

**PROTOCOL AMENDING THE AGREEMENT BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE AND
THE GOVERNMENT OF THE REPUBLIC OF AUSTRIA
FOR THE AVOIDANCE OF DOUBLE TAXATION AND
THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME**

NOTE

This Protocol was signed on 15 September 2009.

However, the Protocol is not yet ratified and therefore **does not have the force of law.**

The Government of the Republic of Singapore and the Government of the Republic of Austria,

Desiring to conclude a Protocol amending the Agreement between the Government of the Republic of Singapore and the Government of the Republic of Austria for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed at Vienna on 30 November 2001 (hereinafter referred to as "the Agreement"),

Have agreed as follows:

ARTICLE 1

Article 25 of the Agreement shall be deleted and replaced by the following:

“ARTICLE 25 – 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 Agreement 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 Agreement. 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.

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

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 in respect of taxes relating 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 3

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

IN WITNESS WHEREOF, the undersigned, duly authorised thereto by their respective Governments, have signed this Protocol.

DONE in duplicate at Singapore on this 15th day of September 2009, in the English and German languages, each text being equally authentic.

**For the Government of
the Republic of Singapore**

**For the Government of
the Republic of Austria**

**Peter ONG
Second Permanent Secretary (Finance)**

**Dr Klaus WÖLFER
Ambassador of the Republic of Austria
to the Republic of Singapore**

Singapore, 15 September 2009

H.E. Mr Peter Ong
Second Permanent Secretary (Finance)
The Republic of Singapore

Excellency,

I have the honor to refer to the Agreement between the Government of the Republic of Austria and the Government of the Republic of Singapore for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed at Vienna on 30 November 2001, and the Protocol signed today (hereinafter referred to as “the Agreement”) and to propose on behalf of the Government of the Republic of Austria the following understanding:

Ad Article 25:

1. The competent authority of the applicant State shall provide the following information to the competent authority of the requested State when making a request for information under the Agreement to demonstrate the foreseeable relevance of the information to the request:

- (a) the identity of the person under examination or investigation;
- (b) a statement of the information sought including its nature, the relevance of the information to the request, and the form in which the applicant State wishes to receive the information from the requested State;
- (c) the tax purpose for which the information is sought;
- (d) grounds for believing that the information requested is held in the requested State or is in the possession or control of a person within the jurisdiction of the requested State;
- (e) the name and address of any person believed to be in possession of the requested information;
- (f) a statement that the applicant State has pursued all means available in its own territory to obtain the information;
- (g) a statement that the request is in conformity with the law and administrative practices of the State of the competent authority, and that the competent

authority is authorised to obtain the information under the laws of that State or in the normal course of administrative practice;

- (h) the details of the period within which the applicant State wishes the request to be met; and
- (i) any other information that may assist in giving effect to the request.

2. It is understood that the exchange of information provided in Article 25 does not include measures which constitute “fishing expeditions”.

3. It is understood that Article 25 does not require the Contracting States to exchange information on a spontaneous or automatic basis.

I have the further honor to propose that this Note and your Excellency’s reply confirming on behalf of your Government the foregoing understanding shall constitute an agreement between the two Governments and which shall come into effect on the date of entry into force of the Protocol signed today.

Accept, Your Excellency, the expression of my highest consideration.

Klaus Wölfer
Ambassador of the Republic of Austria to the Republic of Singapore
The Republic of Austria

Singapore, 15 September 2009

H.E. Dr Klaus Wölfer
Ambassador of the Republic of Austria
to the Republic of Singapore
The Republic of Austria

Excellency,

I have the honour to acknowledge receipt of Your Excellency's Note of the 15th of September 2009, which reads as follows:

"I have the honor to refer to the Agreement between the Government of the Republic of Austria and the Government of the Republic of Singapore for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed at Vienna on 30 November 2001, and the Protocol signed today (hereinafter referred to as "the Agreement") and to propose on behalf of the Government of the Republic of Austria the following understanding:

Ad Article 25:

1. The competent authority of the applicant State shall provide the following information to the competent authority of the requested State when making a request for information under the Agreement to demonstrate the foreseeable relevance of the information to the request:
 - (a) the identity of the person under examination or investigation;
 - (b) a statement of the information sought including its nature, the relevance of the information to the request, and the form in which the applicant State wishes to receive the information from the requested State;
 - (c) the tax purpose for which the information is sought;
 - (d) grounds for believing that the information requested is held in the requested State or is in the possession or control of a person within the jurisdiction of the requested State;
 - (e) the name and address of any person believed to be in possession of the requested information;

- (f) a statement that the applicant State has pursued all means available in its own territory to obtain the information;
- (g) a statement that the request is in conformity with the law and administrative practices of the State of the competent authority, and that the competent authority is authorised to obtain the information under the laws of that State or in the normal course of administrative practice;
- (h) the details of the period within which the applicant State wishes the request to be met; and
- (i) any other information that may assist in giving effect to the request.

2. It is understood that the exchange of information provided in Article 25 does not include measures which constitute "fishing expeditions".

3. It is understood that Article 25 does not require the Contracting States to exchange information on a spontaneous or automatic basis.

I have the further honor to propose that this Note and your Excellency's reply confirming on behalf of your Government the foregoing understanding shall constitute an agreement between the two Governments and which shall come into effect on the date of entry into force of the Protocol signed today.

Accept, Your Excellency, the expression of my highest consideration."

I have the honour to inform you that the Government of the Republic of Singapore confirms the above mentioned understanding and that your Excellency's Note and this Note in reply shall be regarded as constituting an agreement between the two Governments, which shall come into effect on the date of entry into force of the Protocol signed today.

Accept, Your Excellency, the expression of my highest consideration.

Peter Ong
Second Permanent Secretary (Finance)
The Republic of Singapore