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The Double Taxation Agreement between Austria and the UAE

When I decided to open an office in the United Arab Emirates in 2005, I paid an inaugural visit to the former Ambassador, Dr. Kriechbaum, and also to the Head of the Advantage Austria Abu Dhabi office, Dr. Seiwald.

Both welcomed me and gave me as an upfront advice that Austria has concluded one of the best double taxation agreements ("DTA") with the UAE, as it allows Austrians to work almost tax-free in the Emirates. This would be one of the main attractions for Austrian investors to do business in the UAE.

In the following 16 years, I was able to personally verify this information and can confirm that it is exactly like that. Our firm has established over 300 companies in the UAE, both mainland, freezone, and offshore.

For Austrian clients, the extremely favorable DTA has always been a major reason to come and settle here.

When Germany terminated its – originally also favorable – DTA with the UAE in 2009 and changed from the exemption method to the credit method for all types of income in 2011, we lawyers could only advise our German clients to relocate to Austria in order to benefit from the Austrian-Emirati DTA. As a result, almost 10 German companies advised by us have relocated to Austria.

In the following, I may briefly summarize the main advantages for Austrian companies under the current DTA:

For employees, the main advantage is that in accordance with Article 15 DTA, employment in the Emirates generally results in tax-free income. If the employer has a permanent establishment in the Emirates there is also no minimum period of employment. Also income for short-term work can be received tax-free in the Emirates and is not taxable in Austria.

Only in the case of so-called secondments, i.e. when someone continues to be employed by an Austrian employer but works in the Emirates, the minimum duration of stay is 183 days.

This is mainly used for assembly work and offers the employer the additional advantage of not having to terminate the employment relationship but rather being able to carry out services with its own employees which leads to considerably lower incidental wage costs.

According to Article 14 DTA, also self-employed persons (especially freelancers) are exempted from taxation in Austria if their activities are carried out in their own permanent establishment in the Emirates.

There is no time limit for this. I have therefore had the pleasure of advising several doctors who have opened their second medical practice in the Emirates, usually together with an already established local doctor.

These Austrian doctors usually spent their weekends (or even a few weeks) in the Emirates treating their patients there. According to Article 14 DTA, income earned in this way is not taxable in Austria.

Many Austrian doctors also work as employees for hospitals in the Emirates. Thus, these doctors not only contributed to the improvement of the health care system in the Emirates but also enhanced the reputation of the Austrian medical science.

One hospital in Abu Dhabi was even operated by Meduni Vienna which predominantly used Austrian staff and was equipped by one of the leading Austrian hospital suppliers.

The willingness of Austrian entrepreneurs to invest is further promoted by the benefits of Article 13 DTA, namely exemption of Austria taxes on the sale of assets in the Emirates.

However, the most important advantage of the DTA can be probably found in Article 7, which states that corporate profits are taxable in the country where the company is located (meaning a permanent establishment). Therefore, many of our clients moved to the Emirates to open a branch

office or even a new company making significant contributions to the development of this country.

High-tech companies from Austria have also settled in the Emirates. This is not only true for the oil and gas sector but also for the information technology sector, the food processing sector and other areas.

Again, the reputation of the Austrian economy was enhanced and brought Austrian parent companies the advantage that tax-free profits generated in the Emirates were in turn reinvested in Austria.

In the case of corporations, the right to tax distributed dividends remains with the country in which the dividend recipient is resident.

The profits of branches or independent subsidiaries are exempt from corporate income tax in Austria, which has enabled a large number of Austrian companies to increase their capital through dividend distributions from profitable companies in the Emirates and to hire additional employees in Austria.

Overall, the double taxation agreement has strengthened economic relations to this day and has ultimately made the UAE Austria's leading economic partner in the entire Arab region.