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**Austria
and
New Zealand**

Agreement between the Republic of Austria and New Zealand with respect to taxes on income and on capital (with protocol). Vienna, 21 September 2006

Entry into force: *1 December 2007 by the exchange of instruments of ratification, in accordance with article 27*

Authentic texts: *English and German*

Registration with the Secretariat of the United Nations: *Austria, 2 January 2008*

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**Autriche
et
Nouvelle-Zélande**

Accord entre la République d'Autriche et la Nouvelle-Zélande en matière d'impôts sur le revenu et sur la fortune (avec protocole). Vienne, 21 septembre 2006

Entrée en vigueur : *1^{er} décembre 2007 par échange des instruments de ratification, conformément à l'article 27*

Textes authentiques : *anglais et allemand*

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[ENGLISH TEXT – TEXTE ANGLAIS]

**AGREEMENT BETWEEN
THE REPUBLIC OF AUSTRIA AND NEW ZEALAND
WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**

The Republic of Austria and New Zealand, desiring to conclude an Agreement 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, 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);

b) in New Zealand:
the income 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 within a reasonable period of time 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 "person" includes an individual, a company and any other body of persons;
- b) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;

- c) the term "enterprise" applies to the carrying on of any business;
- d) 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;
- e) 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;
- f) the term "competent authority" means:
 - (i) in Austria: the Federal Minister of Finance or an authorised representative;
 - (ii) in New Zealand: the Commissioner of Inland Revenue or an authorised representative;
- g) 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;
- h) the term "business" includes the performance of professional services and of other activities of an independent character;
- i) the terms "a Contracting State" and "the other Contracting State" mean Austria or New Zealand as the context requires;
- j) (i) the term "Austria" means the Republic of Austria;
(ii) the term "New Zealand" means the territory of New Zealand but does not include Tokelau or the Associated Self Governing States of the Cook Islands and Niue; it also includes any area beyond the territorial sea designated under New Zealand legislation and in accordance with international law as an area in which New Zealand may exercise sovereign rights with respect to natural resources.

(2) For the purposes of Articles 10, 11 and 12, a trustee subject to tax in a Contracting State in respect of dividends, interest or royalties shall be deemed to be the beneficial owner of that interest or those dividends or royalties.

(3) 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 or her 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 their status shall be determined as follows:

- a) the individual shall be deemed to be a resident only of the State in which a permanent home is available to the individual; if a permanent home is available to the individual in both States, the individual shall be deemed to be a resident only of the State with which the individual's personal and economic relations are closer (centre of vital interests);
- b) if the State in which the individual has the centre of vital interests cannot be determined, or if a permanent home is not available to the individual in either State, the individual shall be deemed to be a resident only of the State in which the individual has an habitual abode;
- c) if the individual has an habitual abode in both States or in neither of them, the individual shall be deemed to be a resident only of the State of which the individual is a national;
- d) if the individual 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 Agreement, 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;
- e) a workshop, and
- f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.