



Recommendation of the Council
concerning the Attribution of
Income to Permanent
Establishments with respect
to the Model Tax Convention
on Income and Capital

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Date(s)

Adopted on 26/11/1993
Abrogated on 17/07/2008

THE COUNCIL,

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

HAVING REGARD to the Recommendation of the Council of 23rd July 1992 concerning the Model Tax Convention on Income and on Capital (hereinafter referred to as the "Model Tax Convention") [C(92)122(FINAL)];

HAVING REGARD TO the Report of the Committee on Fiscal Affairs on the Attribution of Income to Permanent Establishments [DAFFE/CFA(93)10/REV2];

CONSIDERING that the Model Tax Convention has helped Member countries to harmonize bilateral conventions on the basis of uniform principles, definitions, rules and methods, to agree on a common interpretation and to extend the existing network of such conventions;

CONSIDERING that the determination, for tax purposes, of the income attributable to a multinational enterprise's permanent establishment situated in another State presents certain difficulties that need to be resolved as these difficulties could impede the setting-up of branches abroad;

CONSIDERING that this requires, in particular, that the Commentary on Article 7 of the Model Tax Convention be modified to clarify the relationship between the principles set forth in paragraphs 2 and 3 of that Article and to provide more guidance for the application of these principles;

I. RECOMMENDS that Governments of Member countries, when applying existing bilateral tax conventions on income and on capital, follow the recommendations of the above-mentioned Report concerning the interpretation of Article 7 of the Model Tax Convention for the purpose of determining the income to be attributed to a permanent establishment located in a given State of an enterprise of another State.

II. INSTRUCTS the Committee on Fiscal Affairs to include in the next update of the Model Tax Convention the changes to the Commentary on Article 7 that are recommended in Annex III to the above-mentioned Report.

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