

## **TREATY USA - CZECH REPUBLIC**

### *CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE CZECH REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL, SIGNED IN PRAGUE ON SEPTEMBER 16, 1993*

GENERAL EFFECTIVE DATE UNDER ARTICLE 29: 1 JANUARY 1993

#### **ARTICLE 17**

##### **Limitation on Benefits**

- 1) A person that is a resident of a Contracting State and derives income from the other Contracting State shall be entitled under this Convention to relief from taxation in that other Contracting State only if such person is:
  - a) an individual;
  - b) a Contracting State, or a political subdivision or local authority thereof;
  - c) engaged in the active conduct of a trade or business in the first-mentioned State (other than the business of making or managing investments, unless these activities are banking or insurance activities carried on by a bank or insurance company) and the income derived from the other Contracting State is derived in connection with, or is incidental to, that trade or business;
  - d) a company in whose principal class of shares there is substantial and regular trading on a recognized securities exchange, or which is wholly owned, directly or indirectly, by a resident of that Contracting State in whose principal class of shares there is such substantial and regular trading on a recognized securities exchange;
  - e) an entity that is a not-for-profit organization (including a pension fund or private foundation) and that, by virtue of that status, is generally exempt from income taxation in its Contracting State of residence, provided that more than half of the beneficiaries, members or participants, if any, in such organization are entitled, under this Article, to the benefits of this Convention; or
  - f) a person that satisfies both of the following conditions:
    - i) more than 50 percent of the beneficial interest in such person (or in the case of a company, more than 50 percent of the number of shares of each class of the company's shares) is owned, directly or indirectly, by persons entitled to the benefits of this Convention under subparagraphs a), b), d) or e); and

- ii) not more than 50 percent of the gross income of such person is used directly or indirectly, to meet liabilities (including liabilities for interest or royalties) to persons not entitled to the benefits of this Convention under subparagraph a), b), d) or e).
- 2) A person which is not entitled to the benefits of the Convention pursuant to the provisions of paragraph 1 may, nevertheless, be granted the benefits of the Convention if the competent authority of the State in which the income arises so determines.
- 3) For purposes of subparagraph d) of paragraph 1, the term "recognized securities exchange" means:
  - a) the NASDAQ System owned by the National Association of Securities Dealers, Inc. and any stock exchange registered with the Securities and Exchange Commission as a national securities exchange for purposes of the Securities Exchange Act of 1934;
  - b) the Czech stock exchange (Burza Cennych Papiru Praha, A.S.) and any other stock exchange approved by the State authorities; and
  - c) any other stock exchange agreed upon by the competent authorities.
- 4) For purposes of subparagraph f (ii) of paragraph 1, the term "gross income" means gross receipts, or where an enterprise is engaged in a business which includes the manufacture or production of goods, gross receipts reduced by the direct costs of labor and materials attributable to such manufacture or production and paid or payable out of such receipts.