

**No. 21602**

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**UNION OF SOVIET SOCIALIST REPUBLICS  
and  
AUSTRIA**

**Agreement concerning the avoidance of double taxation  
on income and property (with exchange of notes).  
Signed at Vienna on 10 April 1981**

*Authentic texts: Russian and German.*

*Registered by the Union of Soviet Socialist Republics on 22 February  
1983.*

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**UNION DES RÉPUBLIQUES SOCIALISTES  
SOVIÉTIQUES  
et  
AUTRICHE**

**Convention tendant à éviter la double imposition sur les  
revenus et le patrimoine (avec échange de notes).  
Signée à Vienne le 10 avril 1981**

*Textes authentiques: russe et allemand.*

*Enregistrée par l'Union des Républiques socialistes soviétiques le 22 fé-  
vrier 1983.*

## [TRANSLATION—TRADUCTION]

**AGREEMENT<sup>1</sup> BETWEEN THE UNION OF SOVIET SOCIALIST  
REPUBLICS AND THE REPUBLIC OF AUSTRIA CON-  
CERNING THE AVOIDANCE OF DOUBLE TAXATION ON  
INCOME AND PROPERTY**

The Union of Soviet Socialist Republics and the Republic of Austria,

Recognizing the need to facilitate trade relations and develop economic co-operation in accordance with the Final Act of the Conference on security and co-operation in Europe, signed at Helsinki on 1 August 1975,<sup>2</sup>

Guided by the desire to promote economic, cultural, industrial and scientific and technical co-operation and to avoid double taxation,

Have agreed to conclude this Agreement.

*Article 1. PERSONS TO WHOM THE AGREEMENT APPLIES*

1. This Agreement shall apply to persons who, for tax purposes, are deemed to be permanent residents of one or both of the Contracting States.

2. In this Agreement, the term “a permanent resident of a Contracting State” means:

(a) In the case of a permanent resident of the USSR: a legal entity or other organization established under the laws of the USSR or of any Union Republic which, for tax purposes, is treated as a legal entity in the USSR, and also an individual having permanent residence in the USSR for tax purposes;

(b) In the case of a permanent resident of Austria: a legal entity or other company which, for tax purposes, is treated as a legal entity in Austria, whose headquarters or place of management is located in Austria, and also an individual who, for tax purposes, is considered to have permanent residence or a habitual abode in Austria.

3. Where by reason of paragraphs 1 and 2 of this article an individual is a permanent resident of both Contracting States, the following procedure shall be followed:

(a) He shall be deemed to be a permanent resident of the State in which he has a permanent home; if he has a permanent home in both States, he shall be deemed to be a permanent resident of the State with which his personal and economic relations are closest (centre of vital interests);

<sup>1</sup> Came into force on 1 October 1982, i. e., the first day of the third month following the last of the notifications by which the Parties informed each other of the completion of the necessary formalities, in accordance with article 19.

<sup>2</sup> *International Legal Materials*, vol. 14 (1975), p. 1292 (American Society of International Law).

(b) If the State in which he has his centre of vital interests cannot be determined, or if he does not have a permanent home in either State, he shall be deemed to be a permanent resident of the State in which he has a habitual abode;

(c) If he has a habitual abode in both States or in neither of them, he shall be deemed to be a permanent resident of the State of which he is a national;

(d) If both States regard him as a national, or if he is a national of neither of them, the competent bodies of the Contracting States shall proceed in accordance with article 18 of this Agreement.

4. Where by reason of paragraphs 1 and 2 of this article a person other than an individual is a resident of both Contracting States, it shall be deemed to be a permanent resident of the State in which its actual centre of management is situated.

#### *Article 2. TAXES TO WHICH THE AGREEMENT APPLIES*

1. This Agreement shall apply to the following taxes on income and property levied on individuals and legal entities in accordance with the legislation of the Contracting States:

(a) In the case of the USSR: the income tax on foreign legal entities, the income tax on the population, the agricultural tax, the tax on owners of buildings, the land tax, and the tax on owners of means of transport;

(b) In the case of Austria: the income tax; the corporation tax; the tax on directors' fees; the tax on fortune; the tax on property exempt from the inheritance tax; the business tax, including the pay-roll tax; the land tax; the tax on agricultural and forestry enterprises; the contribution from agricultural and forestry enterprises for the equalization of family allowances; the tax on the land value of undeveloped real estate.

2. This Agreement shall also apply to all taxes and dues which are substantially similar to the taxes and dues referred to in paragraph 1 of this article and are imposed by either of the Contracting States or by their local bodies in addition to, or in place of, the existing taxes and dues, after the signature of this Agreement.

#### *Article 3. DEFINITION OF TERMS*

1. For the purposes of this Agreement, the following terms shall mean:

(a) "Contracting State": as the context requires, the Union of Soviet Socialist Republics (USSR) or the Republic of Austria (Austria);

(b) "International transport": transport between points situated in different States, with the exception of transport between points situated in the other Contracting State;

(c) The "competent bodies":

- (1) In the USSR: the Ministry of Finance of the USSR or its authorized representatives;
- (2) In Austria: the Federal Ministry of Finance or its authorized representatives.

2. As regards the application of this Agreement by the Contracting States, any term not defined in this Agreement shall have the meaning which it has under the laws of the State for whose benefit taxation is levied under this Agreement, unless the context otherwise requires.

#### *Article 4. REPRESENTATION*

1. For the purposes of this Agreement the term "representation" means a permanent place of activity situated in one Contracting State in which a Permanent Resident of the other Contracting State is wholly or partly engaged in commercial activity.

2. A construction site or installation project situated in the other Contracting State shall not be regarded as a representation in cases where the duration of work at such projects does not exceed 24 months.

3. Notwithstanding the foregoing provisions of this article, the following places of permanent activity situated in one Contracting State shall not be regarded as a representation of a permanent resident of the other Contracting State:

(a) Premises which are used exclusively for the purpose of purchasing goods for a permanent resident of the other Contracting State;

(b) Premises and other technical facilities which are used exclusively for the storage of goods and warehousing operations connected with such storage or for supplying of goods to a permanent resident of the other Contracting State;

(c) Premises which are used exclusively for the exhibition of goods of a permanent resident of the other Contracting State and also for the sale, after the closure of an exhibition of goods which have been demonstrated;

(d) Premises which are used by a permanent resident of the other Contracting State exclusively for the purposes of advertising for his own benefit, for the collection and dissemination of information, for marketing or for carrying out similar activities which are of a subsidiary or preparatory nature for him;

(e) Premises which are used by a permanent resident of the other Contracting State exclusively for carrying out design, design and assembly or scientific research work solely for himself or as a joint endeavour, for engineering work, testing models of goods, machinery and equipment or for servicing machinery and equipment, if this activity is subsidiary or preparatory in nature.

(f) Premises which are used by a permanent resident of the other Contracting State exclusively for the purpose of carrying out for himself other types of activity which are subsidiary or preparatory in nature;

(g) Premises which are used by a permanent resident of the other Contracting State exclusively for the purpose of carrying out some of the types of activity listed in subparagraphs (a) to (f), on condition that these types of activity in their totality are preparatory or subsidiary in nature for him.

4. A permanent resident of one contracting State shall not be deemed to have a representation in the other Contracting State if he carries on business there through a broker, commission agent or other independent agent, provided that such persons are acting in the ordinary course of their business.

In the application of this Agreement, Soviet foreign trade organizations shall be considered to perform the functions of a broker, commission agent or other independent agent for various Soviet industrial or other organizations when purchasing goods and services from permanent residents of Austria. Similarly, the sale of goods to Soviet foreign trade organizations by permanent residents of Austria shall be regarded as sales made through a broker, commission agent or other independent agent even when the sale is made through a representation in the USSR of a permanent resident of Austria.

A legal entity operating in one of the Contracting States in the capacity of broker, commission agent or other independent agent shall be regarded as a broker, commission agent or other independent agent regardless of whether the legal entity is owned or controlled by a permanent resident of one of the Contracting States or by a permanent resident of a third State.

#### *Article 5. INCOME FROM REPRESENTATION*

1. Income of a permanent resident of one Contracting State derived from commercial activity in the other Contracting State shall be taxable in the other Contracting State only if it has been received as a result of the activity of a representation situated in that other Contracting State, and only in so far as it constitutes income of that representation.

2. In taxing a representation, the expenses arising in the representation, including managerial and general administrative expenses, shall be deducted from the total income, regardless of whether they arose in the country in which the representation is situated or elsewhere.

3. It is understood that a representation does not derive income from activity involving conditional sales of goods.

4. Income from the sale of movable property of a representation situated in one Contracting State and belonging to a permanent resident of the other Contracting State shall be taxable in the first State.

5. The provisions of this article shall not affect the rules established in articles 6 to 12 of this Agreement.

#### *Article 6. INCOME FROM INTERNATIONAL TRANSPORT*

1. Income received by a permanent resident of one Contracting State from international water and air transport shall not be taxable in the other Contracting State.

2. The provisions of this article shall also apply to income from participation in a pool or in an international organization for the operation of water or air transport.

#### *Article 7. INCOME FROM COPYRIGHT AND LICENCES*

1. Income from copyright and licences received from a source in one Contracting State by a permanent resident of the other Contracting State shall not be taxable in the first Contracting State.

2. As used in paragraph 1 of this article, "income" means all income received from the sale of, use of or the granting of the right to use:

- (a) Copyright to works of science, literature and art;
- (b) Inventions (whether or not protected by patents or author's certificates), rationalization proposals;
- (c) Industrial and general-purpose designs;
- (d) Trademarks, and also service marks;
- (e) Names of firms;
- (f) Computer programmes;
- (g) Tapes for the production of gramophone records and other means of sound reproduction;
- (h) Records, tapes and films used for radio, cinematographic and television broadcasting;
- (i) Industrial experience and knowledge (know-how).

3. The provisions of this article shall also apply to income:

- (a) From the sale of, use of, or granting of the right to use single items of industrial, trade and scientific equipment, and other scientific and technical facilities, provided that such income relates to sale, use or granting of the right to use as envisaged in this article;
- (b) From the provision of technical services, provided that such income relates to sale, use or granting of the right to use envisaged in this article;
- (c) From the production of recordings for gramophone records, films and other means of sound reproduction.

#### *Article 8. DIVIDENDS*

1. Dividends paid by a legal entity which is a permanent resident of one Contracting State to a permanent resident of the other Contracting State may not be taxed in the first State.

2. As used in this article, the term "dividends" means income from shares and other income which, in accordance with the tax law of the Contracting State in which the legal entity distributing the profit has its permanent residence, is equated with income from shares.

### *Article 9. INTEREST*

Interest which a permanent resident of one Contracting State receives from the other Contracting State shall not be taxable in that other State.

### *Article 10. INCOME FROM IMMOVABLE PROPERTY*

1. Income received by a permanent resident of one Contracting State from the lease, loan or any other form of use and also from the sale of immovable property situated in the other Contracting State, shall be taxable in that other State.

2. As used in this Agreement, the term "immovable property" shall have the meaning given to it under the law of the Contracting State in which such property is situated.

### *Article 11. SALARIES AND CERTAIN OTHER TYPES OF INCOME OF INDIVIDUALS*

1. Salaries and other income which an individual who is a permanent resident of one Contracting State receives in respect of activity carried out in the other Contracting State shall be taxable in that other State only if the individual was present there for a total of more than 183 days.

2. Notwithstanding provisions of paragraph 1 of this article, remuneration received by an individual who is a permanent resident of one Contracting State for the performance of State functions in the other Contracting State shall be taxable only in the first State.

3. Notwithstanding the provisions of paragraph 1 of this article, salaries and other income received by a permanent resident of one Contracting State for work carried out on a construction site or an installation project in the other Contracting State shall be taxable in that other State only if they are paid by a person for whom this construction site or installation project is regarded as a representation in accordance with article 4, paragraph 2, of this Agreement.

4. Notwithstanding the provisions of paragraph 1 of this article, the following types of remuneration received by individuals who are permanent residents of one Contracting State for engaging in an activity in the other Contracting State shall be taxable only in the first State:

(a) Income of individuals present in the other Contracting State at the invitation of a State body or institution or an academic or scientific research institute of that Contracting State for the purpose of teaching, conducting scientific research or participating in scientific, technical or professional conferences or in order to carry out intergovernmental co-operation programmes, provided that the income is received from teaching, conducting scientific research or participating in such conferences or from carrying out co-operation programmes. This provision shall not apply to cases where the teaching, conduct of scientific research or participation in conferences serves the personal interests of a permanent resident of the first Contracting State;

(b) Grants received by students, graduate students and trainees present in the other Contracting State for the purpose of training or acquiring specialized experience, and also sums of money received by such individuals from sources outside that other Contracting State for living expenses, education and specialized training;

(c) Pensions and similar payments;

(d) Remuneration for work on means of transport used in international transport;

(e) Remuneration paid to the staff of a permanent resident of one Contracting State engaged in operating means of transport involved in international water and air transport carried out by that person.

#### *Article 12. OTHER INCOME*

Income of a permanent resident of one contracting State not specified in previous articles of this Agreement shall be taxable only in that State regardless of its source.

#### *Article 13. TAXATION OF PROPERTY*

1. Immovable property belonging to a permanent resident of one Contracting State which is situated in the other Contracting State shall be taxable in that other State.

2. Movable property belonging to a representation which a permanent resident of one Contracting State has in the other Contracting State shall be taxable in that other State.

3. Means of water and air transport involved in international transport, and also movable property pertaining to the operation of such means of transport shall be taxable only in the Contracting State in which the owner of such means of transport has permanent residence.

4. All other types of movable property of a permanent resident of one Contracting State shall be taxable only in that State.

5. As used in this Agreement, the term "movable property" shall have the meaning given to it under the law of the Contracting State in which such property is situated.

#### *Article 14. AVOIDANCE OF TAX DISCRIMINATION*

1. An individual who is a permanent resident of one Contracting State shall not be subjected in the other Contracting State to other, higher or more burdensome taxation than that to which nationals of that other State may be subjected in the same conditions.

2. A representation of a permanent resident of one Contracting State situated in the other Contracting State may not be subjected to other, higher or more burdensome taxation than that of representations of permanent residents of third States situated in that other State.



3. The provisions of this article shall, notwithstanding the provisions of article 2 of this Agreement, apply to all taxes and dues which may be levied on a permanent resident of one of the Contracting States in the other Contracting State.

#### *Article 15. FISCAL PRIVILEGES*

1. The provisions of this Agreement shall not affect the fiscal privileges which are granted to diplomatic and consular missions and other establishments and organizations of the Contracting States, which have the same fiscal privileges, heads and members of diplomatic corps and employees of those missions, establishments and organizations, and also to members of their families.

2. The provisions of paragraph 1 of this article shall also apply to representatives of the Contracting States, members of parliamentary and other governmental delegations of the Contracting States, and also members of delegations of the Contracting States who travel to the USSR or Austria to participate in inter-State talks, conferences or events or on other business.

#### *Article 16. CONDITIONS FOR THE APPLICATION OF THE AGREEMENT*

1. This Agreement shall apply only to the taxation of income from an activity which, in a Contracting State, complies with the law in force there.

2. The provisions of this Agreement shall not affect the agreements in force regulating tax matters which were concluded earlier between the Contracting States. However, if this Agreement provides for a more favourable tax régime, it shall be applied.

#### *Article 17. EXCHANGE OF INFORMATION*

The competent bodies of the Contracting States shall, as necessary, inform each other of changes that have taken place in their tax legislation and shall exchange such information as is permitted under their domestic law and is necessary for the implementation of the provisions of this Agreement. All information received on the basis of this article shall be used only for the purposes of the implementation of this Agreement.

#### *Article 18. SETTLEMENT OF DISPUTES*

1. If a permanent resident of one Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent body of the Contracting State in which he has permanent residence. If the competent body finds that the claim is justified, it shall endeavour to reach agreement with the competent body of the other Contracting State with a view to the avoidance of taxation which is not in accordance with the provisions of this Agreement.

2. If agreement is reached between the competent bodies of the Contracting States, the bodies of the State in which the taxation was not in

accordance with this Agreement shall return the amounts overpaid, offer the appropriate tax benefits or recover the amounts underpaid.

3. The competent bodies of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Agreement. They may also jointly consider the possibility of avoiding double taxation in cases not provided for in this Agreement.

4. The competent bodies of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs of this article.

#### *Article 19. ENTRY INTO FORCE*

1. The Contracting States shall notify each other through the diplomatic channel of the completion of the necessary formalities required for the entry into force of this Agreement.

2. The Agreement shall enter into force on the first day of the third month following the month in which the last of the notifications provided for in paragraph 1 of this article is transmitted, and its provisions shall apply for the first time to all taxes and dues levied for the calendar year 1979.

#### *Article 20. TERMINATION*

This Agreement shall remain in force until one of the Contracting States denounces it. Each Contracting State may, three years after the date of the entry into force of the Agreement, denounce it by transmitting through the diplomatic channel a written notification no later than six months before the end of any calendar year. In that event the Agreement shall apply for the last time to taxes and dues levied for the calendar year in which the Agreement was denounced.

DONE at Vienna on 10 April 1981, in duplicate in the Russian and German languages, both texts being equally authentic.

For the Union of Soviet  
Socialist Republics:  
[A. KAMENSKOV]

For the Republic  
of Austria:  
[E. BAUER]

#### EXCHANGE OF NOTES

##### I

Vienna, 10 April 1981

Sir,

In connection with the signing today of the Agreement between our two States concerning the avoidance of double taxation on income and property, I have the honour to inform you that the Republic of Austria,

in implementation of the provisions contained in the Agreement regarding the avoidance of double taxation on income and property, will apply the following procedure.

If a permanent resident of Austria receives income or has property which, in accordance with this Agreement, are taxable in the USSR, Austria will exempt such income or property from taxation. Such income may, however, be taken into account in determining taxes on other income of that person.

I have the honour to request you to confirm your agreement with the foregoing and at the same time to consider these provisions as an integral part of the Agreement.

Accept, Sir, etc.

[E. BAUER]

Mr. A. N. Kamenskov  
Deputy Minister of Finance of the Union  
of Soviet Socialist Republics

## II

Vienna, 10 April 1981

Sir,

I have the honour to acknowledge receipt of your note of 10 April 1981, which reads as follows:

[*See note I*]

I have the honour hereby to confirm my agreement with the provisions contained in your note and also my agreement that these provisions should be regarded as an integral part of the Agreement.

Accept, Sir, etc.

[A. KAMENSKOV]

Mr. Egon Bauer  
Section Chief, Federal Ministry of Finance  
of the Republic of Austria

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