



# Technical services in the UN Model Treaty – Comments from Angola



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## The issue under domestic legislation

- According to Angolan domestic legislation fees for technical services are subject to a withholding tax rate of 6.5% of the total value of the service
- This tax is a major source of revenue in a country where foreign investment is highly important
- The application of the tax rules as described in Article 7 on business profits to these services could be considered an administrative challenge for the withholding tax on payments, in line with domestic law, since there is no effective mechanism for reporting the later income or accepting deductions from it
- If we were to follow the current UN Model as it is we would find ourselves in a situation where it would be easy for taxpayers, on the basis of our double tax treaties, to avoid the domestic withholding, by simply avoiding permanent establishment exposure in Angola (which is easy by virtue of the nature of a lot of these services)

# The inclusion of a specific provision in the UN Model Treaty

- The inclusion of such rule in the UN model treaty will provide countries like Angola – and there are many – with a very important negotiation tool to protect its tax base
- Such rule is also in line with the most recent transfer pricing and BEPS recommendations in preserving source state taxation rights
- It should also be recognized that most countries that support their treaty policy on the UN Model Treaty are still facing challenges in developing their tax administrations to deal with less material and more complex tax situations and taxpayers (normally the ones who would be able to avoid source taxation through international structures with no PE – or little income attributable to PE – in source state)

## Issues that still remain

- If we compare the domestic scope of services covered by the withholding tax in Angola and those covered by the technical services fees provision to be included in the UN Model we can easily see a mismatch that will still leave Angola in a difficult situation for the services covered by domestic legislation but not covered by the treaty provision
- It is essential to ensure that certain services, such as maintenance, installation and specialized technical assistance and consultancy services in wide range areas, can be included in the scope of the Treaty thereby imposing withholding tax instead of being covered by the business profits article