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**Austria
and
Montenegro**

Convention between the Government of the Republic of Austria and the Government of Montenegro for the avoidance of double taxation with respect to taxes on income and on capital (with protocol). Vienna, 16 June 2014

Entry into force: *21 April 2015 by notification, in accordance with article 28*

Authentic texts: *English, German and Montenegrin*

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**Autriche
et
Monténégro**

Convention entre le Gouvernement de la République d'Autriche et le Gouvernement du Monténégro tendant à éviter la double imposition en matière d'impôts sur le revenu et sur la fortune (avec protocole). Vienne, 16 juin 2014

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[ENGLISH TEXT – TEXTE ANGLAIS]

**CONVENTION BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF AUSTRIA
AND THE GOVERNMENT OF MONTENEGRO FOR THE
AVOIDANCE OF DOUBLE TAXATION WITH RESPECT
TO TAXES ON INCOME AND ON CAPITAL
(WITH PROTOCOL)**

Article 1

PERSONS COVERED

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

Article 2

TAXES COVERED

1. This Convention 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 Convention 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);

b. in Montenegro:

- i. the corporate profit tax; and
- ii. the personal income tax.

4. The Convention shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Convention 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 Convention, unless the context otherwise requires:

- a. the term "Austria" means the Republic of Austria;
- b. the term "Montenegro" means the State of Montenegro and, when used in a geographical sense, it means the land territory of Montenegro, its internal sea waters and the belt of the territorial sea, the air space thereover, as well as the seabed and subsoil of the part of the high sea outside the outer limit of the territorial sea over which Montenegro exercises its sovereign rights for the purpose of exploration and exploitation of their natural resources in accordance with its internal legislation and international law;
- c. the term "person" includes an individual, a company and any other body of persons;
- d. the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
- e. the term "enterprise" applies to the carrying on of any business;
- 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 that has its place of effective management in 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 authorized representative;
 - ii. in Montenegro: the Ministry of Finance or its authorized representative;
- i. the term "national", in relation to a Contracting State, means:
 - i. any individual possessing the nationality or citizenship 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;
- j. the term "business" includes the performance of professional services and of other activities of an independent character.

2. As regards the application of the Convention 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 Convention 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 Convention, 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 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 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 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 only of the State in which its place of effective management is situated.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

- a. a place of management;
- b. a branch;
- c. an office;
- d. a factory;