



**UN Workshop on Double Tax Treaties and
Base Eroding Payments for Developing Countries
Nairobi, Kenya
21-24 March 2017**



TENTATIVE PROGRAMME

| Day 1 – Tuesday, 21 March 2017 | |
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| OPENING AND INTRODUCTION | |
| 10:00 - 10:30 a.m. | Opening ceremony (UN, ATAF, Government of Italy) |
| 10:30 - 11:00 a.m. | Introduction <ul style="list-style-type: none"> – OECD/G20 Project on Base Erosion and Profit Shifting (BEPS) – United Nations work on BEPS for developing countries – ATAF Program on BEPS for African Countries – Practical Portfolios |
| 11:00 - 11:30 a.m. | <i>Coffee break</i> |
| PROTECTING THE TAX BASE OF DEVELOPING COUNTRIES AGAINST BASE-ERODING PAYMENTS OF INTEREST | |
| 11:30 a.m. - 1:00 p.m. | Analysis of the Tax Treatment of the Deduction of Interest and Other Financing Expenses under Domestic Law <ul style="list-style-type: none"> – Introduction – fundamental issues – Excessive interest deductions <ul style="list-style-type: none"> ○ Thin capitalization and earnings-stripping rules – Withholding taxes – Interest expenses incurred by non-residents to earn domestic source income – Interest expenses incurred by residents to earn foreign source income |
| 1:00 - 2:30 p.m. | <i>Lunch break</i> |
| 2:30 - 3:30 p.m. | Analysis of the Tax Treatment of the Deduction of Interest and Other Financing Expenses under Tax Treaties <ul style="list-style-type: none"> – Treaty limitations on the taxation of non-residents <ul style="list-style-type: none"> ○ Article 11 – withholding taxes ○ Articles 7 and 14 – deduction of interest in computing business profits ○ Article 24 (3) – non-discrimination – Treaty limitations on residents <ul style="list-style-type: none"> ○ Article 23 – relief from double taxation ○ Article 24 – non-discrimination |
| 3:30 - 4:00 p.m. | <i>Coffee break</i> |
| 4:00 - 5:30 p.m. | Risks of Base Erosion with respect to Interest Payments and Possible Countermeasures <ul style="list-style-type: none"> – Introduction – Excessive interest deductions – Withholding taxes – Non-residents deducting interest payments – Residents deducting interest expenses to earn preferentially taxed foreign source income |

| Day 2 – Wednesday, 22 March 2017 | |
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| PROTECTING THE TAX BASE OF DEVELOPING COUNTRIES AGAINST BASE-ERODING PAYMENTS OF INTEREST (CONT'D) | |
| 10:00 - 11:00 a.m. | Case Study Identifying and Assessing the Risks of Base Erosion and Possible Countermeasures |
| 11:00 - 11:30 a.m. | Designing and Drafting Domestic Legislation to Prevent Base Erosion with respect to Interest <ul style="list-style-type: none"> – Limits on the deduction of excessive interest: thin capitalization and earnings-stripping rules – Withholding taxes on interest – Limits on the deduction of interest expenses to earn preferentially taxed foreign income |
| 11:30 a.m. - 12:00 p.m. | <i>Coffee break</i> |
| 12:00 – 12:45 p.m. | Sample Legislation <ul style="list-style-type: none"> – Withholding taxes on interest |
| 12:45 - 2:00 p.m. | <i>Lunch break</i> |
| 2:00 – 2:15 p.m. | Welcoming remarks by the Commissioner General of the Kenya Revenue Authority |
| 2:15 - 3:00 p.m. | Sample Legislation (cont'd) <ul style="list-style-type: none"> – Withholding taxes on interest |
| 3:00 - 4:00 p.m. | Negotiating Tax Treaties to Prevent Base Erosion with respect to Interest Payments <ul style="list-style-type: none"> – Provisions relating to non-residents <ul style="list-style-type: none"> ○ Deduction of interest in computing profits of a permanent establishment (PE) or fixed base ○ Non-discrimination provisions – Withholding taxes on interest – Provisions relating to residents <ul style="list-style-type: none"> ○ Relief of double taxation ○ Non-discrimination provisions |
| 4:00 - 4:30 p.m. | <i>Coffee break</i> |
| 4:30 - 5:30 p.m. | Discussion and Summary Interactive dialogue, sharing of experiences and conclusions |
| 7:00 p.m. | Dinner sponsored by the Kenya Revenue Authority |

| Day 3 – Thursday, 23 March 2017 | |
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| PROTECTING THE TAX BASE OF DEVELOPING COUNTRIES WITH RESPECT TO THE TAXATION OF INCOME FROM SERVICES | |
| 10:00 - 11:30 a.m. | Overview of the Basic Patterns for Taxing Income from Services under Domestic Law <ul style="list-style-type: none"> – Income from services distinguished from other income – Taxation of income earned by residents from foreign services – Taxation of non-residents earning income from services <ul style="list-style-type: none"> ○ Income from services performed in the country <ul style="list-style-type: none"> ▪ Threshold requirements ▪ Withholding on payments to non-residents for services ○ Income from services outside the country <ul style="list-style-type: none"> ▪ Withholding tax on payments to non-residents for services |
| 11:30 a.m. - 12:00 p.m. | <i>Coffee break</i> |
| 12:00 - 1:00 p.m. | Overview of the Provisions of Tax Treaties Dealing with Income from Services <ul style="list-style-type: none"> – Treaty limitations on the taxation of a country's residents – Treaty limitations on the taxation of non-residents <ul style="list-style-type: none"> ○ Employment services: Articles 15 - 19 ○ Entertainment and athletic services: Article 17 ○ Professional and other independent services: Article 14 ○ New Article on Fees for Technical Services ○ Other business services: Article 7 |
| 1:00 - 2:30 p.m. | <i>Lunch break</i> |
| 2:30 - 4:00 p.m. | Risks of Base Erosion with respect to Income from Services and Possible Countermeasures <ul style="list-style-type: none"> – Factors in identifying and assessing risks – Employment income of non-residents <ul style="list-style-type: none"> ○ Non-resident employees of non-resident employers ○ Determination of employment or independent contractor status ○ International hiring out of labour ○ Directors and top-level managers ○ Government service ○ Pensions – Entertainers and athletes – Independent personal services – Other business services <ul style="list-style-type: none"> ○ Related-party services ○ Construction ○ Insurance |
| 4:00 - 4:30 p.m. | <i>Coffee break</i> |
| 4:30 - 5:30 p.m. | Designing and Drafting Domestic Legislation to Prevent Base Erosion with respect to Income from Services <ul style="list-style-type: none"> – Residents earning income from foreign services – Taxation of non-residents on income from services on a net basis <ul style="list-style-type: none"> ○ Business income and non-residents with a substantial presence in a country – Taxation of non-residents on a gross basis <ul style="list-style-type: none"> ○ Designing withholding taxes on payments for services: rate, payments covered, persons required to withhold etc. |

| Day 4 – Friday, 24 March 2017 | |
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| PROTECTING THE TAX BASE OF DEVELOPING COUNTRIES WITH RESPECT TO THE TAXATION OF INCOME FROM SERVICES (CONT'D) | |
| 10:00 - 10:30 a.m. | Case Study Identifying and Assessing the Risks of Base Erosion and Possible Countermeasures |
| 10:30 - 11:30 a.m. | Sample Legislation <ul style="list-style-type: none"> – Withholding taxes on payments for services – Employment status – Directors' fees and remuneration of top-level managers – General anti-base erosion rule |
| 11:30 a.m. - 12:00 p.m. | <i>Coffee break</i> |
| 12:00 - 1:00 p.m. | Negotiating Tax Treaties to Prevent Base Erosion with respect to Income from Services <ul style="list-style-type: none"> – General considerations – Provisions dealing with employment income – Provisions dealing with business income <ul style="list-style-type: none"> ○ Definition of permanent establishment (PE) ○ Fees for technical services |
| 1:00 - 2:30 p.m. | <i>Lunch break</i> |
| 2:30 - 3:30 p.m. | Administrative Issues <ul style="list-style-type: none"> – Disclosure and information reporting – Audit and verification activities – Collection of tax – Administration of tax treaty provisions dealing with services |
| 3:30 - 4:00 p.m. | <i>Coffee break</i> |
| 4:00 - 5:00 p.m. | Case Study Identifying and Assessing the Risks of Base Erosion and Possible Countermeasures |
| 5:00 - 5:30 p.m. | Summary, Evaluation and Closing Remarks |