

No. 47193

**Austria
and
Viet Nam**

Agreement between the Government of the Republic of Austria and the Government of the Socialist Republic of Vietnam for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital (with annex and protocol). Vienna, 2 June 2008

Entry into force: *1 January 2010 by notification, in accordance with article 28*

Authentic texts: *English, German and Vietnamese*

Registration with the Secretariat of the United Nations: *Austria, 4 February 2010*

**Autriche
et
Viet Nam**

Accord entre le Gouvernement de la République d'Autriche et le Gouvernement de la République socialiste du Viet Nam tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur la fortune (avec annexe et protocole). Vienne, 2 juin 2008

Entrée en vigueur : *1^{er} janvier 2010 par notification, conformément à l'article 28*

Textes authentiques : *anglais, allemand et vietnamien*

Enregistrement auprès du Secrétariat des Nations Unies : *Autriche, 4 février 2010*

[ENGLISH TEXT – TEXTE ANGLAIS]

**AGREEMENT BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF AUSTRIA AND THE
GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIETNAM FOR
THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION
OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**

The Government of the Republic of Austria and the Government of the Socialist Republic of Vietnam, desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital,

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 and on capital 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 and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, 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);
 - iii. the land tax (die Grundsteuer);
 - iv. the tax on agricultural and forestry enterprises (die Abgabe von land- und forstwirtschaftlichen Betrieben);
 - v. the tax on the value of vacant plots (die Abgabe vom Bodenwert bei unbebauten Grundstücken);
- (hereinafter referred to as "Austrian tax");

b) in Vietnam:

- i. the personal income tax; and
 - ii. the business income tax (including business income tax on foreign contractors and foreign subcontractors);
- (hereinafter referred to as "Vietnamese tax").

(4) The Agreement shall apply also to any identical or substantially similar taxes that 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) the term "Austria" means the Republic of Austria;
- b) the term "Vietnam" means the Socialist Republic of Vietnam; when used in a geographical sense, it means its land territory, islands, internal waters, territorial sea and airspace above them, the maritime areas beyond territorial sea including seabed and subsoil thereof over which the Socialist Republic of Vietnam exercises sovereignty, sovereign rights and jurisdiction in accordance with national legislation and international law;
- c) the terms "Contracting State" and "the other Contracting State" mean Austria or Vietnam, as the context requires;
- 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 that is treated as a body corporate for tax purposes;
- 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 Austria: the Federal Minister of Finance or his authorised representative;
 - (ii) in Vietnam: the Minister of Finance or his authorised representative;
- i) the term "national", in relation to a Contracting State, 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;

(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, place of management, place of registration or any other criterion of a similar nature. 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 or capital situated therein.

(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, then it shall be deemed to be a resident of the State in which its place of registration is situated. However, where such person has its place of registration in one of the States and its place of effective management in the other State, then the competent authorities of the Contracting States shall determine by mutual agreement the State of which the person shall be deemed to be a resident for the purposes of this Agreement. In the absence of such mutual agreement for the purposes of this Agreement, the person shall in each Contracting State be deemed not to be a resident of the other Contracting State.