

POSITIONS ON ARTICLE 17 (ENTERTAINERS AND SPORTSPERSONS) AND ITS COMMENTARY

Positions on the Article

1. The *Philippines* and *Russia* reserve the right to exclude from the application of paragraph 1 artistes and sportsmen employed in organisations which are subsidised out of public funds.

(Amended on 17 July 2008; see HISTORY)

2. *India* reserves the right to include performing as well as non-performing artists in the scope of the term “entertainers”.

(Replaced on 15 July 2014; see HISTORY)

Positions on the Commentary

3. *Argentina*, *Brazil* and *Malaysia* do not agree with the interpretation in paragraph 3, according to which Article 17 should not be extended to a model performing as such and presenting clothes during a fashion show. They consider that, under some circumstances, a fashion show may be regarded as of an entertainment nature. Thus, the income derived by a model from the participation in such a fashion show may be included in Article 17 (as opposed to the income derived by a model from other activities, i.e. the photo session, where the activity performed is clearly not of an entertainment nature).

(Added on 15 July 2014; see HISTORY)

4. *Brazil*, *Malaysia* and the *People's Republic of China* do not adhere to the interpretation set out in paragraph 3, because they take the view that visiting conference speakers, including especially former politicians, could be covered by Article 17 if an entertainment character is present in their speeches.

(Added on 15 July 2014; see HISTORY)

5. *Argentina* does not share the interpretation in paragraph 9.1 because it considers that, in some cases, the fee that a former or injured sportsperson would earn for offering comments during a broadcast of a sports event in which that person does not participate, may be received for personal activities of that person of an entertainment nature. In such cases, he/she is offered the job (and the relevant income) because of his/her fame as a sportsperson and not for his/her reputation as a commentator, and therefore such income is covered by Article 17.

(Added on 15 July 2014; see HISTORY)

6. *India* does not agree with the interpretation in paragraph 3, according to which Article 17 should not be extended to a model performing as such and presenting clothes during a fashion show. *India* considers that, under some circumstances, a fashion show may be regarded as of an entertainment nature and accordingly covered by Article 17.

(Added on 15 July 2014; see HISTORY)

7. *India* does not agree with the interpretation given in paragraph 9 restricting the scope of Article 17 only to personal activities that have a close connection with performance. *India* considers that any consideration received by an entertainer or a sportsperson for any personal activity, including appearance is covered by Article 17.

(Added on 15 July 2014; see HISTORY)

8. *India* does not agree with the third example in paragraph 9.1, related to reporting or commenting activities during the broadcasting of an entertainment or sports event, as it considers that such activities are covered by Article 17.

(Added on 15 July 2014; see HISTORY)

9. *Brazil* and *India* do not adhere to the interpretation set out in paragraph 11.2. They take the view that prize money in such races is paid in consideration for personal activities of the jockey and race car driver and is covered by Article 17.

(Added on 15 July 2014; see HISTORY)

10. With respect to paragraph 14 of the Commentary, *India* considers that the phrase “personal activities as such” in paragraph 1 of article 17 would not include activities financed by public funds and that the alternative provision included in paragraph 14 simply confirms that view.

(Added on 15 July 2014; see HISTORY)

HISTORY

Paragraph 1: Amended on 17 July 2008, by changing the list of countries indicating the position by adding Russia and deleting Vietnam, by the report entitled “The 2008 Update to the Model Tax Convention”, adopted by the OECD Council on 17 July 2008. After 23 October 1997 and until 17 July 2008, paragraph 1 read as follows:

“1. The *Philippines* and *Vietnam* reserve the right to exclude from the application of paragraph 1 artistes and sportsmen employed in organisations which are subsidised out of public funds.”

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: Replaced on 15 July 2014 when paragraph 2 was deleted and a new paragraph 2 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 22 July 2010 and until 15 July 2014, paragraph 2 read as follows:

“2. *India and Thailand* reserve the right to exclude from the application of paragraph 1 and paragraph 2 the income from activities performed in a Contracting State by entertainers or sportspersons if the activities are substantially supported by public funds and to provide for residence based taxation of such income.”

Paragraph 2 was 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 17 July 2008 and until 22 July 2010, paragraph 2 read as follows:

“2. *India* reserves the right to exclude from the application of paragraphs 1 and 2 the income from activities performed in a Contracting State by entertainers or sportspersons if the activities are substantially supported by public funds and to provide for residence based taxation of such income.”

Paragraph 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 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 4: 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: 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.

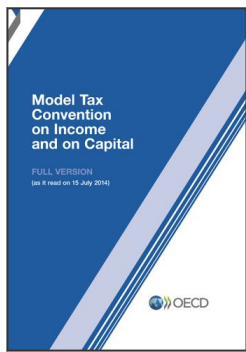
Paragraph 6: Added on 15 July 2014 by the report entitled “The 2014 Update to the Model Tax Convention” adopted by the Council on 15 July 2014.

Paragraph 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.

Paragraph 8: 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 9: 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 10: 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.



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