

No. 47972

**Austria
and
Monaco**

Agreement between the Republic of Austria and the Principality of Monaco on exchange of information on tax matters. Monaco, 15 September 2009

Entry into force: *1 August 2010 by the exchange of instruments of ratification, in accordance with article 11*

Authentic texts: *English, French and German*

Registration with the Secretariat of the United Nations: *Austria, 9 November 2010*

**Autriche
et
Monaco**

Accord entre la République d'Autriche et la Principauté de Monaco concernant l'échange de renseignements en matière fiscale. Monaco, 15 septembre 2009

Entrée en vigueur : *1^{er} août 2010 par échange des instruments de ratification, conformément à l'article 11*

Textes authentiques : *anglais, français et allemand*

Enregistrement auprès du Secrétariat des Nations Unies : *Autriche, 9 novembre 2010*

[ENGLISH TEXT – TEXTE ANGLAIS]

**AGREEMENT
BETWEEN**

**THE REPUBLIC OF AUSTRIA
AND
THE PRINCIPALITY OF MONACO**

ON EXCHANGE OF INFORMATION ON TAX MATTERS

The Republic of Austria

and

the Principality of Monaco,

DESIRING to conclude an Agreement on exchange of information on tax matters,

Have agreed as follows:

Article 1

Object and Scope of the Agreement

The competent authorities of the Contracting Parties shall provide assistance through exchange of information that is foreseeably relevant to the administration and enforcement of the domestic laws of the Contracting Parties concerning taxes covered by this Agreement. Such information shall include information that is foreseeably relevant to the determination, assessment and collection of such taxes, the recovery and enforcement of tax claims, or the investigation or prosecution of tax matters. Information shall be exchanged in accordance with the provisions of this Agreement and shall be treated as confidential in the manner provided in Article 8. The rights and safeguards secured to persons by the laws or administrative practice of the requested Party remain applicable to the extent that they do not unduly prevent or delay effective exchange of information.

Article 2

Jurisdiction

A Requested Party is not obligated to provide information which is neither held by its authorities nor in the possession or control of persons who are within its territorial jurisdiction.

Article 3

Taxes Covered

1. The taxes which are the subject of this Agreement are:

- a. in Austria,
 - I. the income tax (die Einkommensteuer);
 - II. the corporation tax (die Körperschaftsteuer);
- b. in the Principality of Monaco,
 - I. the profit tax (impôts sur les bénéfices).

2. This Agreement shall also apply to any identical taxes imposed after the date of signature of the Agreement in addition to or in place of the existing taxes. This Agreement shall also apply to any substantially similar taxes imposed after the date of signature of the Agreement in addition to or in place of the existing taxes if the

competent authorities of the Contracting Parties so agree. Furthermore, the taxes covered may be expanded or modified by mutual agreement of the Contracting Parties in the form of an exchange of letters. The competent authorities of the Contracting Parties shall notify each other of any substantial changes to the taxation and related information gathering measures covered by the Agreement.

Article 4

Definitions

1. For the purposes of this Agreement, unless otherwise defined:
 - a. the term “Contracting Party” means Austria or Monaco as the context requires;
 - b. the term “Monaco” means the Principality of Monaco’s land, internal waters, territorial sea including its bed and subsoil, the air space over them, the exclusive economic zone and the continental shelf, over which the Principality of Monaco exercises sovereign rights and jurisdiction in accordance with the provisions of international law the Principality of Monaco’s national laws and regulations;
 - c. the term “Austria” means the Republic of Austria;
 - d. the term “competent authority” means:
 - I. in Austria: the Federal Minister of Finance or his authorised representative;
 - II. in Monaco: the Minister of Finance and Economy or the Minister’s authorised representative;
 - e. the term “person” includes an individual, a company and any other body of persons;
 - f. the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - g. the term “publicly traded company” means any company whose principal class of shares is listed on a recognised stock exchange provided its listed shares can be readily purchased or sold by the public. Shares can be purchased or sold “by the public” if the purchase or sale of shares is not implicitly or explicitly restricted to a limited group of investors;
 - h. the term “principal class of shares” means the class or classes of shares representing a majority of the voting power and value of the company;

- i. the term “recognised stock exchange” means any stock exchange agreed upon by the competent authorities of the Contracting Parties;
- j. the term “collective investment fund or scheme” means any pooled investment vehicle, irrespective of legal form. The term “public collective investment fund or scheme” means any collective investment fund or scheme provided the units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed by the public. Units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed “by the public” if the purchase, sale or redemption is not implicitly or explicitly restricted to a limited group of investors;
- k. the term “tax” means any tax to which the Agreement applies;
- l. the term “applicant Party” means the Contracting Party requesting information;
- m. the term “requested Party” means the Contracting Party requested to provide information;
- n. the term “information gathering measures” means laws and administrative or judicial procedures that enable a Contracting Party to obtain and provide the requested information;
- o. the term “information” means any fact, statement or record in any form whatever;
- p. the term “criminal tax matters” means tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the applicant Party;
- q. the term “criminal laws” means all criminal laws designated as such under domestic law irrespective of whether contained in the tax laws, the criminal code or other statutes.

2. As regards the application of this Agreement at any time by a Contracting Party, 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 Party, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.