



TAXATION OF NON- RESIDENT SERVICE PROVIDERS

Capacity Building on Tax Treaty Administration

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Source taxation under UN Model

- Articles 5 & 7 Business Profits
 - Exemption
 - Profits attributable to fixed place of business PE
 - Profits attributable to construction site PE
 - Site lasts more than 6 months
 - Profits attributable to deemed service PE
 - Activities >183 days in any 12-mth period
 - Activities 'of that nature'
 - Same or connected project

Source taxation under UN Model

- Article 8 International Transport
 - If operated in international traffic, taxation only in place of effective management
 - Alternative B: Shipping operations may be taxed in source country
 - if 'more than casual',
 - appropriate allocation of overall net profits
 - Tax reduced by agreed percentage

Source taxation under UN Model

- Article 14 Independent Personal Services
 - Exemption
 - Unlimited if attributable to a fixed base
 - Unlimited if derived from activities from stay of 183+ days
 - (occasionally) Unlimited if above a monetary threshold

Source taxation under UN Model

- Article 15 Dependent Personal Services
 - Unlimited if derived from employment exercised in country
 - However, exemption applies if
 - <183 days presence
 - Paid by non-resident employer
 - Not borne by PE
 - Unlimited if employment exercised aboard ship or aircraft in international traffic and place of effective management of international transport enterprise is in country

Source taxation under UN Model

- Article 16 – Directors & top level Managers
 - Unlimited if paying company is a resident
- Article 17 – Artistes and Sportspersons
 - Unlimited if activities exercised in country
- Article 19 – Government Service
 - Exclusive if paying state
 - Exemption if exercised in other State and a resident and national of that State

Source taxation under UN Model

- Students
 - Exemption of foreign maintenance and education payments

Other common treaty provisions

- Article 12 Royalties (Technical Services)
 - Limited gross taxation if paid by resident or PE
 - Business profits treatment if attributable to a PE or fixed base
- Teachers
 - Exemption if visit is less than 2 years
 - Sometimes condition that not for private benefit and/or subject to tax in residence country

Relevant factors for administration

- Fixed place or base
- Where activities exercised
- Where payer is resident, where PE is situated, or place of effective management
- Time of presence or activities
- Amount of payment
- Exemption, gross or net taxation
- Whether attributable