

No. 48543. Austria and Russian Federation

CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF AUSTRIA AND THE GOVERNMENT OF THE RUSSIAN FEDERATION FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL. MOSCOW, 13 APRIL 2000 [*United Nations, Treaty Series*, vol. 2751, I-48543.]

PROTOCOL AMENDING THE CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF AUSTRIA AND THE GOVERNMENT OF THE RUSSIAN FEDERATION FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL WITH PROTOCOL SIGNED IN MOSCOW ON 13 APRIL 2000 (WITH DECLARATION). VIENNA, 5 JUNE 2018*

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N° 48543. Autriche et Fédération de Russie

CONVENTION ENTRE LE GOUVERNEMENT DE LA RÉPUBLIQUE D'AUTRICHE ET LE GOUVERNEMENT DE LA FÉDÉRATION DE RUSSIE TENDANT À ÉVITER LA DOUBLE IMPOSITION EN MATIÈRE D'IMPÔTS SUR LE REVENU ET SUR LA FORTUNE. MOSCOU, 13 AVRIL 2000 [*Nations Unies, Recueil des Traités*, vol. 2751, I-48543.]

PROTOCOLE MODIFIANT LA CONVENTION ENTRE LE GOUVERNEMENT DE LA RÉPUBLIQUE D'AUTRICHE ET LE GOUVERNEMENT DE LA FÉDÉRATION DE RUSSIE TENDANT À ÉVITER LA DOUBLE IMPOSITION EN MATIÈRE D'IMPÔTS SUR LE REVENU ET SUR LA FORTUNE AVEC PROTOCOLE SIGNÉ À MOSCOU LE 13 AVRIL 2000 (AVEC DÉCLARATION). VIENNE, 5 JUIN 2018*

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[ENGLISH TEXT – TEXTE ANGLAIS]

PROTOCOL
AMENDING THE CONVENTION
BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF AUSTRIA AND
THE GOVERNMENT OF THE RUSSIAN FEDERATION
FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO
TAXES ON INCOME AND ON CAPITAL WITH PROTOCOL
SIGNED IN MOSCOW ON 13 APRIL 2000

The Government of the Republic of Austria and the Government of the Russian Federation desiring to conclude a Protocol amending the Convention for the avoidance of double taxation with respect to taxes on income and on capital with Protocol, signed in Moscow on 13th April 2000 (hereinafter referred to as "the Convention"),

Have agreed as follows:

Article 1

In Article 2 “Taxes Covered” of the Convention, paragraph 3, sub-paragraph b), the list of the Russian taxes shall be modified as follows:

- “(i) the tax on profits of organisations;
 - (ii) the tax on income of individuals;
 - (iii) the tax on property of organisations;
 - (iv) the tax on property of individuals
- (hereinafter referred to as “Russian taxes”).”

Article 2

1. Sub-paragraph a) of paragraph 2 of Article 10 “Dividends” of the Convention shall be modified as follows:

“a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends;”

2. Paragraph 3 of Article 10 of the Convention shall be modified as follows:

“3. The term “dividends” as used in this Article means income from shares of any kind and other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident. This term also means any payments on units of the mutual investment funds or similar collective investment vehicles (other than collective investment vehicles organized primarily for investing in immovable property, if at least 10 per cent of the units or other rights of such a vehicle belongs to the beneficial owner of that income).”

Article 3

1. New paragraphs 4 and 5 shall be added to Article 13 “Capital Gains” of the Convention that shall read as follows:

“4. Gains derived by a resident of a Contracting State from the alienation of shares or similar rights deriving more than 50 % of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.

5. Paragraph 4 shall not apply to gains derived from:

- a) the alienation of shares in the course of a corporate reorganisation;
- b) the alienation of shares listed on a registered stock exchange.”

2. Existing paragraph 4 of Article 13 of the Convention shall be renumbered as paragraph 6 and shall be modified as follows:

“6. Gains from the alienation of any property other than that referred to in paragraphs 1 to 5, shall be taxable only in the Contracting State of which the alienator is a resident.”

Article 4

A new paragraph 3 shall be added to Article 17 “Artistes and Sportsmen” of the Convention that shall read as follows:

“3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities performed in a Contracting State by entertainers or sportsmen if the visit to that State is wholly or mainly supported by the other Contracting State or a political subdivision or local authority thereof or by funds basically financed by those authorities. In such a case the income shall be taxable only in the State of which the entertainer or sportsman is a resident.”

Article 5

Sub-paragraph b) of paragraph 1 of Article 23 “Elimination of Double Taxation” of the Convention shall be modified as follows:

“b) Where a resident of Austria derives items of income which, in accordance with the provisions of Article 10 or paragraph 4 of Article 13, may be taxed in the Russian Federation, Austria shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in the Russian

Federation. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given which is attributable to such items of income derived from the Russian Federation.”

Article 6

Article 26 of the Convention shall be replaced by the following:

“Article 26 Exchange of Information ”

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;