

**No. 46836**

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**Turkey  
and  
Austria**

**Agreement between the Republic of Turkey and the Republic of Austria for the avoidance of double taxation with respect to taxes on income (with protocol). Vienna, 28 March 2008**

**Entry into force:** *1 October 2009 by the exchange of instruments of ratification, in accordance with article 28*

**Authentic texts:** *English, German and Turkish*

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**Turquie  
et  
Autriche**

**Accord entre la République turque et la République d'Autriche tendant à éviter la double imposition en matière d'impôts sur le revenu (avec protocole). Vienne, 28 mars 2008**

**Entrée en vigueur :** *1<sup>er</sup> octobre 2009 par échange des instruments de ratification, conformément à l'article 28*

**Textes authentiques :** *anglais, allemand et turc*

**Enregistrement auprès du Secrétariat des Nations Unies :** *Turquie, 4 novembre 2009*

[ ENGLISH TEXT – TEXTE ANGLAIS ]

**AGREEMENT**  
**BETWEEN**  
**THE REPUBLIC OF TURKEY AND THE REPUBLIC OF AUSTRIA**  
**FOR THE AVOIDANCE OF DOUBLE TAXATION**  
**WITH RESPECT TO TAXES ON INCOME**

**The Republic of Turkey and the Republic of Austria, desiring to conclude an Agreement for the Avoidance of Double Taxation with respect to Taxes on Income,**

**Have agreed as follows:**

**Article 1**

**PERSONS COVERED**

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

**Article 2**

**TAXES COVERED**

(1) This Agreement shall apply to taxes on income imposed on behalf of a Contracting State or of its political 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, as well as taxes on capital appreciation.

(3) The existing taxes to which the Agreement shall apply are in particular:

a) in Austria:

- i. the income tax (die Einkommensteuer);
- ii. the corporation tax (die Körperschaftsteuer);

(hereinafter referred to as "Austrian tax");

b) in Turkey:

- i. the income tax;
- ii. the corporation tax;

(hereinafter referred to as "Turkish tax").

(4) The Agreement shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Agreement 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 Agreement, unless the context otherwise requires:
- a) (i) the term "Austria" means the territory under the sovereignty of the Republic of Austria in accordance with international law;  
  
(ii) the term "Turkey" means the Turkish territory including territorial sea and air space above it, as well as the maritime areas over which it has jurisdiction or sovereign rights for the purpose of exploration, exploitation and conservation of natural resources, pursuant to international law;
  - b) the terms "a Contracting State" and "the other Contracting State" mean Austria or Turkey, as the context requires;
  - c) the term "tax" means any tax covered by Article 2 of this Agreement;
  - d) the term "person" includes an individual, a company and any other body of persons;
  - e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
  - f) the term "legal head office" means the statutory seat (Kanuni merkez, Sitz) within the meaning of the Turkish Code of Commerce, or within the meaning of the Austrian Fiscal Code, respectively;
  - g) the term "national" means:
    - (i) any individual possessing the nationality of a Contracting State;
    - (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;
  - h) 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;
  - i) the term "competent authority" means:
    - (i) in Austria: the Federal Minister of Finance or his authorised representative;
    - (ii) in Turkey: the Minister of Finance or his authorised representative;
  - j) 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;

(2) As regards the application of the Agreement 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 Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

#### **Article 4**

#### **RESIDENT**

(1) For the purposes of this Agreement, 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, legal head office, place of management or any other criterion of a similar nature, and also includes that State and any political 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 of vital interests);

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 endeavour to 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 by mutual agreement endeavour to settle the question and to determine the mode of application of the Agreement to such person. In the absence of such agreement, such person shall not be entitled to claim any relief or exemption from tax provided by the Agreement.