

POSITIONS ON ARTICLE 1 (PERSONS COVERED) AND ITS COMMENTARY

Positions on the Article

1. The *Philippines* reserves the right to tax its citizens in accordance with its domestic law.

(Added on 23 October 1997; see HISTORY)

2. *Brazil* reserves the right to extend coverage of the Convention to partnerships since partnerships are considered to be legal entities under its legislation.

(Added on 23 October 1997; see HISTORY)

Positions on the Commentary

3. *Gabon, India, Ivory Coast, Morocco and Tunisia* do not agree with the interpretation put forward in paragraphs 5 and 6 of the Commentary on Article 1 (and in the case of *India*, the corresponding interpretation in paragraph 8.8 of the Commentary on Article 4) according to which if a partnership is denied the benefits of a tax convention, its members are entitled to the benefits of the tax conventions entered into by their State of residence. They believe that this result is only possible, to a certain extent, if provisions to that effect are included in the convention entered into with the State where the partnership is situated.

(Amended on 17 July 2008; see HISTORY)

4. *Argentina* considers that the conclusions on the application of the Convention to partnerships incorporated in the Commentary on Article 1 and in the Commentaries on the relevant provisions of the Model Tax Convention shall only be taken into account to the extent that it is explicitly so confirmed in a specific tax treaty, or as a result of mutual agreement between the competent authorities as provided for under paragraph 3 of Article 25.

(Added on 15 July 2014; see HISTORY)

HISTORY

Paragraph 1: Included when this section was added in 1997 by the report entitled “The 1997 Update to the Model Tax Convention”, adopted by the OECD Council on 23 October 1997.

Paragraph 2: Included when this section was added in 1997 by the report entitled “The 1997 Update to the Model Tax Convention”, adopted by the OECD Council on 23 October 1997.

Paragraph 3: Amended on 17 July 2008, by adding India to the list of countries indicating the position and extending the position in respect of India, by the report entitled “The 2008 Update to the Model Tax Convention”, adopted by the OECD Council on 17 July 2008. After 28 January 2003 and until 17 July 2008, paragraph 3 read as follows:

“3. Gabon, Ivory Coast, Morocco and Tunisia do not agree with the interpretation put forward in paragraphs 5 and 6 above according to which if a partnership is denied the benefits of a tax convention, its members are entitled to the benefits of the tax conventions entered into by their State of residence. They believe that this result is only possible, to a certain extent, if provisions to that effect are included in the convention entered into with the State where the partnership is situated.”

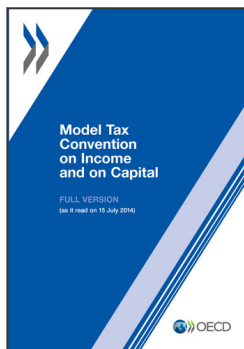
Paragraph 4 was added on 28 January 2003 together with the heading preceding it, by the report entitled “The 2002 Update to the Model Tax Convention”, adopted by the OECD Council on 28 January 2003.

Paragraph 4: Added on 15 July 2014 by the Report entitled “The 2014 Update to the Model Tax Convention”, adopted by the Council of the OECD on 15 July 2014.

Paragraph 4 as it read before 22 July 2010 was deleted by the report entitled “The 2010 Update to the Model Tax Convention”, adopted by the OECD Council on 22 July 2010. After 17 July 2008 and until 22 July 2010, paragraph 4 read as follows:

“4. Chile considers that some of the solutions put forward in the report “The Application of the OECD Model Tax Convention to Partnerships” and incorporated in the Commentary should only be applicable when especially included in tax conventions. For instance, the different treatment and legal form between States makes the solution of the treatment of partners of partnerships that are fiscally transparent very difficult to administer and should be specifically dealt with by treaty partners.”

Paragraph 4 was added on 17 July 2008 by the report entitled “The 2008 Update to the Model Tax Convention”, adopted by the OECD Council on 17 July 2008.



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