



## QUESTIONNAIRE ON THE TREATMENT OF INTEREST PAYMENTS AND RELATED TAX BASE EROSION ISSUES

This questionnaire should be completed by participants in United Nations capacity development programs on protecting the tax base of developing countries in advance of these programs. The purpose of the questionnaire is to provide participants with an opportunity to focus on the rules in their country's domestic law and tax treaties. The questionnaire is also intended to provide basic information about a country's rules to the participants from other countries and to the facilitators.

<b>I. Basic concepts about the meaning of “interest” for purposes of domestic tax law</b>		
	<b>Yes</b>	<b>No</b>
1. Does interest include payments that are economically equivalent to interest, such as discounts?	<input type="checkbox"/>	<input type="checkbox"/>
2. If the answer to question 1 is no:		
(a) Are payments that are economically equivalent to interest subject to special rules?	<input type="checkbox"/>	<input type="checkbox"/>
(b) Does your country have substance-over-form rules that could be applied to payments that are economically equivalent to interest?	<input type="checkbox"/>	<input type="checkbox"/>
3. How are hybrid securities (securities with debt-like features and equity like features), such as preferred shares and convertible debt, characterized for purposes of domestic tax law?		
<a href="#">Click here to enter text.</a>		
4. Does your country have substance-over-form rules that could be applied to characterize hybrid securities?	<input type="checkbox"/>	<input type="checkbox"/>
5. How, if at all, are notional payments on derivative financial instruments treated?		
<a href="#">Click here to enter text.</a>		
6. In your country:		
(a) Is interest generally deductible?	<input type="checkbox"/>	<input type="checkbox"/>
(b) Are dividends generally not deductible?	<input type="checkbox"/>	<input type="checkbox"/>
7. If the answer to question 6(a) is yes:		
(a) Is all interest deductible? or	<input type="checkbox"/>	<input type="checkbox"/>
(b) Is the deduction limited to only interest incurred to earn taxable income?	<input type="checkbox"/>	<input type="checkbox"/>
8. If only interest incurred to earn taxable income is deductible, how does your country determine whether interest is linked or related to taxable or non-taxable income?		
(a) Tracing	<input type="checkbox"/>	<input type="checkbox"/>
(b) Ordering rules	<input type="checkbox"/>	<input type="checkbox"/>
(c) Apportionment	<input type="checkbox"/>	<input type="checkbox"/>
9. Does your country have special rules for interest paid to related parties? If so, please describe briefly.	<input type="checkbox"/>	<input type="checkbox"/>
<a href="#">Click here to enter text.</a>		

10.	Does your country have any specific anti-avoidance rules with respect to interest? If so, please describe briefly.	<input type="checkbox"/>	<input type="checkbox"/>
	<a href="#">Click here to enter text.</a>		
<b>II. Non-residents carrying on business in your country</b>			
		<b>Yes</b>	<b>No</b>
1.	Assuming that non-residents carrying on business in your country are subject to tax on their net income:		
	(a) Are interest expenses incurred by non-residents deductible in computing their net income subject to tax?	<input type="checkbox"/>	<input type="checkbox"/>
	(b) Are there any limitations or restrictions on the deduction of interest by non-residents under your domestic law?	<input type="checkbox"/>	<input type="checkbox"/>
	(c) How does your country determine how much interest is properly deductible by a non-resident? Please explain		
	<a href="#">Click here to enter text.</a>		
2.	Does your country impose any special information reporting requirements on non-residents with respect to their interest expenses?	<input type="checkbox"/>	<input type="checkbox"/>
<b>III. Excessive Interest Deductions</b>			
		<b>Yes</b>	<b>No</b>
1.	Does your country have thin capitalization rules to restrict interest deductions? If so, please answer the following questions:	<input type="checkbox"/>	<input type="checkbox"/>
2.	Is the deduction of interest on debt in excess of a fixed debt/equity ratio denied?	<input type="checkbox"/>	<input type="checkbox"/>
3.	If the answer to question 2 is yes:		
	(a) What is the ratio?		
	<a href="#">Click here to enter text.</a>		
	(b) Are different ratios used for different types of businesses (e.g., banks and financial institutions)? If yes, please explain.	<input type="checkbox"/>	<input type="checkbox"/>
	<a href="#">Click here to enter text.</a>		
4.	Do the rules apply:		
	(a) Only to companies? or	<input type="checkbox"/>	<input type="checkbox"/>
	(b) To other entities, including branches (permanent establishments) of non-residents?	<input type="checkbox"/>	<input type="checkbox"/>
5.	Do the rules apply to all resident entities, only resident entities controlled by non-residents, or only resident entities with substantial non-resident shareholders? Please explain.		
	<a href="#">Click here to enter text.</a>		
6.	What debt is taken into account for the purposes of the ratio?		
	<a href="#">Click here to enter text.</a>		
7.	How is equity computed for the purposes of the ratio?		
	<a href="#">Click here to enter text.</a>		

8.	What are the tax consequences of excess debt?		
	(a) Is interest on all excess debt disallowed or only interest on debt owed to non-resident shareholders?		
	Click here to enter text.		
	(b) Is the excess interest recharacterized as a dividend?	<input type="checkbox"/>	<input type="checkbox"/>
	(c) Is a carryover of excess (disallowed) interest allowed?	<input type="checkbox"/>	<input type="checkbox"/>
9.	Does your country have earnings-stripping rules (that is to say, the deduction of interest in excess of a percentage of earnings is disallowed) to restrict interest deductibility? If so, please answer the following questions:	<input type="checkbox"/>	<input type="checkbox"/>
	(a) Do the rules apply only to resident companies? or	<input type="checkbox"/>	<input type="checkbox"/>
	(b) Do the rules apply to other entities, including branches (permanent establishments) of non-residents?	<input type="checkbox"/>	<input type="checkbox"/>
	(c) How are earnings measured – in accordance with tax or accounting rules?		
	Click here to enter text.		
	(d) What percentage of earnings is used as the maximum limit?		
	Click here to enter text.		
	(e) Is the limit based on:		
	• Net interest expense (interest expense in excess of interest income)? or	<input type="checkbox"/>	<input type="checkbox"/>
	• Gross interest expense?	<input type="checkbox"/>	<input type="checkbox"/>
	(f) What are the consequences of excess (disallowed) interest?		
	• Is the deduction of excess interest disallowed?	<input type="checkbox"/>	<input type="checkbox"/>
	• Is excess interest recharacterized as a dividend?	<input type="checkbox"/>	<input type="checkbox"/>
	• Is a carryover allowed for excess interest?	<input type="checkbox"/>	<input type="checkbox"/>
	(g) Are there any specific exemptions from the rules? If so, please describe briefly.		
	Click here to enter text.		
	(h) Are there any specific anti-avoidance rules? If so, please describe briefly.	<input type="checkbox"/>	<input type="checkbox"/>
	Click here to enter text.		
10.	Has your country decided whether to change its domestic law in response to the best practices recommended in the OECD/G20 BEPS Action 4 Final Report?	<input type="checkbox"/>	<input type="checkbox"/>
<b>IV. Withholding Taxes on Interest</b>			
		<b>Yes</b>	<b>No</b>
1.	Does your country impose withholding taxes on interest payments to non-residents? If so, please answer the following questions:	<input type="checkbox"/>	<input type="checkbox"/>
2.	What is the rate of withholding tax applied?		
	Click here to enter text.		
	(a) Is the rate the same for all interest payments? or	<input type="checkbox"/>	<input type="checkbox"/>
	(b) Does it vary depending on the type of interest payment?	<input type="checkbox"/>	<input type="checkbox"/>
3.	What interest payments are subject to withholding tax?		
	Click here to enter text.		
	(a) Are payments that are economically equivalent to interest subject to withholding tax?	<input type="checkbox"/>	<input type="checkbox"/>

4.	What persons are required to withhold tax?		
	(a) Only residents paying interest to non-residents? or	<input type="checkbox"/>	<input type="checkbox"/>
	(b) Also non-residents carrying on business in your country through a permanent establishment?	<input type="checkbox"/>	<input type="checkbox"/>
5.	What penalties, if any, are applied if withholding agents fail to withhold properly?		
	<a href="#">Click here to enter text.</a>		
6.	Are there any exemptions from withholding tax on interest, such as interest paid to or guaranteed by governments and government agencies, interest paid to banks and financial institutions, interest on long-term loans, etc.? Please explain.	<input type="checkbox"/>	<input type="checkbox"/>
	<a href="#">Click here to enter text.</a>		
7.	Is the withholding tax imposed when the interest is paid?	<input type="checkbox"/>	<input type="checkbox"/>
8.	If the answer to question 7 is yes:		
	(a) Is interest deductible by the payer only when the interest is paid? or	<input type="checkbox"/>	<input type="checkbox"/>
	(b) Is interest deductible by the payer when it accrues or becomes payable?	<input type="checkbox"/>	<input type="checkbox"/>
9.	If interest is deductible before it is paid, does your country have any rules to ensure that withholding tax is collected on any interest that is deducted?	<input type="checkbox"/>	<input type="checkbox"/>
<b>V. Residents Incurring Interest Expenses to Earn Foreign Source Income</b>			
		<b>Yes</b>	<b>No</b>
1.	Does your country tax on a territorial basis (that is to say, it does not tax income earned outside your country)?	<input type="checkbox"/>	<input type="checkbox"/>
	(a) If the answer to question 1 is yes: are there any circumstances in which interest expenses incurred by residents to earn foreign source income are deductible? If so, please explain.	<input type="checkbox"/>	<input type="checkbox"/>
	<a href="#">Click here to enter text.</a>		
2.	Does your country tax its residents on their worldwide income?	<input type="checkbox"/>	<input type="checkbox"/>
3.	If the answer to question 2 is yes:		
	(a) Are interest expenses incurred by residents to earn foreign source income always deductible? or	<input type="checkbox"/>	<input type="checkbox"/>
	(b) Are there any circumstances in which interest expenses incurred by residents to earn foreign source income are not deductible? If so, please explain.	<input type="checkbox"/>	<input type="checkbox"/>
	<a href="#">Click here to enter text.</a>		
4.	What method does your country use to eliminate double taxation?		
	(a) exemption	<input type="checkbox"/>	<input type="checkbox"/>
	(b) credit	<input type="checkbox"/>	<input type="checkbox"/>
5.	If your country exempts certain items of foreign source income, is the deduction of any interest expenses incurred to earn that income disallowed?	<input type="checkbox"/>	<input type="checkbox"/>
6.	If your country uses the credit method, are there rules that require any interest expenses incurred to earn the foreign source income to be allocated to that income for purposes of the limitation on the foreign tax credit? If so, please explain.	<input type="checkbox"/>	<input type="checkbox"/>
	<a href="#">Click here to enter text.</a>		
7.	Are dividends received by residents – in particular, resident corporations owning a substantial interest in non-resident corporations – from non-resident corporations exempt from tax?	<input type="checkbox"/>	<input type="checkbox"/>
8.	Are gains from the sale of shares in non-resident corporations exempt from tax?	<input type="checkbox"/>	<input type="checkbox"/>

9.	If the answer to question 7 or 8 is yes: are interest expenses incurred on borrowed funds used to acquire shares of non-resident corporations deductible?	<input type="checkbox"/>	<input type="checkbox"/>
10.	Are dividends received by residents – in particular, resident corporations owning a substantial interest in non-resident corporations – from non-resident corporations taxable?	<input type="checkbox"/>	<input type="checkbox"/>
11.	What relief, if any, does your country provide for any foreign withholding tax on the dividends and for any foreign corporate tax paid by the non-resident corporation on the income out of which the dividend was paid (indirect foreign tax credit)?		
	<a href="#">Click here to enter text.</a>		
12.	Are interest expenses incurred on borrowed funds used to acquire shares of non-resident corporations deductible?	<input type="checkbox"/>	<input type="checkbox"/>
13.	If your country provides an indirect foreign tax credit, are the interest expenses allocated to the income of the foreign corporation out of which the dividend was paid for purposes of the indirect foreign tax credit?	<input type="checkbox"/>	<input type="checkbox"/>
14.	Are gains from the sale of shares in non-resident corporations taxable?	<input type="checkbox"/>	<input type="checkbox"/>
15.	If the answer to question 14 is yes, are interest expenses incurred on borrowed funds used to acquire shares of non-resident corporations deductible?	<input type="checkbox"/>	<input type="checkbox"/>
<b>VI. Tax Treaties</b>			
		<b>Yes</b>	<b>No</b>
1.	How many tax treaties does your country have?		
	<a href="#">Click here to enter text.</a>		
	Are your country's tax treaties based primarily on:		
	(a) The OECD Model Convention	<input type="checkbox"/>	<input type="checkbox"/>
	(b) The United Nations Model Convention	<input type="checkbox"/>	<input type="checkbox"/>
2.	Article 11 (Interest)		
	(a) What is the maximum rate of tax on interest that you agree to in your treaties?		
	<a href="#">Click here to enter text.</a>		
	(b) Do some treaties provide for lower rates?	<input type="checkbox"/>	<input type="checkbox"/>
3.	List the ways, if any, in which the Interest Article in your treaties deviates from Article 11 of the United Nations Model Convention.		
	<a href="#">Click here to enter text.</a>		
4.	Article 7 (Business Profits)		
	(a) Do your treaties generally follow Article 7 (especially Article 7(3)) of the United Nations Model Convention?	<input type="checkbox"/>	<input type="checkbox"/>
	(b) Do you apply your domestic law with respect to the deduction of interest for purposes of computing the profits of a permanent establishment under a tax treaty?	<input type="checkbox"/>	<input type="checkbox"/>
	(c) Do you allow the deduction of notional interest payments by a permanent establishment to its head office?	<input type="checkbox"/>	<input type="checkbox"/>
	(d) Is interest paid to a non-resident carrying on business in your country through a permanent establishment subject to withholding tax by your country?	<input type="checkbox"/>	<input type="checkbox"/>
	(e) Do your treaties contain provisions similar to Article 24(3) of the United Nations Model Convention?	<input type="checkbox"/>	<input type="checkbox"/>

	(f) If the answer to question 4(e) is yes, unless interest paid to residents is also subject to withholding, Article 24(3) of your treaties would prevent you from imposing withholding tax. Do you provide a refund mechanism for non-residents in these circumstances?	<input type="checkbox"/>	<input type="checkbox"/>
5.	Article 14 (Independent Personal Services)		
	(a) Is the income of a non-resident attributable to a fixed base in your country computed in the same manner as the profits of a permanent establishment under Article 7?	<input type="checkbox"/>	<input type="checkbox"/>
	(b) Are interest expenses deductible for purposes of computing the income attributable to a fixed base under Article 14 determined in the same manner as interest expenses incurred for purposes of a permanent establishment under Article 7?	<input type="checkbox"/>	<input type="checkbox"/>
6.	Article 24 (Nondiscrimination)		
	(a) Do your treaties contain provisions similar to Article 24(4) and (5) of the United Nations Model Convention?	<input type="checkbox"/>	<input type="checkbox"/>
	(b) If so, and your country has thin capitalization rules or earnings-stripping rules, does your country consider that Articles 24(4) and (5) prevent the application of those rules to residents of treaty countries?	<input type="checkbox"/>	<input type="checkbox"/>
	(c) Has your country taken any steps to ensure that Articles 24(4) and (5) do not apply to prevent the application of your country's thin capitalization or earnings-stripping rules? If so, please describe briefly.	<input type="checkbox"/>	<input type="checkbox"/>
	<a href="#">Click here to enter text.</a>		