatud sõlmima ja tavaliselt sõlmib lepinguosalises riigis ettevõtja nimel lepinguid, siis lõigetest 1 ja 2 olenemata on ettevõtjal selles riigis püsiv tegevuskoht nende tehingute kaudu, mis on teinud tema nimel tegutsev isik; sätet ei kohaldata, kui sellise isiku tegevus piirdub lõikes 5 loetletud eesmärkidel tehtavate toimingutega, mis ei muuda äritegevuse kindla koha kaudu toimuvat tegevust selle lõike tähenduses püsivas tegevuskohas toimuvaks; see lõige ei kehti lõikes 7 nimetatud isikute kohta.
7. Ettevõtjal ei ole teises lepinguosalises riigis püsivat tegevuskohta, kui tema äritegevus selles riigis toimub ainult maakleri, komisjonäri või muu sõltumatu vahendaja kaudu ja selle isiku tegevust võib käsitada tema tavapärase äritegevusena. Kui selline isik tegutseb valdavalt nimetatud ettevõtja huvides, ei ole isik selle lõike tähenduses sõltumatu vahendaja.
8. Kui lepinguosalise riigi residentist äriühing kontrollib teise lepinguosalise riigi residentist äriühingut või kui äriühingu tegevus toimub püsiva tegevuskoha kaudu või muul viisil teises riigis, ei anna see alust käsitada üht äriühingut teise äriühingu püsiva tegevuskohana.

Artikkel 6

Kinnisvaratulu

1. Tulu, sealhulgas põllumajandusest või metsandusest saadud tulu, mida lepinguosalise riigi resident saab teises lepinguosalises riigis asuvast kinnisvarast, võib maksustada see teine lepinguosaline riik.
2. Termin *kinnisvara* määratletakse vara asukoha riigi seaduste alusel. Termin hõlmab igal juhul kinnisasja päraldist, eluskarja, põllumajanduses ja metsanduses kasutatavat seadet, maaomandit käsitleva seadusega sätestatud õigust, kinnisvaraga seotud nõudeõigust, kinnisvara kasutusvaldust ning õigust saada tasu maavara leiukoha ja loodusvara kasutamise või kasutusõiguse eest. Kinnisvarana ei käsitata laeva ega õhusõidukit.
3. Lõiget 1 kohaldatakse kinnisvara isiklikust kasutamisest, rendile- või üürileandmisest või muul viisil kasutamisest saadud tulu suhtes.
4. Lõikeid 1 ja 3 kohaldatakse ka selle tulu suhtes, mida ettevõtja saab kinnisvarast.

Artikkel 7

Ärikasum

1. Lepinguosalise riigi ettevõtja kasumi maksustab ainult see lepinguosaline riik. Kui ettevõtja tegutseb püsiva tegevuskoha kaudu ka teises lepinguosalisel riigis, võib seal maksustada selle kasumiosa, mida saab omistada püsivale tegevuskohale.
2. Lõiget 3 arvestades käsitavad lepinguosalisel riigid püsivale tegevuskohale omistatava kasumina seda kasumit, mida püsiv tegevuskoht eeldatavasti saaks, tegutsedes iseseisvalt samadel või sama laadi tingimustel samal või sama laadi tegevusalal kui teise lepinguosalisel riigi ettevõtja, kelle püsiv tegevuskoht see on.
3. Püsivale tegevuskohale omistatavat kasumit arvestades võib tuludest maha arvata juhtimis- ja halduskulud ning püsiva tegevuskohaga seotud muud kulud, sõltumata sellest, kas need tekkisid püsiva tegevuskoha riigis või mujal.
4. Kui lepinguosalisel riigis on püsivale tegevuskohale omistatavat kasumit arvestades tavaliselt jaotatud ettevõtja kogukasum ettevõtja osade vahel proportsionaalselt, ei ole lõikega 2 vastuolus lepinguosalisel riigi õigus kasutada nimetatud meetodit maksustatava kasumi kindlaksmääramiseks juhul, kui meetodi rakendamise tulemus on kooskõlas selle artikli põhimõtetega.
5. Kasumit ei omistata püsivale tegevuskohale, kui ettevõtja ostab selle kaudu kaupa ainult oma tarbeks.
6. Eelmistes lõigetes käsitletud kasumit arvestades rakendatakse igal aastal sama meetodit, kui ei ole küllaldast põhjust seda muuta.
7. See artikkel ei mõjuta lepingu teiste artiklite kohaldamist, kui kasum hõlmab nendes teistes artiklites käsitletud tulu.

Artikkel 8

Mere- ja õhuvedu

1. Lepinguosalise riigi ettevõtja rahvusvahelistest mere- ja õhuvedudest saadud kasumi maksustab ainult see lepinguosaline riik.
2. Lõiget 1 kohaldatakse ka kasumi suhtes, mis on saadud osalusest puulis või muud liiki ühises äritegevuses või rahvusvahelises veoorganisatsioonis.

Artikkel 9

Seotud ettevõtjad

1. Kui

- a) lepinguosalise riigi ettevõtja otse või kaudselt osaleb teise lepinguosalise riigi ettevõtja juhtimises, kontrollib ettevõtjat või kui tal on osalus ettevõtja osa- või aktsiakapitalis või
- b) samad isikud otse või kaudselt osalevad mõlema lepinguosalise riigi ettevõtja juhtimises, kontrollivad ettevõtjaid või kui neil on osalus mõlema ettevõtja osa- või aktsiakapitalis

ning kui ettevõtjad järgivad omavahelistes äri- ja rahandussuhetes sõltumatute ettevõtjate vahel kokkulepitust erinevaid tingimusi, mille tõttu jääb ettevõtja kasum eeldatavast väiksemaks, loetakse ettevõtja kasumiks eeldatav kasum ja see maksustatakse asjakohaselt.

2. Kui lepinguosaline riik arvab oma ettevõtja kasumi hulka ja asjakohaselt maksustab tulu, mida on teises lepinguosalises riigis maksustatud selle lepinguosalise riigi ettevõtja kasumina ja mille oleks saanud esimesena nimetatud lepinguosalise riigi ettevõtja, kui ettevõtjad oleksid omavahelistes suhetes järginud sama laadi tingimusi nagu sõltumatud ettevõtjad, korrigeerib teine lepinguosaline riik kasumilt tasuvat maksusummat. Maksusummat korrigeerides arvestatakse lepingu teisi sätteid ja lepinguosaliste riikide pädevad ametiisikud konsulteerivad vajaduse korral teineteisega.

Artikkel 10

Dividend

1. Dividendi, mida lepinguosalise riigi residendist äriühing maksab teise lepinguosalise riigi residendile, võib maksustada see teine riik.
2. Dividendi võib maksustada ka dividende maksva äriühingu residendiriiik selle riigi seaduste kohaselt; kui dividendi saaja on teise lepinguosalise riigi resident, ei või dividendilt võetava maksu määr ületada 10 protsenti dividendi brutosummat. Lõiget ei kohaldata äriühingu selle kasumi maksustamisele, millest dividendi makstakse.
3. Selles artiklis käsitatakse dividendina tulu osalusest või muust kasumi saamise õigusest, mis ei ole võlanõue, ning teistest osalusega seotud õigustest saadavat tulu, mida maksustatakse nagu tulu osalusest või muud kasumijaotist seda maksva äriühingu residendiriiigi seaduste kohaselt.
4. Lõikeid 1 ja 2 ei kohaldata, kui lepinguosalise riigi residendist dividendisaaja äritegevus toimub püsiva tegevuskoha kaudu teises lepinguosalises riigis, mille resident dividendi maksev äriühing on, ning ta saab dividendi seoses püsiva tegevuskoha kaudu toimuva äritegevusega. Sel juhul kohaldatakse artiklit 7.

5. Kui lepinguosalise riigi residentist äriühing saab tulu teisest lepinguosalisest riigist, ei või see teine riik maksustada äriühingu makstavat dividendi ega jaotamata kasumit, kuigi need sisaldavad tulu, mis on tekkinud selles teises riigis; see ei kehti teise lepinguosalise riigi residentile makstava dividendi kohta ega selliselt osaluselt makstava dividendi kohta, mis on seotud selles teises riigis asuva püsiva tegevuskohaga.

Artikkel 11

Intress

1. Intressi, mis tekib lepinguosalisel riigis ja mida makstakse teise lepinguosalise riigi residentile, võib maksustada see teine riik.
2. Nimetatud intressi võib oma seaduste kohaselt maksustada ka see lepinguosaline riik, kus intress tekib; kui intressi saaja on teise lepinguosalise riigi resident, ei või intressilt võetava maksu määr ületada 10 protsenti intressi brutosummast.
3. Lõikest 2 olenemata ei maksustata intressi, mis tekib:
 - a) Eestis ja mida makstakse Türkmenistani valitsusele või keskpangale;
 - b) Türkmenistanis ja mida makstakse Eesti Vabariigi valitsusele või keskpangale.
4. Selles artiklis käsitatakse intressina tulu võlanõudest, olenemata sellest, kas nõue on hüpoteegiga tagatud või tagamata, ja sellest, kas nõue annab õiguse võlgniku kasumile, ja eelkõige tulu valitsuse väärtpaperitest või muudest võlakohustustest ning nendega seotud maksetest. Termin *intress* ei hõlma artikli 10 kohaselt dividendina käsitatavat tulu Hilinenud makse eest võetavat viivist selle artikli tähenduses intressina ei käsitata.
5. Lõikeid 1 ja 2 ei kohaldata, kui lepinguosalise riigi residentist intressisaaja äritegevus toimub püsiva tegevuskoha kaudu teises lepinguosalisel riigis, kus intress tekib ja kus ta saab intressi püsiva tegevuskoha kaudu toimuva äritegevusega seotud võlanõudelt. Sel juhul kohaldatakse artiklit 7.
6. Intress on tekkinud lepinguosalisel riigis, kui intressi maksab selle lepinguosalise riigi resident. Kui võlgnevus, millelt intressi makstakse, on seotud püsivas tegevuskohas toimuva äritegevusega ning kui intressi maksmise kulu kannab püsiv tegevuskoht, on intress tekkinud püsiva tegevuskoha lepinguosalisel riigis, olenemata sellest, kas intressi maksja on lepinguosalise riigi resident või mitte.
7. Kui intressi maksja ja intressi saaja või nende mõlema ning muu isiku erisuhte tõttu ületab võlanõude eest makstava intressi summa seda summat, milles oleksid intressi maksja ja intressi saaja kokku leppinud ilma sellise suhteta, kohaldatakse seda artiklit ainult viimati nimetatud summa suhtes. Enammakstud intress maksustatakse kummagi lepinguosalise riigi seaduste kohaselt, arvestades lepingu teisi sätteid.

Artikkel 12

Litsentsitasu

1. Litsentsitasu, mis tekib lepinguosalises riigis ja mille saaja on teise lepinguosalise riigi resident, võib maksustada see teine lepinguosaline riik.
2. Nimetatud litsentsitasu võib oma seaduste kohaselt maksustada ka see lepinguosaline riik, kus litsentsitasu tekib; kui litsentsitasu saaja on teise lepinguosalise riigi resident, ei või litsentsitasult võetava maksu määr ületada 10 protsenti litsentsitasu brutosummast.
3. Selles artiklis käsitatakse litsentsitasuna makset, mida saadakse kirjandus- või kunsteose (sealhulgas kinofilmi) või teadustöö autoriõiguse, patendi, kaubamärgi, disaini või mudeli, plaani või salajase valemi või tehnoloogilise protsessi kasutamise või kasutamise õiguse eest, või tööstusliku, kaubandusliku või teadusalase oskusteabe eest.
4. Lõikeid 1 ja 2 ei kohaldata, kui lepinguosalise riigi residendist litsentsitasu saaja äritegevus toimub püsiva tegevuskoha kaudu teises lepinguosalises riigis, kus litsentsitasu tekib ja kus ta saab litsentsitasu püsiva tegevuskoha kaudu toimivas äritegevuses kasutatavast õigusest või varast. Sel juhul kohaldatakse artiklit 7.
5. Litsentsitasu on tekkinud lepinguosalises riigis, kui tasu maksja on selle lepinguosalise riigi resident. Kui litsentsitasu maksmise kohustus on seotud püsivas tegevuskohas toimuva tegevusega ning litsentsitasu maksmise kulu kannab püsiv tegevuskoht, on litsentsitasu tekkinud püsiva tegevuskoha lepinguosalises riigis, olenemata sellest, kas litsentsitasu maksja on selle lepinguosalise riigi resident või mitte.
6. Kui litsentsitasu maksja ja litsentsitasu saaja või nende mõlema ja muu isiku erisuhte tõttu ületab asja kasutamise, kasutamise õiguse või oskusteabe eest makstav litsentsitasu selle summa, milles oleksid litsentsitasu maksja ja litsentsitasu saaja kokku leppinud ilma sellise suhteta, kohaldatakse seda artiklit ainult viimati nimetatud summa suhtes. Enammakstud litsentsitasu maksustatakse kummagi lepinguosalise riigi seaduste kohaselt, arvestades lepingu teisi sätteid.

Artikkel 13

Kasu vara võõrandamisest

1. Kui lepinguosalise riigi resident saab kasu artiklis 6 määratletud ja teises lepinguosalises riigis asuva kinnisvara võõrandamisest, võib kasu maksustada see teine riik.
2. Kui lepinguosalise riigi resident saab kasu sellise vallasvara võõrandamisest, mida ta kasutab teises lepinguosalises riigis püsiva tegevuskoha äritegevuses, või püsiva tegevuskoha võõrandamisest, võib kasu maksustada see teine lepinguosaline riik.
3. Kui lepinguosalise riigi ettevõtja saab kasu rahvusvahelises veos kasutatava laeva või õhusõiduki või nende kasutamisega seotud vallasvara võõrandamisest, maksustab kasu ainult see lepinguosaline riik.

4. Kui lepinguosalise riigi resident võõrandab osaluse, mille väärtus tuleneb vähemalt 50 protsendi ulatuses otseselt või kaudselt teises lepinguosalisest riigis asuvast kinnisvarast, võib võõrandamisest saadud kasu maksustada see teine riik.
5. Selle artikli lõigetes 1, 2, 3 ja 4 käsitlemata vara võõrandamisest saadava kasu maksustab ainult lepinguosaline riik, mille resident vara võõrandaja on.

Artikkel 14

Palgatöö

1. Lepinguosalise riigi residentide palka ja töösuhetest saadud muu tasu maksustab ainult see riik, arvestades artikleid 15, 17 ja 18. Kui lepinguosalise riigi resident on töötanud ka teises lepinguosalisest riigis, võib nimetatud tasu maksustada see teine lepinguosaline riik.
2. Lõikest 1 olenemata maksustab lepinguosalise riigi residentide teises lepinguosalisest riigis töösuhetest saadud tasu ainult esimesena nimetatud riik, kui kõik järgnevad tingimused on täidetud:
 - a) tasu saaja viibib teises lepinguosalisest riigis kokku kuni 183 päeva majandusaastal algava või lõppeva kaheteistkümnepäevase perioodi vältel;
 - b) tasu maksab tööandja või tasu makstakse selle tööandja nimel, kes ei ole teise lepinguosalise riigi resident;
 - c) tööandja ei maksa tasu teises riigis asuva püsiva tegevuskoha kaudu.
3. Eelmistest lõigetest olenemata võib lepinguosalise riigi ettevõtja rahvusvahelises veos kasutataval laeval või õhusõidukil töötamise eest saadud tasu maksustada see lepinguosaline riik.

Artikkel 15

Juhatuselise liikme tasu

Juhatuselise liikme tasu ja muud seda laadi maksed, mida lepinguosalise riigi resident saab teise lepinguosalise riigi residentist äriühingu juhatuselise või muu samalaadse organi liikmena, võib maksustada see teine riik.

Artikkel 16

Esineja ja sportlase tulu

1. Artiklitest 7 ja 14 olenemata võib lepinguosalise riigi residentide tulu, mida ta saab teises lepinguosalisel riigis meelelahutajana teatris, filmis, raadios, televisioonis või mujal esinemise eest või muusiku või sportlasena tegutsedes, maksustada see teine lepinguosaline riik.
2. Artiklitega 7 ja 14 ei ole vastuolus, kui meelelahutaja või sportlase teenitud tulu, mis laekub tema asemel mõnele teisele isikule, maksustab lepinguosaline riik, kus meelelahutaja või sportlane tegutseb.
3. Lõikeid 1 ja 2 ei kohaldata, kui meelelahutaja või sportlane saab tulu lepinguosalisel riigis toimuvast tegevusest, mida peamiselt rahastatakse ühe või mõlema lepinguosalise riigi, kohaliku omavalitsuse üksuse või muu haldusüksuse vahenditest. Sel juhul maksustab tulu ainult see lepinguosaline riik, kus meelelahutaja või sportlane on resident.

Artikkel 17

Pension

Lepinguosalise riigi residentidele makstud pensioni maksustab ainult see lepinguosaline riik.

Artikkel 18

Avalik teenistus

1. a) Palka ja muud tasu, mida lepinguosaline riik, kohaliku omavalitsuse üksus või muu haldusüksus maksab isikule riigi, omavalitsusüksuse või muu haldusüksuse asutuses töötamise eest, maksustab ainult see riik.
b) Sellist palka ja muud tasu maksustab ainult teine lepinguosaline riik, kui isik on töötanud selles riigis ning ta on:
 - i) selle riigi resident ja kodanik või
 - ii) selle riigi resident, kuid tema residentsus tuleneb ka muust asjaolust kui töötamine.
2. Lepinguosalise riigi, kohaliku omavalitsuse üksuse või muu haldusüksuse äritegevusega seotud töö eest saadud palga ja muu tasu suhtes kohaldatakse artikleid 14, 15 ja 16.

Artikkel 19

Üliõpilase tulu

Lepinguosaline riik ei maksusta tema territooriumil üksnes õpingutel või praktikal viibiva üliõpilase või praktikandi ülalpidamiseks, õpinguteks või praktikaks tehtavaid väljamakseid, kui isik on teise lepinguosalise riigi resident või oli seda vahetult enne õppima või praktikale asumist ja väljamakse tehakse väljaspool õppimis- või praktikakoha riiki asuvast allikast.

Artikkel 20

Muu tulu

1. Lepinguosalise riigi residentide tulu, mida lepingu eelmistes artiklites ei ole käsitletud, maksustab olenemata tulu tekkimise kohast ainult see riik.
2. Lõiget 1 ei kohaldata selle tulu suhtes, mida lepinguosalise riigi resident saab teises lepinguosalises riigis püsiva tegevuskoha kaudu tegutsedes ning kui õigused või vara, millest tulu on tekkinud, on seotud püsiva tegevuskohaga; lõiget ei kohaldata artikli 6 lõikes 2 määratletud kinnisvarast saadud tulu suhtes. Eelmises lauses nimetatud juhtudel kohaldatakse artiklit 7.

Artikkel 21

Topeltmaksustamise kõrvaldamiseks kasutatavad meetodid

1. Eesti puhul välditakse topeltmaksustamist järgmiselt:
 - a) kui Eesti resident saab tulu, mida selle lepingu kohaselt on maksustatud Türkmenistanis, vabastab Eesti selle tulu maksust, arvestades punkti b ning lõikeid 3 ja 4;
 - b) kui Eesti resident saab tulu, mida artikli 10 lõike 2, artikli 11 lõike 2 ja artikli 12 lõike 2 kohaselt võib maksustada Türkmenistanis, lubab Eesti residentide tulumaksust maha

4. Kui lepinguosalise riigi residendi tulu on selle lepingu kohaselt selles riigis maksust vabastatud, võib see riik sellest hoolimata residendi ülejäänud maksukohustuse arvutamisel vabastatud tulu osa arvesse võtta.

Artikkel 22

Võrdne kohtlemine

1. Lepinguosaline riik maksustab teise lepinguosalise riigi kodanikku ja kohaldab talle maksustamisega kaasnevaid nõudeid samamoodi nagu oma kodanikule samadel asjaoludel. Seda lõiget kohaldatakse olenemata artiklist 1 ka isikule, kes ei ole kummagi lepinguosalise riigi resident.
2. Lepinguosalise riigi ettevõtja teises lepinguosalisel riigis asuvat püsivat tegevuskohta maksustatakse samadel alustel kui teise lepinguosalise riigi samal tegevusalal tegutsevat ettevõtjat. Seda lõiget ei tõlgendata kui lepinguosalise riigi kohustust võimaldada teise lepinguosalise riigi residendile tema perekonnaseisu või perekondlike kohustuste tõttu samasugust maksusoodustust, -vabastust või -vähendust, mida ta võimaldab oma residendile.
3. Lepinguosalise riigi ettevõtja võib maksustatavat kasumit arvestades sellest maha arvata teise lepinguosalise riigi ettevõtjale makstud intressi, litsentsitasu ja muu väljamakse samadel alustel nagu oma riigi residendi puhul; sätet ei kohaldata artikli 9 lõikes 1, artikli 11 lõikes 7 ega artikli 12 lõikes 6 nimetatud juhtudel.
4. Lepinguosalise riigi ettevõtjat, mida kontrollib otse või kaudselt teise lepinguosalise riigi resident või milles teise lepinguosalise riigi residendil on otsene või kaudne osalus, ei maksustata kõrgemalt ega esitata talle maksustamisega seotud lisanõudeid võrreldes sama lepinguosalise riigi samalaadse ettevõtjaga.
5. Seda artiklit kohaldatakse olenemata artiklist 2 kõigile maksudele.

Artikkel 23

Vastastikuse kokkuleppe menetlus

1. Kui isik arvab, et lepinguosalise riigi tegevus põhjustab või võib põhjustada tema sellist maksustamist, mis ei ole lepinguga kooskõlas, võib ta lepinguosaliste riikide seadustest sõltumata esitada kaebuse oma lepinguosalise riigi pädevale ametiisikule; kui tema kaebuse suhtes tuleb kohaldada artikli 22 lõiget 1, esitab ta asja menetlemiseks selle lepinguosalise riigi pädevale ametiisikule, mille kodanik ta on. Kaebus esitatakse menetlemiseks kolme aasta jooksul alates päevast, millal saadi teada lepingut rikkuvat maksustamist põhjustavast tegevusest.

2. Kui kaebus on pädeva ametiisiku arvates õigustatud ja ta ei leia rahuldavat lahendust, püüab ametiisik kaebuse lahendada vastastikusel kokkuleppel teise lepinguosalise riigi pädeva ametiisikuga, järgides põhimõtet, et lepingut rikkuvat maksustamist tuleb vältida. Kokkulepe tuleb saavutada kahe aasta jooksul arvates päevast, mil pädev ametiisik küsimuse ametlikult tõstatas ja saavutatud kokkulepe täidetakse lepinguosaliste riikide seadustes ettenähtud ajapiirangut kohaldamata.
3. Lepinguosaliste riikide pädevad ametiisikud püüavad lepingu tõlgendamisel ja kohaldamisel tekkivad küsimused lahendada vastastikusel kokkuleppel. Topeltnmaksustamise vältimiseks võivad nad teineteisega konsulteerida ka lepingus käsitlemata juhtudel.
4. Lepinguosaliste riikide pädevad ametiisikud võivad eelmistes lõigetes käsitletud kokkuleppele jõudmiseks suhelda teineteisega vahetult, sealhulgas pädevatest ametiisikutest või nende esindajatest moodustatud ühiskomisjoni kaudu.

Artikkel 24

Teabevahetus

1. Lepinguosaliste riikide pädevad ametiisikud vahetavad lepingu täitmiseks ja riigisiseste õigusaktide kohaldamiseks eeldatavalt asjakohast teavet lepinguosalises riigis, selle kohaliku omavalitsuse üksuses või muus haldusüksuses kehtestatud maksude kohta tingimusel, et maksustamine ei ole lepinguga vastuolus. Artiklid 1 ja 2 teabevahetust ei piira.
2. Lepinguosaline riik käsitab teisest lepinguosalisest riigist lõike 1 alusel saadud teavet salajasena samamoodi nagu oma seaduste alusel saadud teavet; teave antakse üksnes isikule ja ametivõimule (sealhulgas kohtud ja haldusasutused), kes lõikes 1 viidatud makse määrab, kogub või sisse nõuab või maksudega seotud kaebusi lahendab või teostab eeltoodu üle järelevalvet. Teavet kasutatakse ainult eelloetletud eesmärkidel. Teavet võib avaldada avalikul kohtuistungil või kohtuotsuses. Eelnevast olenemata võib lepinguosaline riik saadud teavet kasutada teistel eesmärkidel, kui seda lubavad mõlema lepinguosalise riigi seadused ja teavet edastava lepinguosalise riigi pädev ametiisik kiidab sellise kasutuse heaks.
3. Lõikeid 1 ja 2 ei tõlgendata lepinguosalise riigi kohustusena:
 - a) rakendada haldusabinõusid, mis on vastuolus lepinguosaliste riikide seaduste ja halduspraktikaga;
 - b) anda teavet, mis ei ole lepinguosaliste riikide seaduste alusel või tavapärasel haldusmenetluses kättesaadav;
 - c) anda teavet, mis sisaldab äri- või kutsesaladust või tootmisprotsessi käsitlevaid salajasi andmeid, või teavet, mille avaldamine on vastuolus avaliku korruga.

4. Kui lepinguosaline riik on selle artikli kohaselt taotlenud teavet, siis teine lepinguosaline riik võtab nõutud teabe saamiseks meetmeid ka juhul, kui see teine lepinguosaline riik ei vaja sellist maksualast teavet enda tarbeks. Eelmises lauses sätestatud kohustus on piiratud lõikega 3, kuid seda piirangut ei või ühelgi juhul tõlgendada kui lepinguosalise riigi õigust keelduda teabe andmisest ainult riigisisese huvi puudumise tõttu.
5. Lõiget 3 ei tõlgendata lepinguosalise riigi võimalusena keelduda teabe andmisest ainult seetõttu, et teabe valdaja on krediidasutus, mõni muu finantsasutus, esindaja, usaldusisik, varahaldur või teave puudutab osalust isikus.

Artikkel 25

Diplomaatilise esinduse ja konsulaarasutuse töötaja

Lepingut ei kohaldata diplomaatilise esinduse ega konsulaarasutuse töötaja rahalistele soodustustele, mis on ette nähtud rahvusvahelise õiguse üldtunnustatud normide ja erikokkulepete alusel.

Artikkel 26

Lepingu jõustumine

1. Lepinguosalised riigid edastavad teineteisele diplomaatiliste kanalite kaudu kirjaliku teate lepingu jõustumiseks vajaliku riigisisese menetluse lõpetamise kohta. Leping jõustub hilisema teate kuupäeval.
2. Lepingut kohaldatakse:
 - a) lepingu jõustumisele järgneva aasta 1. jaanuarist saadud tulult kinnipeetava maksu suhtes;
 - b) lepingu jõustumisele järgneva aasta 1. jaanuaril või hiljem algaval majandusaastal saadud tulult tasutava muu maksu suhtes.

Artikkel 27

Lepingu lõpetamine

Leping on jõus kuni lepinguosaline riik selle lõpetab. Lepinguosaline riik võib lõpetada lepingu kui ta on sellest diplomaatiliste kanalite kaudu kirjalikult ette teatanud vähemalt kuus kuud enne kalendriaasta lõppu, kuid mitte enne, kui lepingu jõustumisest on möödunud viis aastat.

Sel juhul ei kohaldata lepingut:

- a) teate edastamisele järgneva aasta 1. jaanuarist saadud tulult kinnipeetava maksu suhtes;
- b) teate edastamisele järgneva aasta 1. jaanuaril või hiljem algaval maksustamisaastal saadud tulult tasutava muu maksu suhtes.

Selle kinnituseks on volitatud isikud lepingule alla kirjutanud.

Koostatud 28. novembril 2011. aastal Ašhabadis kahes eksemplaris türkmeeni, eesti ja inglise keeles; kõik tekstid on võrdselt autentset. Tõlgendamiserinevuse korral võetakse aluseks ingliskeelne tekst.

Türkmenistani valitsuse nimel

Eesti Vabariigi valitsuse nimel