

## **POSITIONS ON ARTICLE 15 (INCOME FROM EMPLOYMENT) AND ITS COMMENTARY**

### **Positions on the Article**

1. *(Deleted on 15 July 2014; see HISTORY)*
2. *Latvia reserves the right to insert in a special Article provisions regarding income derived from dependent 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.*  
*(Amended on 15 July 2014; see HISTORY)*
3. *Lithuania reserves the right to insert special provisions regarding income derived from dependent personal services relating to activities carried on in a Contracting State in connection with the exploration or exploitation of natural resources.*  
*(Replaced on 15 July 2014; see HISTORY)*
4. *Serbia reserves the right to propose a separate paragraph which provides that remuneration derived by a resident of a Contracting State shall be taxable only in that State if the remuneration is paid in respect of an employment exercised in the other Contracting State in connection with a building site, a construction or installation project, for an agreed period during which the site or project does not constitute a permanent establishment in that other State.*  
*(Amended on 17 July 2008; see HISTORY)*
5. *India reserves the right to decide the period of stay referred in this paragraph through bilateral negotiations.*  
*(Added on 17 July 2008; see HISTORY)*
  - 5.1 *The United Arab Emirates reserves the right to modify paragraph 3 to provide that remuneration derived in respect of an employment exercised in connection with an aircraft operated in international traffic (including the crew of the aircraft and ground staff) shall be taxed exclusively in the country of residence of the operator of that aircraft.*  
*(Added on 22 July 2010; see HISTORY)*
  - 5.2 *Azerbaijan reserves the right to provide that the remuneration derived in respect of an employment exercised aboard ships or aircraft will be taxable only in the State of residence of their operator.*  
*(Added on 15 July 2014; see HISTORY)*

5.3 Colombia reserves the right to modify paragraph 3 and make corresponding changes to the definition of the term “international traffic” to cover the situation of income derived by residents of a Contracting State in respect of employment exercised aboard a ship or aircraft of an enterprise of a third State, operated in international traffic.

(Added on 15 July 2014; see HISTORY)

## Positions on the Commentary

6. India does not adhere to the interpretation set out in paragraph 6.2, because it does not recognise the concept of a partner being treated as an employer in the case of a fiscally transparent partnership.

(Added on 17 July 2008; see HISTORY)

7. India and the People’s Republic of China do not adhere to the interpretation set out in paragraph 2.9, because they take the view that the payment that an employee receives in consideration for an obligation not to work for a competitor of his ex-employer constitutes remuneration derived from employment activities performed before the termination of the employment, and that such payment may be taxed in the Contracting State where the employment activities are performed before such termination.

(Added on 15 July 2014; see HISTORY)

## HISTORY

**Paragraph 1:** Deleted 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. After 23 October 1997 and until 15 July 2014, paragraph 1 read as follows:

“1. Argentina reserves its position on subparagraph a) of paragraph 2 and wishes to insert in its conventions the words “in the fiscal year concerned” instead of the words “in any twelve month period commencing or ending in the fiscal year concerned”.”

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 deleting Lithuania from the list of countries indicating the position, by the Report entitled “The 2014 Update to the Model Tax Convention”, adopted by the Council of the OECD on 15 July 2014. After 23 October 1997 and until 15 July 2014, paragraph 2 read as follows:

“2. Latvia and Lithuania reserve the right to insert in a special Article provisions regarding income derived from dependent 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 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:** Replaced on 15 July 2014 when paragraph 3 was deleted and a new paragraph 3 was added by the Report entitled “The 2014 Update to the Model Tax Convention”, adopted by the Council of the OECD on 15 July 2014. After 23 October 1997 and until 15 July 2014, paragraph 3 read as follows:

“3. *Argentina* reserves the right to insert in a special article provisions regarding income derived from dependent personal services relating to offshore hydrocarbon exploration and exploitation and related activities.”

Paragraph 3 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:** Amended on 17 July 2008, by replacing Serbia and Montenegro with Serbia as a country 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 15 July 2005 and until 17 July 2008, paragraph 4 read as follows:

“4. *Serbia and Montenegro* reserves the right to propose a separate paragraph which provides that remuneration derived by a resident of a Contracting State shall be taxable only in that State if the remuneration is paid in respect of an employment exercised in the other Contracting State in connection with a building site, a construction or installation project, for an agreed period during which the site or project does not constitute a permanent establishment in that other State.”

Paragraph 4 was added 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 5:** 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 5.1:** Added 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.

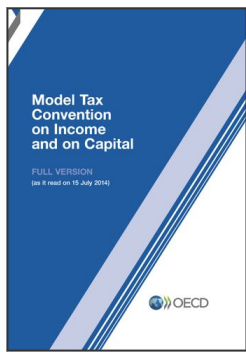
**Paragraph 5.2:** Added on 15 July 2014 by the report entitled “The 2014 Update to the Model Tax Convention” adopted by the Council on 15 July 2014.

**Paragraph 5.3:** 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 6:** Added together with the heading preceding it 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 7:** 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.





**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 15 (Income from Employment) and its commentary", in *Model Tax Convention on Income and on Capital 2014 (Full Version)*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/9789264239081-80-en>

This document, as well as any data and 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. Extracts from publications may be subject to additional disclaimers, which are set out in the complete version of the publication, available at the link provided.

The use of this work, whether digital or print, is governed by the Terms and Conditions to be found at <http://www.oecd.org/termsandconditions>.