

**TAX TREATY BETWEEN
THE GOVERNMENT OF THE ITALIAN REPUBLIC AND
THE GOVERNMENT OF THE AUSTRIAN REPUBLIC
FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL
EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL
WITH PROTOCOL AND ADDITIONAL PROTOCOL
WIEN, 29 JUNE 1981**

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

Chapter I - Scope of the Convention

Article 1 - Personal scope

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 political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. The existing taxes to which the Convention shall apply are in particular:

a) in Italy:

1. the individual income tax (l'imposta sul reddito delle persone fisiche);
2. the corporate income tax (l'imposta sul reddito delle persone giuridiche);
3. the local income tax (l'imposta locale sui redditi);
also when they are levied by way of withholding at the source;

(hereinafter referred to as "Italian tax");

b) in Austria:

1. the income tax (die Einkommensteuer);
2. the corporation tax (die K"rperschaftsteuer);
3. the directors' tax (die Aufsichtsratsabgabe);
4. the capital tax (die Verm"gensteuer);

5. the tax on property eluding death duties (die Abgabe van Vermögen, die der Erbschaftssteuer entzogen sind);
6. the business tax including the tax levied on the sum of wages (die Gewerbesteuer einschliesslich der Lohnsummensteuer);
7. the land tax (die Grundsteuer);
8. the tax on agricultural and forestry enterprises (die Abgabe von land- und forstwirtschaftlichen Betrieben);
9. the contributions from agricultural and forestry enterprises to the fund for the equalization of family burdens (die Beiträge von land- und forstwirtschaftlichen Betrieben zum Ausgleichsfonds für Familienbeihilfen);
10. the tax on the value of undeveloped land (die Abgabe vom Bodenwert bei unbebauten Grundstücken);

(hereinafter referred to as "Austrian tax").

3. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. At the end of each year, the competent authorities of the Contracting States shall notify each other of changes which have been made in their respective taxation laws.

Chapter II - Definitions

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, as the context requires, Austria or Italy;
 - b) the term "person" includes an individual, a company and any other body of persons;
 - c) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - d) the terms "enterprise of an 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 "nationals" means:
 - 1) all individuals possessing the nationality of a Contracting State;
 - 2) all legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State.

f) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which 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;

g) the term "competent authority" means:

- 1) in Italy, the Ministry of Finance;
- 2) in Austria, the Federal Minister of Finance.

2. As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.

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 or any other criterion of a similar nature. But this term 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 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 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 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 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 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;
 - f) a mine, a quarry or any other place of extraction of natural resources; and
 - g) a building site or construction or installation project lasting more than twelve months.
3. 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;
 - b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
 - c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
 - e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific or for similar activities which have a preparatory or auxiliary character, for the enterprise.
4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State - other than an agent of an independent status to whom the provisions of paragraph (5) apply - shall be deemed to be a permanent establishment in the first-mentioned State if he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise .
5. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.
6. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Chapter III - Taxation of Income

Article 6 - Income from immovable property

1. Income derived from immovable property, including income from agriculture or forestry, may be taxed the Contracting State in which this property is situated.
2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply. Usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources also deemed to be immovable property. Ships and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7 - Business profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.
4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there are good and sufficient reasons to the contrary.

7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

8. The provisions of this Article are also applicable to income:

a) which an individual receives from his participation in a "silent partnership" (stille Gesellschaft) according to Austrian law;

b) which an individual receives from his participation in a "silent partnership" (associazione in partecipazione) according to Italian law.

Article 8 - Shipping and air transport

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

3. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9 - Associated enterprises

Where

a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

Article 10 - *Dividends*

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed 15% of the gross amount of the dividends.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the dividends shall be taxed in that other Contracting State in accordance with its domestic law.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11 - *Interest*

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 10% of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State is exempt from tax in that State is:

a) the debtor of that interest is that Contracting State or one of its political subdivisions, or

b) the interest is paid to the other Contracting State or to one of its political subdivisions or to another legal entity (including a financial institutions being fully owned by the other Contracting State or one of its political subdivisions, or

c) the interest is be paid to any other legal entity (including a financial institution) on a loan granted, under an agreement between the Contracting States.

4. The term "interest" as used in this Article means income from government securities, from bonds, whether or not secured by mortgage and whether or not carrying a rights to participate in the debtor's profits, and from debt claims of every kind as well as all other income being assimilated, by the tax law of the Contracting State in which the income arises, to income from money lent.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of an Contracting State, carries on business on the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the interest shall be taxed in the other Contracting State according to its domestic law.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12 - *Royalties*

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable in that other State if such resident is the beneficial owner of the royalties.

2. However, royalties, paid by a company which is a resident of a Contracting State to a person who is a resident of the other Contracting State and who controls, directly or indirectly, more than 50% of the capital of the company paying the royalties, may be taxed in the first-mentioned State; the tax so charged shall, however, not exceed 10% of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films (including royalties for television films and tapes), any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case royalties shall be taxed in the other Contracting State according to its law.

5. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13 - *Capital gains*

1. Gains derived from the alienation of immovable property referred to in Article 6 paragraph 2 may be taxed in the Contracting State in which the property is situated.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such a fixed base, may be taxed in that other State. However, gains from the alienation of movable property as mentioned in Article 22, paragraph 3 shall only be taxable in the Contracting State in which the movable property may be taxed according to that Article.

3. Gains from the alienation of any property other than that referred to in paragraphs 1 and 2 shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14 - *Independent personal services*

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational, sporting or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15 - *Dependent personal services*

1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned; and

b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and

c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

4. An individual who has his residence in a Contracting State near the frontier and who has his place of employment also near the frontier in the other Contracting State, and usually goes to work there, shall be taxed with respect to his income from employment only in the State of which he is a resident.

Article 16 - *Directors' fees*

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or supervisory board of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17 - *Artistes and athletes*

1. Notwithstanding the provisions of Articles 14 and 15, income derived by professional artistes, such as theatre, motion picture, radio or television artistes, or musicians, or athletes, from their personal activities may be taxed in the Contracting State in which that activity is exercised.

2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

Article 18 - *Pensions*

Subject to the provisions of paragraph 3 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 19 - *Government services*

1. a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

(i) is a national of that State; or

(ii) did not become a resident of that State solely for the purpose of rendering the services.

2. Paragraph 1 shall also apply to a remuneration paid to the personnel:

a) of the Austrian - Italian trade delegation in Italy, and

b) of the Representative offices or establishments of the Italian State Railroad (FF.SS), the Post and Telegraph Service (PP.TT), the National Italian tourist office (ENIT) and the Italian trade delegation (ICE) in Austria.

3. a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or local authority shall be taxable only in that State.

b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

4. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a subdivision or a local authority thereof.

Article 20 - *Professors, teachers and students*

1. A professor or teacher who is or was a resident of a Contracting State immediately before visiting the other Contracting State and who is present in the other Contracting State for the purpose of teaching or research, for a period of time not exceeding 2 years, at a university, school or any other teaching institute shall not be taxable in that Contracting State with respect to the remuneration paid in consideration of this teaching or research.

2. Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Article 21 - Other income

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.
2. The provisions of paragraph 1 shall not apply to income, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

Chapter IV - Taxation of capital

Article 22 - Capital

1. Capital represented by immovable property referred to in Article 6, paragraph 2, shall be taxable in the Contracting State where the property is situated.
2. Capital represented by movable property forming part of the business property of a permanent establishment of an enterprise, or which pertains to a fixed base available for the purpose of performing independent personal services, may be taxed in the Contracting State in which the permanent establishment or the fixed base is situated.
3. Capital represented by ships and aircraft operated in international traffic, and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Chapter V - Methods for elimination of double taxation

Article 23

1. It is agreed that double taxation shall be avoided in accordance with the provision of the following paragraphs of this Article.

2. Where a resident of Italy derives items of income which may be taxed in the Austrian Republic, Italy may, in computing its own taxes on income as referred to in Article 2 of this Convention, include such items of income in the taxable base, unless otherwise expressly provided by this Convention. In that case, Italy shall deduct from the tax so computed the Austrian taxes on income; the deduction shall not, however, exceed that proportion of the Italian taxes attributable to that income in the same ratio the mentioned income bears to the total income. On the other hand, no deduction will be granted if the income is subjected to a final withholding tax by request of the recipient of the said income, in accordance with Italian law.

3. a) Where a resident of Austria derives income which in accordance with this Convention shall be taxable in Italy, Austria shall allow as a deduction from the tax an amount equal to the tax on income paid in Italy. The deduction shall not, however, exceed that part of the tax on income as computed before the deduction is given which is appropriate to the income which may be taxed in Italy.

b) Where a resident of Austria owns capital which in accordance with his Convention is taxable in Italy, Austria shall exclude such capital from taxation; however, Austria may, in calculating the tax on the remaining capital, apply the tax rate which would have been applied if the capital in question had not been so exempted.

Chapter VI - Special provisions

Article 24 - *Non-discrimination*

1. Nationals of a Contracting State, even when they are not residents of one of the Contracting States, shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of Article 9, paragraph 7 of Article 11 or paragraph 5 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.

5. The term "taxation" in this Article means taxes of every kind and description.

Article 25 - Mutual agreement procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Convention.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

Article 26 - Exchange of information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention, or for the prevention of tax evasion. The exchange of information is not restricted by Article 1. Any information received 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 such persons or authorities (including courts and administrative bodies) involved with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. 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.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

- a) to carry out administrative measures at variance with the laws or the 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*).

Article 27 - Diplomatic agents and consular officers

Nothing in this Convention shall affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.

Article 28 - Refund procedure

1. Taxes withheld at the source in either Contracting State shall, at the request of the taxpayer, be refunded to the extent that the right to levy such taxes is limited by this Convention.
2. Requests for refunds shall be submitted within the time limits laid down in the law of the Contracting State obliged to make such refund and must contain an official certificate issued by the Contracting State in which the taxpayer is resident stating that the conditions for claiming the reliefs under this Convention have been fulfilled.
3. The competent authorities of the Contracting States shall settle by mutual agreement in accordance with Article 25 of the Convention the manner in which this Article shall be applied.
4. Partnerships organized under the laws of a Contracting State, which have their seat in that State, may apply for the tax reliefs referred to in Articles 10, 11 and 12 of this Convention, provided that at least three quarters of the partnership's profits are attributable to persons that are resident in the first-mentioned State. In this paragraph the term "partnership" means:
 - a) in Italy:
the "società semplice", the "società in nome collettivo", the "società in accomandita semplice" as well as all other partnerships that are treated for tax purposes in the same way under Italian law.
 - b) in Austria:
the "offene Handelsgesellschaft", the "Kommanditgesellschaft" and "Gesellschaft nach bürgerlichem Recht" as well as all other partnerships that are treated for tax purposes in the same way under Austrian law.

Chapter VII - Final provisions

Article 29 - Entry into force

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Rome as soon as possible.
2. The Convention shall enter into force on the sixtieth day after the date of ratification and its provisions shall have effect:
 - a) in Italy: on income which is taxed for periods starting on or after 1 January 1974.
 - b) in Austria: on taxes which are levied for periods starting on or after 1 January 1974.
3. Claims for refunds or credits of tax arising in accordance with this Convention, in respect of any tax payable by residents of any of the Contracting States, for tax periods beginning on or after 1 January 1974 until the entry into force of this Convention, shall be lodged within two years from the date of entry into force of this Convention, or from the date the tax was withheld, whichever is later.

Article 30 - Termination

This Convention shall remain in force for an unlimited period, but either Contracting State may terminate the Convention through diplomatic channels, not earlier than five years after its entry into force, by giving notice of termination before or on 30 June. In such event, the Convention shall cease to have effect:

- a) in Italy: on income assessable for tax periods commencing on or after 1 January of the calendar year following that in which notice of termination is given;
- b) in Austria: on taxes levied for tax periods commencing on or after 1 January of the calendar year following that in which notice of termination is given.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at Vienna, on 29 June 1981, in duplicate, in the German and Italian languages, both texts being equally authentic.

For the Republic of Austria:
Dr. Egon Bauer

For the Republic of Italy:
Fausto Bacchetti

PROTOCOL

At the signing of the Convention for the Avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital as concluded today between the Republic of Austria and the Republic of Italy, the undersigned have agreed upon the following additional provisions which form an integral part of the Convention.

Is agreed

a) that, with reference to Article 2, in case of a future introduction of a tax on capital in Italy the Convention will also be applicable to his tax;

b) that in case of a future introduction of a tax on capital in Italy, the Austrian tax on capital which may be levied in accordance with the Convention will be credited against the above-mentioned Italian tax under the provisions mentioned in Article 23, paragraph 2;

c) that, with reference to paragraph 1 of Article 25, the expression "notwithstanding the remedies provided by the national laws" means that the mutual agreement procedure is not alternative with the national contentious proceeding which shall be, in any case where this is legally possible, preventively initiated, when a claim is related with an assessment of the taxes not in accordance with his Convention.

d) that the provision of paragraph 3 of Article 28 shall not prevent the competent authorities of the Contracting States from carrying out, by mutual agreement, other practices for the allowance of the reductions for taxation purposes provided for in this Convention;

e) that, irrespective of Article 29, paragraph 2, the provisions of Article 8 and of Article 22, paragraph 3 shall apply to income arising to, and movable property owned by, shipping and air transport enterprises in tax periods commencing on or after 1 January 1964.

Done at Vienna, on 29 June 1981, in duplicate, in the German and Italian languages, both texts being equally authentic.

For the Republic of Austria:
Dr. Egon Bauer

For the Republic of Italy:
Fausto Bacchetti

ADDITIONAL PROTOCOL (1987)

With reference to the Convention of 29 June 1981 between the Republic of Austria and the Republic of Italy for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital, together with an additional Protocol, the undersigned have agreed upon the following supplementary provisions which form an integral part of the Convention.

Where higher tax reductions are allowed under the provisions of the 1925 Convention than under those of the 1981 Convention, it shall be agreed, in accordance with Article 29, that such provisions shall remain effective until 31 December 1985.

Claims for refunds arising in accordance with this Protocol, in respect of any tax payable by residents of any of the Contracting States, for tax periods beginning on or after 1 January 1974 and ending no later than 31 December 1985, shall be lodged within two years from the date of entry into force of this Protocol, or from the date the tax was withheld or paid, whichever is later.

This Protocol shall be ratified and the instruments of ratification shall be exchanged at Rome as soon as possible.

This Protocol shall enter into force on the first day of the third month after the exchange of instruments of ratification.

In witness thereof the undersigned, duly authorized thereto, have signed this Protocol.

Done in duplicate at Vienna on 25 November 1987, in the German and Italian languages, both texts being equally authentic.

For the Republic of Austria:
Dr. Egon Bauer

For the Republic of Italy:
Dr. Girolamo Nisio