



UPDATE DOUBLE TAXATION AGREEMENT AUSTRIA-UAE



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Dear clients, dear friends,

On 3 November 2021, the Finance Committee of the National Council voted in favour of amending the double taxation agreement between Austria and the UAE in line with the government bill. See for the versions of the Protocol of Amendment in German, English and Arabic: https://www.parlament.gv.at/PAKT/VHG/XXVII/I/I_01030/index.shtml.

Ratification by the National Assembly and the Federal Council is expected in the near future. However, in order for the Amendment Protocol to become legally effective, ratification by the UAE and the exchange of instruments of ratification are also required. It is therefore unlikely that the main points of the new agreement will enter into force as early as for the 2022 tax year. Should this nevertheless occur, we will inform you of this immediately.

We have already reported in detail on the impact of these changes [\(link\)](#) and also held a [webinar](#). The main change is, of course, the change of method from the exemption (with progression) to the credit method and also the possible introduction of a withholding tax on the distribution of corporate profits/dividends.



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Since we, as advisors, must also look for ways to minimize negative consequences in the case of such a serious change in the law that is negative for the taxpayer, we have made the following considerations:

1. Change of residence: a double taxation treaty is basically directed at persons resident in the other country, i.e. in the given case at taxpayers resident in Austria with unlimited tax liability who earn income in the other country, i.e. the UAE.

2. Therefore, if they have the possibility to change their residence to the UAE, the DTA would be largely irrelevant for them and their income as a person with limited tax liability in Austria would only be taxable in the UAE - currently at 0%.

As an alternative to a change of residence to the UAE, a change of residence to another European country for which an (even) more favorable double taxation treaty with the UAE is in force would also be conceivable. If this is an alternative for you, we will be happy to review the relevant double taxation agreements.

Another possibility is that their income currently earned in the UAE is not directly received by them via a legal and tax secured construction but is first distributed to a country which has a more favorable double taxation treaty with Austria. Here, the right measures must be taken to avoid "treaty shopping", but there are relatively simple solutions available, especially as far as corporate profits are concerned.

3. Dividend income has always been taxable in the shareholder's country of residence; in this case, the use of the international group relief privilege is recommended if the profits flow from the UAE into an Austrian corporation. The new DTA does not change this option.

4. In the case of income from rental and leasing of real estate located in the UAE, immediate taxation in Austria can be avoided by means of a company law structure, insofar as a corporation holds the real estate in the UAE.

5. In individual cases, tax-saving constructions such as DIFC or ADGM family offices, trusts or foundations can be used. Of course, these constructions only pay off when a corresponding profit is made.

This are only first considerations, without listing all conceivable variants, which save or at least reduce the taxation in Austria for our clients. It is important to find tailor-made solutions for each individual case and we are available for such discussions at any time.

Yours sincerely

Theodor Strohal