



Recommendation of the Council on the Granting and Design of Tax Sparing in Tax Conventions

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Background Information

The Recommendation on the Granting and Design of Tax Sparing in Tax Conventions was adopted by the OECD Council on 23 October 1997 on the proposal of the Committee on Fiscal Affairs. Recognising that tax sparing provisions can provide significant scope for tax planning and tax avoidance both in the country of the investor and in the country of the investment, the Recommendation recommends that Adherents follow the guidelines for designing tax-sparing provisions set out in the OECD Report entitled "Tax Sparing: A Reconsideration". These guidelines, such as the specific inclusion in the treaty of an anti-abuse clause and the setting of time limits for any tax-sparing relief, will help countries to better target their provisions and so reduce the potential for abuse.

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 of 23 October 1997 concerning the Model Tax Convention on Income and on Capital [C(97)195/FINAL];

HAVING REGARD to the Report entitled: "Tax Sparing: A Reconsideration" [DAFFE/CFA(97)3/REV2], hereafter referred to as the Report;

CONSIDERING that the granting of tax sparing in tax conventions may offer wide opportunities for tax planning and tax avoidance;

CONSIDERING that the granting of tax sparing in tax conventions may have the effect of provoking harmful tax competition between countries;

HAVING REGARD to the need to develop a more coherent approach among Member countries and non-member countries towards the granting and design of tax sparing in tax conventions;

I. RECOMMENDS to the Governments of Member countries that, in negotiating and concluding tax treaties, they follow the recommendations set out in the Report on the use and design of tax sparing provisions, as it may be amended from time to time; and

II. INVITES the Governments of Member countries to inform, as appropriate, the Committee on Fiscal Affairs of any modification in their policy on the use and design of tax sparing provisions;

III. INSTRUCTS the Committee on Fiscal Affairs:

1. To pursue its work on issues pertinent to tax sparing; and
2. To develop a dialogue with non-member countries that request tax sparing, with the aim of developing a more coherent position on the granting and design of tax sparing.

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