

Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries

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Overview

- Historic Background of the draft Manual
- Overview of the contents of the draft Manual
- Discussion and decision

1. Historic Background of the draft Manual

- 2013 Mandate of the Subcommittee
- Engagement of drafters
- 2014 Progress report

2013 Mandate (1)

The Subcommittee is mandated to develop a **new practical Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries, ...**

The aim of the Subcommittee shall be to present a complete draft manual for adoption to the eleventh annual session in 2015

2013 Mandate (2)

- (i) The Manual is a compact practical training tool for beginners or tax officials with limited experience, which reflects the realities for developing countries ...;
- (ii) The Manual reflects the current version of the UN Model Double Taxation Convention and the relevant UN Commentaries as well as ongoing decisions of the Committee leading to changes in them; and
- (iii) The drafting draws upon the previous work done by the Committee and any further relevant inputs, as well as work being done in other fora.

Engagement of drafters

- **Ms. Ariane Pickering**, Former Chief Treaty Negotiator, Australian Department of the Treasury, and
- **Mr. Ron van der Merwe**, Former Senior Manager, South African Revenue Services.

2013 Mandate

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The aim of the Subcommittee shall be to present a complete draft manual for adoption to the eleventh annual session in 2015

2. Overview of the contents of the draft Manual

- Section I - General introduction
- Section II – Treaty policy, domestic model, negotiations
- Section III - Treaty provisions
- Section IV – Improper use of treaties

Section I - General introduction

- A. Introduction
- B. Concepts and issues
- C. International double taxation
- D. Other tax barriers to cross-border transactions
- E. Tax avoidance and evasion, and double non-taxation

Section II – Treaty policy, domestic model, negotiations

- A. Why negotiate tax treaties?
- B. Policy framework and country model
- C. Preparing for tax treaty negotiation
- D. Conduct of negotiations
- E. Post-negotiation activities

Section III - Treaty provisions

- A. Chapter I -Scope of the Convention
- B. Chapter II – Definitions
- C. Chapter III – Taxation of income
- D. Chapter IV – Taxation of capital
- E. Chapter V Methods for the elimination of double taxation
- F. Chapter VI Special provisions
- G. Chapter VII – Final provisions

A. Chapter I - Scope of the Convention

Article 1 Persons covered

Article 2 Taxes covered

B. Chapter II – Definitions

Article 3 – General definitions

Article 4 – Resident

Article 5 – Permanent establishment

- Construction activities
- Furnishing of services

C. Chapter III – Taxation of income (1)

Article 6 – Income from immovable
property

Article 7 – Business profits

Article 8 – Shipping, inland waterways
transport and air transport

Article 9 – Associated enterprises

C. Chapter III – Taxation of income (2)

Article 10 – Dividends

Article 11 – Interest

Article 12 – Royalties

Article 13 – Capital gains

Article 14 – Independent personal services

C. Chapter III – Taxation of income (3)

Article 15 – Dependent personal services

Article 16 – Directors' fees and remuneration
of top-level managerial officials

Article 17 – Artistes and sportspersons

Article 18 – Pensions and social security
payments

Article 19 – Government service

Article 20 – Students

Article for teacher

Article 21 – Other Income

D. Chapter IV – Taxation of capital

Article 22 – Capital

E. Methods for the elimination of double taxation

Article 23 A – Exemption method

Article 23 B – Credit method

Special issues

- Capital taxes

- Intercorporate dividends

- Tax sparing

F. Special provisions

Article 24 – Non-discrimination

Article 25 – Mutual agreement procedure

Article 26 – Exchange of information

Article 27 – Assistance in collection

G. Chapter VII – Final provisions

Article 29 – Entry into force

Article 30 – Termination

Section IV – Improper use of treaties

- A. Introduction
- B. Preventing improper use of tax treaties
 - 1. Domestic law anti-abuse rules and judicial doctrines
 - 2. Specific anti-abuse rules found in tax treaties
 - 3. General anti-abuse rules found in tax treaties
- C. Examples of improper uses of tax treaties

3. Discussion and decision