**Appendix 2**

**METHODOLOGY FOR COMPLETION OF THE ODO‑1 FORM:**

The withholding tax return (ODO‑1 form) is prescribed pursuant to Article 374 of the Tax Procedure Act (UL RS, Nos 117/06 and 24/08 [ZDDKIS], 125/08, 20/09 [ZDoh-2D], 110/09, 1/10 [corrigenda] and 43/10, hereinafter: ZDavP‑2) in conjunction with Articles 70 and 85 of the Corporate Income Tax Act (UL RS, Nos 117/06, 56/08, 76/08, 5/09, 96/09 and 43/10, hereinafter: ZDDPO‑2) and Article 260 ZDavP‑2. The taxpayer must submit a withholding tax return to the competent tax authority. The taxpayer must also submit information on the income, the withholding tax withheld and paid, and other information on the withholding tax return that affects the amount of withheld tax payable to the taxable person.

The form should be completed legibly and in block capitals.

**Code of the tax authority official:**

The taxpayer enters the code of the tax authority official if they received it in a separate notification.

**Date of payment of income:**

Enter the date on which the income was paid to the recipient of the income. If the taxpayer presents an ODO‑1‑NFI, enter the date of payment by the person making the payment.

**Taxpayer:**

Enter the business name or the name, registered office or address (street name, house number, town and postcode) and the tax number of the taxpayer or of the person deemed to be the taxpayer under Article 58 ZDavP‑2 (resident or non-resident, if they have a place of business in Slovenia and pay the income through this place of business, sole trader or individual independently pursuing an activity).

Enter the name, registered office or address and tax number of the place of business of the non-resident through which the income is paid. If the place of business has no registered office, enter the place of business only.

**Recipient of income:**

Enter the business name of the recipient of income, the registered office (street name, house number, town and postcode), the country in which the recipient is taxed as a resident, and the number used for tax purposes in the country in which the recipient is resident (e.g. tax or other identification number). You are not required to enter the tax number.

As the recipient of income, enter:

1. a foreign legal person or a company or association of persons, including a civil law company under foreign law from a country with which Slovenia has concluded a binding international treaty on the avoidance of double taxation;
2. a foreign legal person or a company or association of persons, including a civil law company under foreign law from a country with which Slovenia has concluded another binding international treaty;
3. a foreign legal person or a company or association of persons, including a civil law company under foreign law from a country with which Slovenia has not concluded an international treaty on the avoidance of double taxation;
4. the recipient (resident) that is not providing a tax number;
5. a foreign legal person that has a registered office, place of effective management or residence in countries other than EU Member States where the general or average nominal rate of taxation of profits is less than 12.5% and the country appears on the list published in accordance with Article 8 ZDDPO‑2.

For a non-resident’s place of business to which the income pertains, enter the name, the registered office, the country in which the recipient of income is subject to tax on that income, and the number used for tax purposes in the country in which the recipient is resident (e.g. tax or other identification number). If the place of business has no registered office, enter the place of business only. You are not required to enter the tax number.

**Type of income (Column 2):**

Enter the code for the type of income:

1. dividend, which is the profit or surplus of income over expenditure paid to partners or members in respect of participation in the payer’s profit;
2. profit paid in respect of securities and loans that guarantee participation in the payer’s profit;
3. profit, profit reserves and that part of the share capital formed from a previous increase in share capital from profit or profit reserves upon termination of the payer’s business;
4. hidden reserves upon termination of the payer’s business, calculated as the difference between the fair value and the tax value of the assets and liabilities as at the day before entry of the completion of liquidation in the companies register;
5. the paid-up value of shares or participating interests, less their emission value and a proportionate part of the capital reserves, upon the exclusion or withdrawal from the payer of a shareholder, partner or member;
6. payment based on the regular reduction in that part of the share capital formed from a previous increase in share capital from profit or profit reserves;
7. the paid-up value of own shares or own business and other participating interests acquired, less their emission value and a proportionate part of the capital reserves;
8. profit transferred on the basis of an enterprise agreement in accordance with the law governing companies;
9. hidden distribution of profits as provided for in point 7 of Article 74 ZDDPO‑2 and relating to the provision of all forms of asset and provision of services, including debt forgiveness, without payment or at a price lower than the comparable market price referred to in Articles 16 and 17 of this act, or payments for the purchase of all forms of asset and provision of services at a price higher than the comparable market price referred to in Articles 16 and 17 of this act, or payments for assets and services provided that the assets were not taken over or services were not provided to a person who directly or indirectly owns at least 25% of the value or number of shares or participating interests in the capital, management or supervision of the payer or who controls the payer on the basis of a contract or in a way that differs from relationships between unrelated parties;
10. hidden distribution of profits as provided for in point 7 of Article 74 ZDDPO‑2 and relating to interest on loans granted at a lower or higher interest rate than the recognised interest rate referred to in Article 19 of this act to a person who directly or indirectly owns at least 25% of the value or number of shares or participating interests in the capital, management or supervision of the payer or who controls the payer on the basis of a contract or in a way that differs from relationships between unrelated parties;
11. hidden distribution of profits as provided for in point 7 of Article 74 ZDDPO‑2 and relating to interest on the loan surplus referred to in Article 32 of this act to a person who directly or indirectly owns at least 25% of the value or number of shares or participating interests in the capital, management or supervision of the payer or who controls the payer on the basis of a contract or in a way that differs from relationships between unrelated parties;
12. interest as income from all types of receivables regardless of whether they are secured by a mortgage, and interest on all debt securities and other debt financial instruments, including premiums and bonuses attaching to such securities and financial instruments, except:
13. interest on loans and securities issued by the Slovenian state,
14. interest generated by loans taken out and debt securities issued by an authorised institution in accordance with the law governing the insurance and financing of international commercial transactions for which the Slovenian states provides the guarantee under that law,
15. interest paid by banks and not paid to persons with a registered office, place of effective management or residence in countries other than EU Member States where the general or average nominal rate of taxation of profits is less than 12.5% and the country appears on the list published in accordance with Article 8 ZDDPO‑2,
16. default interest, and
17. interest on debt securities issued by a company incorporated in accordance with Slovenian regulations, if

* they do not contain a swaption for an equity security (or they do not contain an option for holders through the exercise of which they achieve a swap for the equity security, if the issuer of the debt security is a bank), and
* they are admitted to trading on a regulated market or are traded on a multilateral trading facility in an EU Member State or the Organisation for Economic Co-operation and Development (OECD), except in the case of debt securities issued to meet claims under the law governing denationalisation;

1. payments for the use or right to use copyright, patents, protected trademarks and other property rights and other similar income as provided for in point 3 of Article 70(1) ZDDPO‑2;
2. payments for the leasing of real estate located in Slovenia;
3. payments for the services of performing artists or athletes, if these payments pertain to another person;
4. payments for services if the payments are made to persons with a registered office or place of effective management in countries other than EU Member States where the general or average nominal rate of taxation of profits is less than 12.5% and the country appears on the list published in accordance with Article 8 ZDDPO‑2;
5. dividends and income similar to dividends that are deemed to be hidden distribution of profits that, in accordance with Article 71(2) ZDDPO‑2, are not qualified under the benefit referred to in Article 71(1) ZDDPO‑2, if the amount of the payments does not accord with Article 16 ZDDPO‑2;
6. interest above the amount of interest under Article 19(2) ZDDPO‑2, which, in accordance with Article 72(2) ZDDPO‑2, is not qualified under the benefit referred to in Article 72(1) ZDDPO‑2 (to be completed in the case of an authorisation issued pursuant to Article 377 ZDavP‑2), if the taxable person has not demonstrated that, in the same or comparable circumstances, they would obtain a loan at an interest rate higher than the recognised interest rate even from the lender/unrelated party;
7. payments for the use of property rights in excess of the amount referred to in Article 16(4) ZDDPO‑2 which, in accordance with Article 72(2) ZDDPO‑2, are not qualified under the benefit referred to in Article 72(1) ZDDPO-2 (to be completed in the case of an authorisation issued pursuant to Article 377 ZDavP‑2);
8. payments that have the nature of profit-sharing or capital repayments and that, according to Article 73 ZDDPO‑2, do not qualify under the benefit referred to in Article 72 ZDDPO‑2;
9. interest on loans that contain a right to participate in the debtor’s profits and that, under Article 73 ZDDPO‑2, are not qualified under the benefits referred to in Article 72 ZDDPO‑2;
10. interest generated by loans that entitle a lender to swap its right to interest for a right to participate in profit and that, under Article 73 ZDDPO‑2, are not qualified under the benefit referred to in Article 72 ZDDPO-2;
11. loan payments that do not contain provisions for repayment of the principal or repayment of the principal falls due after 50 years following the granting of the loan and that under Article 73 ZDDPO‑2, are not qualified under the benefit referred to in Article 72 ZDDPO-2;
12. payments under points 2 to 5 of Article 68(1) of the Corporate Income Tax Act (UL RS, No 33/06 [official consolidated text]) charged for periods prior to 1 January 2007 and paid after that date.

According to Article 70(3) ZDDPO‑2, no tax is calculated, withheld and paid in the cases of the dividend payments referred to in point 1 of Article 70(1) ZDDPO‑2 if a non-resident recipient of income who is resident in an EU or EEA Member State other than Slovenia provides the taxpayer with a statement to the effect that they qualify for an exemption from withholding tax. The conditions for exemption are as follows:

* that the recipient of income in the country of residence is a person liable for income tax;
* that the income is not paid to this non-resident’s place of business in Slovenia;
* that the recipient of income cannot claim any tax paid abroad in the country of residence; and
* that the transaction does not involve tax avoidance.

According to Article 70(5) ZDDPO‑2, no tax is calculated, withheld and paid in the cases of the dividend payments referred to in point 1 and the interest payments referred to in point 2 of Article 70(1) ZDDPO‑2 if a non-resident recipient of income who is resident in an EU or EEA Member State other than Slovenia provides the taxpayer with a statement to the effect that they qualify for a withholding tax exemption. The conditions for exemption are as follows:

* that the recipient of income is a foreign pension fund, an investment fund or an insurance undertaking that may operate a pension scheme;
* that the income is not paid to this non-resident’s place of business in Slovenia; and
* that the recipient of income cannot claim any tax paid abroad in the country of residence, is exempt from tax, or the rate of taxation of these taxable persons in the country of residence is 0%.

**Legal basis for payment (Column 3):**

Enter the type and date of the legal basis for the payment of income (e.g. decision of the management body, contract).

**Decision under Article 260 ZDavP‑2 (Column 4):**

This information is only entered if the recipient of income, foreign legal person or company or association of persons, including a civil law company under foreign law from another contracting state pursuant to an international treaty on the avoidance of double taxation that is binding on Slovenia (Code 1 for the recipient of income), is entitled to benefits under that international treaty. Enter the number and date of the decision granting the claim for a reduction in withholding tax.

If the taxpayer presents an ODO‑1‑NFI return and the benefits under the international treaty are claimed on the basis of information supplied by an authorised foreign intermediary to the taxpayer pursuant to point 2 of Article 383e(1) ZDavP‑2, the name of the intermediary and the date of delivery of the information (Item 1 of the VIRPUI file\*) should be entered instead of the number and date of the decision.

**Other international treaty (Column 5):**

This information is entered if the recipient of income, foreign legal person or company or association of persons, including a civil law company under foreign law from another contracting state pursuant to another international treaty that is binding on Slovenia (Code 2 for the recipient of income), is entitled to benefits under that international treaty. Enter the title of the international treaty under which the recipient of income is entitled to the benefits.

**Amount of income in EUR with cents (Column 6):**

Enter the amount of income on which withholding tax is charged.

**Tax rate in % (Column 7):**

Enter the tax rate referred to in Article 70 ZDDPO-2, unless the tax authority has granted or partially granted a claim for a reduction in the payment of withholding tax pursuant to an international treaty on the avoidance of double taxation. In this case, enter the rate applicable to the taxation of the determined earnings under the international treaty on the avoidance of double taxation or the rate specified in the tax authority’s decision.

If income is paid under points 2 to 5 of Article 68(1) of the Corporate Income Tax Act (UL RS, No 33/06 [official consolidated text]) and charged for periods prior to 1 January 2007 and paid after that date (type of income 24), the rate of 25% shall apply, unless the tax authority has granted or partially granted a claim for a reduction in the payment of withholding tax pursuant to an international treaty on the avoidance of double taxation. In this case, enter the rate applicable to the taxation of the determined earnings under the international treaty on the avoidance of double taxation or the rate specified in the tax authority’s decision.

**Tax in EUR with cents (Column 8):**

The amount of income in Column 6 is multiplied by the tax rate in Column 7.