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Betr.: **Treatment of wages contained in a service fee charged to the Egyptian permanent establishment (EAS 2396)**

If an Austrian company, which is specialised in industry plant constructions, has set up a permanent establishment in Egypt in order to fulfil its contractual obligations to modernise a hot strip mill in Cairo, Article V and Article XIV para. 2 of the Austrian-Egyptian Double Taxation Convention (DTC) allocate specified taxing rights to Egypt.

Article V provides that the profits of the Austrian company may be taxed in Egypt insofar as they are attributable to the Egyptian permanent establishment. Profits have to be attributed to the Egyptian permanent establishment according to the "arm's length principle", as laid down in Article V para. 3 DTC. If the Austrian **head office** has to carry out work in the frame of the modernisation project the result of which is then provided to the Egyptian permanent establishment then the "arm's length principle" requires that the Egyptian permanent establishment is charged with an appropriate fee for the supply of such services. It is evident that such charge has to compensate the head office for all expenses incurred in Austria (including salary expenses for the head office staff).

Article XIV para. 2 concerns the taxation of employment income and allocates taxation rights to Egypt insofar as dependent services are rendered **on the territory of Egypt**. Thus the employment income of the personnel of the Egyptian permanent establishment is taxable in Egypt. However, it follows from this Article that the taxing rights for wages and salaries paid to the personnel of the head office for work carried out outside Egypt are exclusively retained by Austria. The mere fact that the Egyptian permanent establishment is obliged

under Article V to bear the cost (including the cost for wages and salaries) of the services rendered by the head office does not create a taxing right of Egypt with respect to the employment income of the head office staff.

Austria is prepared to exempt the company income as well as the employment income only insofar as the taxation right is allocated to Egypt under the DTC.

23. Dezember 2003

Für den Bundesminister:

Dr. Loukota

Für die Richtigkeit
der Ausfertigung: