

No. 51455

**Austria
and
Romania**

Convention between the Republic of Austria and Romania for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital (with protocol). Bucharest, 30 March 2005

Entry into force: *1 February 2006, in accordance with article 29*

Authentic texts: *English, German and Romanian*

Registration with the Secretariat of the United Nations: *Austria, 26 November 2013*

**Autriche
et
Roumanie**

Convention entre la République d'Autriche et la Roumanie tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur la fortune (avec protocole). Bucarest, 30 mars 2005

Entrée en vigueur : *1^{er} février 2006, conformément à l'article 29*

Textes authentiques : *anglais, allemand et roumain*

Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies : *Autriche,
26 novembre 2013*

[ENGLISH TEXT – TEXTE ANGLAIS]

CONVENTION

BETWEEN THE REPUBLIC OF AUSTRIA AND ROMANIA

FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE

PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES

ON INCOME AND ON CAPITAL

The Republic of Austria and Romania, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, have agreed as follows:

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 local authorities or administrative - territorial units, 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, as well as taxes on capital appreciation.

3. The existing taxes to which this Convention shall apply are in particular:

a) In the case of Romania:

- (i) the tax on income;
- (ii) the tax on profit;
- (iii) the tax on property;

b) In the case of 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).

4. The Convention shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of this 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 terms "a Contracting State" and "the other Contracting State" mean Romania or Austria as the context requires;

- b) the term "Romania" means the state territory of Romania, including its territorial sea and air space over the territory and the territorial sea over which Romania exercises sovereignty, as well as the contiguous zone and the continental shelf and the exclusive economic zone over which Romania exercises, in accordance with its legislation and with the rules and principles of international law, sovereign rights and jurisdiction;
- c) the term "Austria" means the Republic of Austria;
- d) the term "person" includes an individual, a company and any other body of persons;
- e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
- 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 "national" means:
 - (i) any individual possessing the citizenship of a Contracting State;
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;
- h) 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 situated in the other Contracting State;
- i) the term "competent authority" means:
 - (i) in the case of Romania: the Minister of Public Finances or his authorized representative;
 - (ii) in the case of Austria: the Federal Minister of Finance or his authorized representative.

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, place of registration or any other criterion of a similar nature, and also includes that State and any local authority or administrative - territorial unit 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;
- e) a workshop, and
- f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than 12 months.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

- a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;