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MINISTRY OF FINANCE

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**Subject: Request for information - Your letter dated 23 November 2016**

Dear Dr Werner Langan,

We would like to thank you for your letter sent on behalf of the Panama papers inquiry Committee (PANA) requesting relevant information from Slovenia.

Fight against tax fraud, tax evasion and aggressive tax planning as well as tackling base erosion and profit shifting is an on-going priority and we are mindful that tax transparency is a crucial element in this process.

Regarding this item and the related questions stated in your letter we are, in the spirit of sincere cooperation, providing you with the following information, where disclosure is legally possible.

**The legal definition of criminal tax related offences**

In accordance with the provisions of the Criminal Code of the Republic of Slovenia the legal definition of Tax evasion (Article 249 of the Criminal Code) is stated as follows:

(1) Whoever, with one or more practices, with a view to either evading, in whole or in part, the payment of taxes, contributions or any other prescribed liabilities of natural or legal persons by himself, or enabling another person to do so, or unduly acquiring tax returned in the Republic of Slovenia or in other Member States of the European Union in whole or in part, provides false information about income, expenses, objects, goods or other circumstances relevant to taxation and other prescribed liabilities, or otherwise defrauds the tax authorities competent for the assessment or supervision of charging and paying of such liabilities, whereby the total amount of outstanding liabilities or liabilities evaded or the undue tax recovery regardless of the type of liability or tax in a period of maximum twelve consecutive months, generates a major property benefit, shall be sentenced to imprisonment for one to eight years.

(2) The same punishment shall be imposed on anyone who, with the intention referred to in the preceding paragraph fails, once or several times, to report the income acquired or other circumstances whose report is mandatory and which have an influence upon the assessment of tax obligations, contributions or other prescribed liabilities of natural and legal persons, whereby the total amount of outstanding liabilities or liabilities evaded regardless of the type of liability or tax in a period of maximum twelve consecutive months, generates a major property benefit.

(3) Whoever, with the intention of preventing establishment of an actual tax liability does not, on the request of the competent tax authority, provide information, keep or submit business books and records which he is obliged to keep, or if the books and records are incorrect in their substance, or does not provide explanations in relation to the subject of tax inspection, or obstructs tax inspection, shall be sentenced to imprisonment for up to two years.

(4) If the act referred to in paragraphs 1 or 2 of this Article was committed within a criminal association, the perpetrator shall be sentenced to imprisonment for not less than three and not more than twelve years.

Criminal procedures are conducted by courts.

#### **Information on the administrative penalties regime**

In connection to tax procedures, administrative sanctions can be imposed upon tax evaders by tax authority for unlawful doings, defined as tax offences. For tax offences the following administrative sanctions are prescribed:

- a fine of 250 to 400 euros is imposed on an individual;
- a fine of of 400 to 5,000 euros is imposed on an individual for serious tax offenses;
- a fine of 800 to 10,000 euros is imposed on any sole trader or individual independently performing an activity;
- a fine from 1,200 to 15,000 euros is imposed on a legal person (small company);
- a fine of 3,200 to 30,000 euros s imposed on legal person (medium or large company).

The sanction is imposed with respect to the weight of the offence and the perpetrator's negligence or intent.

For particularly serious tax offences, the nature of which is particularly severe because of the amount of damage caused or the amount of acquired illegal proceeds or because of the offender's intent or greed:

- a fine of 2,500 to 15,000 euros is imposed on an individual;
- a fine of 3,500 to 75,000 euros is imposed on a sole trader or individual independently performing an activity;
- a fine of 4,500 to 100,000 euros is imposed on a legal person (small company);
- a fine 10,500 to 150,000 euros is imposed on a legal person (medium or large company).

## Statistics on the cases related to tax offences

Administrative tax offences	2015	2016 (01-11)
<b>Number of offences</b>	<b>19.468</b>	<b>19.304</b>
<b>The amount of fines</b>	<b>20.069.824,61</b>	<b>18.864.035,10</b>

In 2015, the Slovenian tax authority lodged 77 criminal charges on suspicion of a criminal offence in accordance with the Criminal Code with relevant district state prosecutor's offices. In 2016 (from January to November) 99 criminal charges were lodged.

### Targeted offshore inspections

Slovenian tax authority is performing a special project that tax inspections focused on offshore transactions. Since 2011 approximately 1000 cases were investigated that resulted in an additional assessed liability of approximately EUR 30 mio.

Please note that the Slovenian tax authority has a possibility in accordance with the provisions of Tax Procedure Act to determine the object of taxation by valuation and on this basis assess the tax if the individual does not declare his income. This assessment procedure is aimed at establishing facts used by the tax authority to determine the tax base. A tax at a rate of 70 % is imposed upon the assessed tax base.

### Entities responsible for the handling of Suspicious Transactions Reports (STRs)

The Office for Money Laundering Prevention (hereinafter: OMLP) which is a constitutive part of the Ministry of Finance of the Republic of Slovenia performs duties referring to the prevention and detection of money laundering and terrorist financing, and other duties determined by the Act on the Prevention of Money Laundering and Terrorist Financing.

The OMLP has its own budget, 19 employees and is made up of the management and 4 organizational units, namely:

- Section for prevention and supervision
- Section for suspicious transactions
- Information technology service
- International cooperation service

The OMLP receives and analyses notifications concerning suspicious transactions received from obliged persons and makes conclusions if there exists any reasons of suspicions of committing criminal offences in relation to the persons, transactions, property or funds. If OMLP considers there are grounds to suspect money laundering, related predicate criminal offences, or terrorist financing it shall notify Police and/or Prosecutor Office. If the Office considers there are grounds to suspect any other criminal offence it shall notify competent authority. In last years the majority of notifications for other criminal offences were related to tax evasion shared with Tax authority. For example in 2015 OMLP send 69 notifications related to more than 250 natural and legal persons.

According to Police statistics for 2014 and 2015 Police filed around 90 criminal complains related to Tax Evasion each year totaling around 30.000.000 EURs of damage.

Slovenia has implemented the 4th AML Directive with the new law, namely Prevention of Money Laundering and Terrorist Financing Act (hereinafter: ML/TF). The most important provisions of the new law are the inclusion of a risk-based approach in activities of all stakeholders in the system of ML/TF prevention (obliged entities, supervisory authorities) with the clear intention of mitigating the risk for ML/TF. Further the obligation of applying customer due diligence CDD measures in the case of occasional transaction above the threshold of 1.000 EURs and in the case of the collection of winnings, the wagering of a stake, or both, within gambling services providers above the threshold of 2.000 EURs are introduced. The new law also provides provisions for setting up a beneficial ownership register as well as contains more specific provisions on establishing beneficial ownership. In accordance with the Directive the law gives special attention to the list of high-risk-third-countries. Further it defines politically exposed persons not only as foreign persons, entrusted with a prominent public function, but domestic persons as well. The threshold for reporting cash transactions has been lowered from 30.000 EURs to 15.000 EURs as a specific provision of preventive nature, as well as has been introduced a definition of suspicious transactions. Special emphasis is placed on cooperation between supervisory authorities. Further the Slovenian Tax authority and the Public payments administration have been given status of an initiator of suspicious transaction analysis. The Office for Money Laundering Prevention has been given more defined competences and has become an inspection body to perform on-site supervision with the obliged entities in order to increase the effectiveness of the system of prevention of ML/TF.

We hope this information will be helpful to the committee. Please do not hesitate to contact us if you should have any further questions.

Yours sincerely,

Tilen Božič  
State Secretary

