POSITIONS ON ARTICLE 14
(INDEPENDENT PERSONAL SERVICES)
AND ITS COMMENTARY

Positions on the Article

[All the positions on Article 14 were deleted on 29 April 2000 when Article 14 itself was deleted from the Model Tax Convention pursuant to the report entitled "Issues Related to Article 14 of the OECD Model Tax Convention", which had been adopted by the OECD Committee on Fiscal Affairs on 27 January 2000.]

HISTORY

Title: Deleted by the report entitled "The 2000 Update to the Model Tax Convention", adopted by the OECD Council on 29 April 2000. The title previously read as follows:

> "POSITIONS ON ARTICLE 14 (INDEPENDENT PERSONAL SERVICES) AND ITS COMMENTARY"

Paragraph 1: Deleted by the report entitled "The 2000 Update to the Model Tax Convention", adopted by the OECD Council on 29 April 2000. After 23 October 1997, when this section was added by the report entitled "The 1997 Update to the Model Tax Convention", adopted by the OECD Council on 23 October 1997, and until 29 April 2000, paragraph 1 read as follows:

> "1. *Argentina* reserves the right to levy tax in an amount not exceeding 10 per cent of the gross income in respect of professional services or other activities of an independent character performed in Argentina where there is no fixed base and to apply its domestic law where there is a fixed base."

Paragraph 2: Deleted by the report entitled "The 2000 Update to the Model Tax Convention", adopted by the OECD Council on 29 April 2000. After 23 October 1997, when this section was added by the report entitled "The 1997 Update to the Model Tax Convention", adopted by the OECD Council on 23 October 1997, and until 29 April 2000, paragraph 2 read as follows:

> "2. *Belarus* reserves the right to include in the Article a definition of fixed base that would provide that this term means a fixed place, such as an office or room, through which the activity of an individual performing independent personal services is wholly or partly carried on."

Paragraph 3: Deleted by the report entitled "The 2000 Update to the Model Tax Convention", adopted by the OECD Council on 29 April 2000. After 23 October 1997, when this section was added by the report entitled "The 1997 Update to the Model Tax Convention", adopted by the OECD Council on 23 October 1997, and until 29 April 2000, paragraph 3 read as follows:

> "3. *Brazil* and *Malaysia* do not use the concept of fixed base in their conventions and modify accordingly the Article and other Articles that refer to that concept."

Paragraph 4: Deleted by the report entitled "The 2000 Update to the Model Tax Convention", adopted by the OECD Council on 29 April 2000. After 23 October 1997, when this section was added by the report entitled "The 1997 Update to the Model Tax Convention", adopted by the OECD Council on 23 October 1997, and until 29 April 2000, paragraph 4 read as follows:

"4. *Brazil* reserves its position on the Article. When negotiating conventions, Brazil reserves the right to tax at source all payments made by its residents to non-residents."

Paragraph 5: Deleted by the report entitled "The 2000 Update to the Model Tax Convention", adopted by the OECD Council on 29 April 2000. After 23 October 1997, when this section was added by the report entitled "The 1997 Update to the Model Tax Convention", adopted by the OECD Council on 23 October 1997, and until 29 April 2000, paragraph 5 read as follows:

"5. *China*, *Romania* and *Slovakia* reserve the right to tax individuals performing professional services or other activities of an independent character if they are present on their territory for a period or periods exceeding in the aggregate 183 days in any twelve month period, even if they do not have a fixed base available to them for the purpose of performing such services or activities."

Paragraph 6: Deleted by the report entitled "The 2000 Update to the Model Tax Convention", adopted by the OECD Council on 29 April 2000. After 23 October 1997, when this section was added by the report entitled "The 1997 Update to the Model Tax Convention", adopted by the OECD Council on 23 October 1997, and until 29 April 2000, paragraph 6 read as follows:

"6. *Estonia*, *Latvia* and *Lithuania* reserve the right to restrict the Article to individuals."

Paragraph 7: Deleted by the report entitled "The 2000 Update to the Model Tax Convention", adopted by the OECD Council on 29 April 2000. After 23 October 1997, when this section was added by the report entitled "The 1997 Update to the Model Tax Convention", adopted by the OECD Council on 23 October 1997, and until 29 April 2000, paragraph 7 read as follows:

"7. *Estonia*, *Latvia*, *Lithuania* and *South Africa* reserve the right to tax individuals performing professional services or other activities of an independent character if they are present on their territory for a period or periods exceeding in the aggregate 183 days in any twelve month period and deem such an individual to have a fixed base therein for the purposes of the Convention."

Paragraph 8: Deleted by the report entitled "The 2000 Update to the Model Tax Convention", adopted by the OECD Council on 29 April 2000. After 23 October 1997, when this section was added by the report entitled "The 1997 Update to the Model Tax Convention", adopted by the OECD Council on 23 October 1997, and until 29 April 2000, paragraph 8 read as follows:

"8. *Latvia* and *Lithuania* reserve the right to insert in a special Article provisions regarding income from independent personal services relating to activities carried on offshore in a Contracting State in connection with the exploration or exploitation of the sea bed, its subsoil and their natural resources."

Paragraph 9: Deleted by the report entitled "The 2000 Update to the Model Tax Convention", adopted by the OECD Council on 29 April 2000. After 23 October 1997, when this section was added by the report entitled "The 1997 Update to the Model Tax Convention", adopted by the OECD Council on 23 October 1997, and until 29 April 2000, paragraph 9 read as follows:

"9. *Malaysia* and *Vietnam* reserve the right to tax individuals performing professional services or other activities of an independent character if they are present on their territory for a period or periods exceeding in the aggregate 183 days in the calendar year."

Paragraph 10: Deleted by the report entitled "The 2000 Update to the Model Tax Convention", adopted by the OECD Council on 29 April 2000. After 23 October 1997, when this section was added by the report entitled "The 1997 Update to the Model Tax

Convention", adopted by the OECD Council on 23 October 1997, and until 29 April 2000, paragraph 10 read as follows:

> "10. *Malaysia* reserves the right to tax income in respect of an individual's professional services or other activities of an independent character if the income exceeds an amount to be negotiated."

Paragraph 11: Deleted by the report entitled "The 2000 Update to the Model Tax Convention", adopted by the OECD Council on 29 April 2000. After 23 October 1997, when this section was added by the report entitled "The 1997 Update to the Model Tax Convention", adopted by the OECD Council on 23 October 1997, and until 29 April 2000, paragraph 11 read as follows:

> "11. The *Philippines* reserves the right to tax individuals performing professional services or other activities of an independent character if they are present on its territory for a period or periods exceeding in the aggregate 120 days in any twelve month period."

Paragraph 12: Deleted by the report entitled "The 2000 Update to the Model Tax Convention", adopted by the OECD Council on 29 April 2000. After 23 October 1997, when this section was added by the report entitled "The 1997 Update to the Model Tax Convention", adopted by the OECD Council on 23 October 1997, and until 29 April 2000, paragraph 12 read as follows:

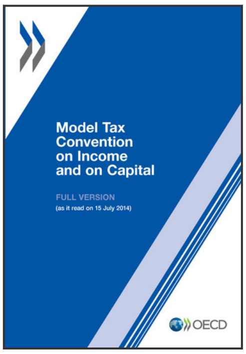
> "12. *Thailand* reserves the right to tax individuals performing professional services or other activities of an independent character if they are present on its territory for a period or periods exceeding a certain number of days, to be negotiated, in any twelve month period."

Paragraph 13: Deleted by the report entitled "The 2000 Update to the Model Tax Convention", adopted by the OECD Council on 29 April 2000. After 23 October 1997, when this section was added by the report entitled "The 1997 Update to the Model Tax Convention", adopted by the OECD Council on 23 October 1997, and until 29 April 2000, paragraph 13 read as follows:

> "13. *Estonia*, *Latvia* and *Lithuania* do not agree with the interpretation presented in paragraph 3 of the Commentary and interpret the provisions of Article 14, which was included in 1997, according to the provisions of their domestic laws."

Paragraph 14: Deleted by the report entitled "The 2000 Update to the Model Tax Convention", adopted by the OECD Council on 29 April 2000. After 23 October 1997, when this section was added by the report entitled "The 1997 Update to the Model Tax Convention", adopted by the OECD Council on 23 October 1997, and until 29 April 2000, paragraph 14 read as follows:

> "14. *Vietnam* does not agree with the interpretation presented in paragraph 3 of the Commentary. Vietnam believes that it has the right to tax income covered by the Article according to the provisions of its domestic law, not following the provisions of Article 7 and the Commentary thereon as guidance, particularly for the allowance of deductible expenses."



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