

**No. 42196. Austria and San Marino**

CONVENTION BETWEEN THE REPUBLIC OF AUSTRIA AND THE REPUBLIC OF SAN MARINO WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL. VIENNA, 24 NOVEMBER 2004 [*United Nations, Treaty Series, vol. 2350, I-42196.*]

PROTOCOL BETWEEN THE REPUBLIC OF AUSTRIA AND THE REPUBLIC OF SAN MARINO AND ADDITIONAL PROTOCOL AMENDING THE CONVENTION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL SIGNED AT VIENNA ON 24 NOVEMBER 2004. VIENNA, 18 SEPTEMBER 2009

**Entry into force:** 1 June 2010 by notification, in accordance with article 3

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

**Registration with the Secretariat of the United Nations:** Austria, 6 July 2010

**N° 42196. Autriche et Saint-Marin**

CONVENTION ENTRE LA RÉPUBLIQUE D'AUTRICHE ET LA RÉPUBLIQUE DE SAINT-MARIN EN MATIÈRE D'IMPÔTS SUR LE REVENU ET SUR LA FORTUNE. VIENNE, 24 NOVEMBRE 2004 [*Nations Unies, Recueil des Traités, vol. 2350, I-42196.*]

PROTOCOLE ENTRE LA RÉPUBLIQUE D'AUTRICHE ET LA RÉPUBLIQUE DE SAINT-MARIN ET PROTOCOLE ADDITIONNEL MODIFIANT LA CONVENTION EN MATIÈRE D'IMPÔTS SUR LE REVENU ET SUR LA FORTUNE SIGNÉE À VIENNE LE 24 NOVEMBRE 2004. VIENNE, 18 SEPTEMBRE 2009

**Entrée en vigueur :** 1<sup>er</sup> juin 2010 par notification, conformément à l'article 3

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

**Enregistrement auprès du Secrétariat des Nations Unies :** Autriche, 6 juillet 2010

[ ENGLISH TEXT – TEXTE ANGLAIS ]

**PROTOCOL  
BETWEEN**

**THE REPUBLIC OF AUSTRIA  
AND  
THE REPUBLIC OF SAN MARINO**

**AND ADDITIONAL PROTOCOL  
AMENDING THE CONVENTION WITH RESPECT TO TAXES ON INCOME AND ON  
CAPITAL**

**SIGNED AT VIENNA ON 24 NOVEMBER 2004**

**The Republic of Austria**

**and**

**the Republic of San Marino**

**DESIRING to conclude a Protocol and an Additional Protocol amending the  
Convention with respect to Taxes on Income and on Capital, signed at Vienna on 24  
November 2004 (hereinafter referred to as "the Convention"),**

**Have agreed as follows:**

Article 1

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;
- c. to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person."

#### Article 2

Paragraph 5 of the existing Protocol signed at Vienna on 24 November 2004 together with the Convention shall be deleted, but continue to be applicable for the taxable periods prior to the effect of this Protocol.

#### Article 3

The Contracting States shall notify each other, through diplomatic channels, that all legal procedures for the entry into force of this Protocol have been completed. The Protocol shall enter into force on the first day of the third month next following the date of the receipt of the latter of the notifications referred to above. The provisions of this Protocol shall have effect with regard to taxable periods beginning on or after 1 January of the calendar year next following the year of the entry into force of this Protocol.

#### Article 4

This Protocol, which shall form an integral part of the Convention, shall remain in force as long as the Convention itself is applicable.

**IN WITNESS WHEREOF** the plenipotentiaries of the two Contracting States, duly authorised thereto, have signed this Protocol.

**DONE** in duplicate at Vienna on 18. 9. 2009 in the German, Italian and English languages, all the texts being equally authentic. In case of any divergences of interpretation, the English text shall prevail.

**For the Republic of  
Austria:**

**Andreas SCHIEDER m.p.**

**For the Republic of  
San Marino:**

**Elena MOLARONI m.p.**