

## **POSITIONS ON ARTICLE 11 (INTEREST) AND ITS COMMENTARY**

### **Positions on the Article**

1. *Bulgaria and Ukraine* reserve the right to exclude from the scope of the Article interest on a debt-claim where the main purpose or one of the main purposes of any person concerned with the creation or assignment of the debt-claim in respect of which the interest is paid is to take advantage of this Article and not for *bona fide* commercial reasons.

*(Amended on 28 January 2003; see HISTORY)*

### **Paragraph 2**

2. *Argentina, Brazil, India, Ivory Coast, Latvia, the Philippines, Romania, Thailand and Ukraine* reserve their positions on the rate provided for in paragraph 2.

*(Amended on 15 July 2014; see HISTORY)*

3. *Brazil* reserves the right to add to its conventions a paragraph dealing with interest paid to a government of a Contracting State or one of its political subdivisions or a local authority thereof or any agency (including a financial institution) wholly owned by the said government and stating that such interest is taxable only in the State of residence of the creditor. However, if interest is paid by a government of a Contracting State or one of its political subdivisions or a local authority thereof or any agency (including a financial institution) wholly owned by the said government, such interest shall be taxable only in that Contracting State (*i.e.* in the State of source).

3.1 *(Deleted on 15 July 2005; see HISTORY)*

3.2 *(Deleted on 15 July 2005; see HISTORY)*

4. *Bulgaria, India, Latvia, Lithuania, Malaysia, Russia, Serbia and Singapore* reserve the right not to include the requirement for the competent authorities to settle by mutual agreement the mode of application of paragraph 2.

*(Amended on 15 July 2014; see HISTORY)*

4.1 *Azerbaijan* reserves the right not to include in its bilateral conventions the sentence stating that the competent authorities shall settle the mode of application of paragraph 2 by mutual agreement as it uses uniform regulations for the implementation of all its bilateral conventions.

*(Added on 15 July 2014; see HISTORY)*

**Paragraph 3**

5. *Brazil, Thailand and Ukraine* reserve the right to regard penalty charges for late payment as interest for the purposes of this Article, in accordance with their domestic law.

*(Added on 23 October 1997; see HISTORY)*

6. *Malaysia* reserves the right to exclude premiums or prizes from the definition of interest, in accordance with the treatment of such payments under its domestic law.

*(Added on 23 October 1997; see HISTORY)*

7. *Brazil and Thailand* reserve the right to consider as interest any other income assimilated to income from money lent by the tax law of the Contracting State in which the income arises.

*(Amended on 22 July 2010; see HISTORY)*

7.1 *Bulgaria, Latvia, Morocco and Tunisia* reserve the right to amend the definition of interest to clarify that interest payments treated as distributions under its domestic law fall within Article 10.

*(Amended on 15 July 2014; see HISTORY)*

7.2 *(Deleted on 22 July 2010; see HISTORY)*

**Paragraph 4**

8. *Brazil* reserves the right to provide that where interest is paid to a permanent establishment of a resident of the other Contracting State situated in a third State, the limit on the rate of taxation of interest in paragraph 2 shall not apply.

*(Added on 23 October 1997; see HISTORY)*

8.1 *Morocco* reserves the right to include in paragraph 4 a reference to other business activities carried on in the other State of the same and similar kind as those effected through a permanent establishment.

*(Added on 28 January 2003; see HISTORY)*

8.2 *(Deleted on 15 July 2014; see HISTORY)*

**Positions on the Commentary**

9. *Malaysia* does not agree with paragraph 20 of the Commentary as under Malaysian domestic legislation, premiums or prizes are not taxable.

*(Added on 23 October 1997; see HISTORY)*

10. India reserves its right to treat the interest element of sales on credit (described in paragraphs 7.8 and 7.9) as interest.

(Added on 17 July 2008; see HISTORY)

11. India does not adhere to the interpretation set out in paragraph 20, it reserves the right to treat the difference between redemption value and issue price in accordance with its domestic law.

(Added on 17 July 2008; see HISTORY)

## HISTORY

**Paragraph 1:** Amended, by adding Bulgaria as a country indicating the position, by the report entitled “The 2002 Update to the Model Tax Convention”, adopted by the OECD Council on 28 January 2003. After 23 October 1997 and until 28 January 2003, paragraph 1 read as follows:

“1. Ukraine reserves the right to exclude from the scope of the Article interest on a debt claim where the main purpose or one of the main purposes of any person concerned with the creation or assignment of the debt-claim in respect of which the interest is paid is to take advantage of this Article and not for *bona fide* commercial reasons.”

Paragraph 1 was 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:** Amended on 15 July 2014, by changing the list of countries indicating the position by adding Latvia and deleting Israel, by the Report entitled “The 2014 Update to the Model Tax Convention”, adopted by the Council of the OECD on 15 July 2014. After 22 July 2010 and until 15 July 2014, paragraph 2 read as follows:

“2. Argentina, Brazil, India, Israel, Ivory Coast, the Philippines, Romania, Thailand and Ukraine reserve their positions on the rate provided for in paragraph 2”

Paragraph 2 was previously amended on 22 July 2010, by changing the list of countries indicating the position by adding Israel and deleting Chile, 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 2 read as follows:

“2. Argentina, Brazil, Chile, India, Ivory Coast, the Philippines, Romania, Thailand and Ukraine reserve their positions on the rate provided for in paragraph 2”

Paragraph 2 was previously amended on 17 July 2008, by adding Chile and India to the list of countries indicating the position, 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 2 read as follows:

“2. Argentina, Brazil, Ivory Coast, the Philippines, Romania, Thailand and Ukraine reserve their positions on the rate provided for in paragraph 2.”

Paragraph 2 was previously amended on 28 January 2003, by changing the list of countries indicating the position by adding the Ivory Coast and deleting Slovakia, by the report entitled “The 2002 Update to the Model Tax Convention”, adopted by the OECD Council on 28 January 2003. After 23 October 1997 and until 28 January 2003, paragraph 2 read as follows:

“2. Argentina, Brazil, the Philippines, Romania, Slovakia, Thailand and Ukraine reserve their positions on the rate provided for in paragraph 2.”

Paragraph 2 was 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:** 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 3.1:** Deleted on 15 July 2005 by the report entitled “The 2005 Update to the Model Tax Convention”, adopted by the OECD Council on 15 July 2005. After 29 April 2000 and until 15 July 2005, paragraph 3.1 read as follows:

“3.1 Estonia reserves the right to add a paragraph according to which interest arising in a Contracting State, derived and beneficially owned by the Government of the other Contracting State, including its local authorities, the Central Bank or any financial institution wholly owned by that Government shall be exempt from tax in the first-mentioned State (i.e., in the State of source).”

Paragraph 3.1 was added on 29 April 2000 by the report entitled “The 2000 Update to the Model Tax Convention”, adopted by the OECD Council on 29 April 2000.

**Paragraph 3.2:** Deleted on 15 July 2005 by the report entitled “The 2005 Update to the Model Tax Convention”, adopted by the OECD Council on 15 July 2005. After 29 April 2000 and until 15 July 2005, paragraph 3.2 read as follows:

“3.2 Bulgaria reserves the right to add a paragraph according to which interest arising in a Contracting State, derived and beneficially owned by the Government of the other Contracting State, including its local authorities or the Central Bank shall be exempt from tax in the first-mentioned State (i.e., in the State of source).”

Paragraph 3.2 was added on 28 January 2003 by the report entitled “The 2002 Update to the Model Tax Convention”, adopted by the OECD Council on 28 January 2003.

**Paragraph 4:** Amended on 15 July 2014, by changing the list of countries indicating the position by adding Malaysia and Singapore and deleting Estonia, by the Report entitled “The 2014 Update to the Model Tax Convention”, adopted by the Council of the OECD on 15 July 2014. After 17 July 2008 and until 15 July 2014, paragraph 4 read as follows:

“4. Bulgaria, Estonia, India, Latvia, Lithuania, Russia and Serbia reserve the right not to include the requirement for the competent authorities to settle by mutual agreement the mode of application of paragraph 2.”

Paragraph 4 was previously amended on 17 July 2008, by changing the list of countries indicating the position by adding India and Russia and replacing Serbia and Montenegro with Serbia, by the report entitled “The 2008 Update to the Model Tax Convention”, adopted by the OECD Council on 17 July 2008. After 15 July 2005 and until 17 July 2008, paragraph 4 read as follows:

“4. Bulgaria, Estonia, Latvia, Lithuania and Serbia and Montenegro reserve the right not to include the requirement for the competent authorities to settle by mutual agreement the mode of application of paragraph 2.”

Paragraph 4 was previously amended on 15 July 2005, by changing the list of countries indicating the position by adding Serbia and Montenegro and deleting Romania, by the report entitled “The 2005 Update to the Model Tax Convention”, adopted by the OECD Council on 15 July 2005. After 28 January 2003 and until 15 July 2005, paragraph 4 read as follows:

“4. Bulgaria, Estonia, Latvia, Lithuania and Romania reserve the right not to include the requirement for the competent authorities to settle by mutual agreement the mode of application of paragraph 2.”

Paragraph 4 was previously amended on 28 January 2003, by adding Bulgaria to the list of countries indicating the position, by the report entitled “The 2002 Update to the Model Tax Convention”, adopted by the OECD Council on 28 January 2003. After 23 October 1997 and until 28 January 2003, paragraph 4 read as follows:

“4. Estonia, Latvia, Lithuania and Romania reserve the right not to include the requirement for the competent authorities to settle by mutual agreement the mode of application of paragraph 2.”

Paragraph 4 was 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 4.1:** Added on 15 July 2014 by the report entitled “The 2014 Update to the Model Tax Convention” adopted by the Council on 15 July 2014.

**Paragraph 5:** 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 6:** Paragraph 6 was 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 7:** Amended on 22 July 2010, by adding Thailand as a country indicating the position, by the report entitled “The 2010 Update to the Model Tax Convention”, adopted by the OECD Council on 22 July 2010. After 23 October 1997 and until 22 July 2010, paragraph 7 read as follows:

“7. Brazil reserves the right to consider as interest any other income assimilated to income from money lent by the tax law of the Contracting State in which the income arises”

Paragraph 7 was 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 7.1:** Amended on 15 July 2014, by changing the list of countries indicating the position by adding Bulgaria and deleting Estonia and Lithuania, by the Report entitled “The 2014 Update to the Model Tax Convention”, adopted by the Council of the OECD on 15 July 2014. After 28 January 2003 and until 15 July 2014, paragraph 7.1 read as follows:

“7.1 Estonia, Latvia, Lithuania, Morocco and Tunisia reserve the right to amend the definition of interest to clarify that interest payments treated as distributions under its domestic law fall within Article 10.”

Paragraph 7.1 was previously amended on 28 January 2003, by adding Morocco and Tunisia to the list of countries indicating the position, by the report entitled “The 2002 Update to the Model Tax Convention”, adopted by the OECD Council on 28 January 2003. After 29 April 2000 and until 28 January 2003, paragraph 7.1 read as follows:

“7.1 Estonia, Latvia and Lithuania reserve the right to amend the definition of interest to clarify that interest payments treated as distributions under its domestic law fall within Article 10.”

Paragraph 7.1 was added on 29 April 2000 by the report entitled “The 2000 Update to the Model Tax Convention”, adopted by the OECD Council on 29 April 2000.

**Paragraph 7.2:** Deleted on 22 July 2010 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 7.2 read as follows:

“7.2 Chile reserves the right to delete the reference to debt-claims carrying the right to participate in the debtor’s profits.”

Paragraph 7.2 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.

**Paragraph 8:** 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 8.1:** Added on 28 January 2003 by the report entitled “The 2002 Update to the Model Tax Convention”, adopted by the OECD Council on 28 January 2003.

**Paragraph 8.2:** Deleted on 15 July 2014 together with the heading preceding it, by the Report entitled “The 2014 Update to the Model Tax Convention”, adopted by the Council of the OECD on 15 July 2014. After 15 July 2005 and until 15 July 2014, paragraph 8.2 and the preceding heading read as follows:

*“Paragraph 5*

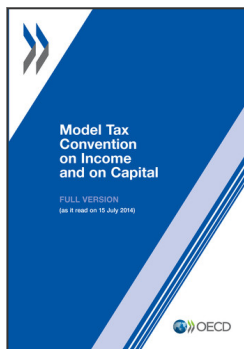
8.2 Israel reserves the right to include a provision that would allow interest income to be taxed under Article 7 if the taxpayer so elects.”

Paragraph 8.2 was added together with the heading preceding it on 15 July 2005 by the report entitled “The 2005 Update to the Model Tax Convention”, adopted by the OECD Council on 15 July 2005.

**Paragraph 9:** 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 10:** 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.

**Paragraph 11:** 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.



**From:**

## **Model Tax Convention on Income and on Capital 2014 (Full Version)**

**Access the complete publication at:**

<https://doi.org/10.1787/9789264239081-en>

### **Please cite this chapter as:**

OECD (2015), "Positions on Article 11 (Interest) and its commentary", in *Model Tax Convention on Income and on Capital 2014 (Full Version)*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/9789264239081-76-en>

This work is published under the responsibility of the Secretary-General of the OECD. The opinions expressed and arguments employed herein do not necessarily reflect the official views of OECD member countries.

This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

You can copy, download or print OECD content for your own use, and you can include excerpts from OECD publications, databases and multimedia products in your own documents, presentations, blogs, websites and teaching materials, provided that suitable acknowledgment of OECD as source and copyright owner is given. All requests for public or commercial use and translation rights should be submitted to [rights@oecd.org](mailto:rights@oecd.org). Requests for permission to photocopy portions of this material for public or commercial use shall be addressed directly to the Copyright Clearance Center (CCC) at [info@copyright.com](mailto:info@copyright.com) or the Centre français d'exploitation du droit de copie (CFC) at [contact@cfcopies.com](mailto:contact@cfcopies.com).