Recommendation of the Council concerning the Model Tax Convention on Income and on Capital



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Background Information

The Recommendation concerning the Model Tax Convention on Income and on Capital was adopted by the OECD Council on 23 October 1997 on the proposal of the Committee on Fiscal Affairs. The Recommendation considers that international juridical double taxation has harmful effects on the international exchange of goods and services and cross-border movements of capital, technology and persons. Hence, the Recommendation recommends that Adherents conclude bilateral tax conventions on income and on capital, and when doing so, conform to the OECD Model Tax Convention on Income and on Capital and its Commentaries, which provides a means to settle on a uniform basis the most common problems that arise in the field of international juridical double taxation. The Model Tax Convention now forms the basis of an extensive network of bilateral income tax treaties between OECD Member countries and between many OECD Member countries and non-Member economies, and the Commentaries thereon have become a widely accepted guide to the interpretation and application of the provisions of bilateral conventions based on the Model Tax Convention.

THE COUNCIL,

HAVING REGARD to Article 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

HAVING REGARD to the Recommendation of the Council dated 31 March 1994 concerning the Model Tax Convention on Income and Capital [C(94)11/FINAL] and the Recommendation of the Council dated 21 September 1995 amending the Appendix to that previous Recommendation [C(95)132/FINAL];

HAVING REGARD to the Report of the Committee on Fiscal Affairs of 24 June 1997 entitled "The 1997 Update to the Model Tax Convention" [DAFFE/CFA/WP1(97)10/REV2] (hereinafter referred to as "the 1997 Report");

CONSIDERING the need to remove the obstacles that international juridical double taxation presents to the free movement of goods, services, capital, and persons between countries by the conclusion of conventions for that purpose;

CONSIDERING also the need to harmonise existing bilateral conventions on the basis of uniform principles, definitions, rules, and methods and to extend the existing network of such conventions to all Member countries and where appropriate to non-member countries;

CONSIDERING further the need to encourage the common application and interpretation of the provisions of tax conventions that are based on those of the Model Tax Convention on Income and on Capital (hereinafter referred to as the "Model Tax Convention");

CONSIDERING that efforts made in this direction by Member countries have already produced substantial results and that the proposed revisions to the Model Tax Convention will make it possible to confirm and extend existing international co-operation on tax matters;

TAKING NOTE of the Model Tax Convention and the Commentaries thereon (as last modified by the 1997 Report), which may be amended from time to time hereafter;

I. RECOMMENDS the Governments of Member countries:

1. To pursue their efforts to conclude bilateral tax conventions on income and on capital with those Member countries, and where appropriate with non-member countries, with which they have not yet entered into such conventions, and to revise those of the existing conventions that may no longer reflect present-day needs;

2. When concluding new bilateral conventions or revising existing bilateral conventions, to conform to the Model Tax Convention, as interpreted by the Commentaries thereon;

3. That their tax administrations follow the Commentaries on the Articles of the Model Tax Convention, as modified from time to time, when applying and interpreting the provisions of their bilateral tax conventions that are based on these Articles.

II. INVITES the Governments of Member countries to continue to notify the Committee on Fiscal Affairs of their reservations on the Articles and observations on the Commentaries.

III. INSTRUCTS the Committee on Fiscal Affairs to continue its ongoing review of situations where the provisions set out in the Model Tax Convention or the Commentaries thereon may require modification in the light of experience gained by Member countries, and to make appropriate proposals for periodic updates.

IV. DECIDES to repeal the Recommendations of the Council of 31 March 1994 and 21 September 1995 [C(94)11/FINAL and C(95)132/FINAL].

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