

COMMENTARY ON ARTICLE 20 CONCERNING THE TAXATION OF STUDENTS

1. The rule established in this Article concerns certain payments received by students or business apprentices for the purpose of their maintenance, education or training. All such payments received from sources outside the State in which the student or business apprentice concerned is staying shall be exempted from tax in that State.

(Amended on 11 April 1977; see HISTORY)

2. The word “immediately” was inserted in the 1977 Model Convention in order to make clear that the Article does not cover a person who has once been a resident of a Contracting State but has subsequently moved his residence to a third State before visiting the other Contracting State.

(Amended on 23 July 1992; see HISTORY)

3. The Article covers only payments received for the purpose of the recipient’s maintenance, education or training. It does not, therefore, apply to a payment, or any part thereof, that is remuneration for services rendered by the recipient and which is covered by Article 15 (or by Article 7 in the case of independent services). Where the recipient’s training involves work experience, however, there is a need to distinguish between a payment for services and a payment for the recipient’s maintenance, education or training. The fact that the amount paid is similar to that paid to persons who provide similar services and are not students or business apprentices would generally indicate that the payment is a remuneration for services. Also, payments for maintenance, education or training should not exceed the level of expenses that are likely to be incurred to ensure the recipient’s maintenance, education or training.

(Replaced on 15 July 2005; see HISTORY)

4. The Article only applies to payments arising from sources outside the State where the student or business apprentice is present solely for the purposes of education or training. Payments arising from sources within that State are covered by other Articles of the Convention: for instance, if, during his presence in the first-mentioned State, the student or business apprentice remains a resident of the other State according to Article 4, payments such as grants or scholarships that are not covered by other provisions of the Convention (such as Article 15) will be taxable only in his State of residence under paragraph 1 of Article 21. For the purpose of the Article, payments that are made by or on behalf of a resident of a Contracting State or that are borne

by a permanent establishment which a person has in that State are not considered to arise from sources outside that State.

(Amended on 15 July 2014; see HISTORY)

Reservations on the Article

5. Estonia and Latvia reserve the right to amend the Article to refer to any apprentice or trainee.

(Amended on 21 November 2017; see HISTORY)

6. Japan reserves the right to limit the exemption for a business apprentice under the Article to a period of one year.

(Added on 21 November 2017; see HISTORY)

7. The United States reserves its right to provide a limited exemption from tax for income from personal services earned by students and business trainees, and a definition of “business trainee”.

(Added on 21 November 2017; see HISTORY)

HISTORY

Title: Amended when the 1977 Model Convention was adopted by the OECD Council on 11 April 1977. In the 1963 Draft Convention (adopted by the OECD Council on 30 July 1963) and until the adoption of the 1977 Model Convention, the title read as follows:

“COMMENTARY ON ARTICLE 20

ON THE TAXATION OF STUDENTS AND BUSINESS APPRENTICES ABROAD”

Paragraph 1: Amended when the 1977 Model Convention was adopted by the OECD Council on 11 April 1977. In the 1963 Draft Convention (adopted by the OECD Council on 30 July 1963) and until the adoption of the 1977 Model Convention, paragraph 1 read as follows:

“1. The rule established in Article 20 concerns certain payments received by students or business apprentices for the purpose of their maintenance, education or training. The exemption provided for is already fairly well established in existing bilateral Conventions. All such payments received from sources outside the State in which the student or business apprentice concerned is staying shall be exempted from tax in that State.”

Paragraph 2: Amended on 23 July 1992 by the report entitled “The Revision of the Model Convention”, adopted by the OECD Council on 23 July 1992. In the 1977 Model Convention and until 23 July 1992, paragraph 2 read as follows:

“2. In the course of revision of the 1963 Draft Convention it was decided to insert the word “immediately” in order to make clear that the Article does not cover a person who has once been a resident of a Contracting State but has subsequently moved his residence to a third State before visiting the other Contracting State.”

Paragraph 2 was added when the 1977 Model Convention was adopted by the OECD Council on 11 April 1977.

Paragraph 3: Replaced on 15 July 2005 when paragraph 3 and the preceding heading were deleted and a new paragraph 3 was added by the report entitled “The 2005 Update to the Model Tax Convention”, adopted by the OECD Council on 15 July 2005. After 29 April 2000 and until 15 July 2005, paragraph 3 and the preceding heading read as follows:

“Reservation on the Article

3. *Australia and New Zealand* reserve the right to have the operation of this Article limited to students.”

Paragraph 3 was amended on 29 April 2000, by adding New Zealand as a country making the reservation, by the report entitled “The 2000 Update to the Model Tax Convention”, adopted by the OECD Committee on Fiscal Affairs on 29 April 2000. In the 1977 Model Convention and until 29 April 2000, paragraph 3 read as follows:

“3. *Australia* reserves the right to have the operation of this Article limited to students.”

Paragraph 3 and the heading preceding it were added when the 1977 Model Convention was adopted by the OECD Council on 11 April 1977.

Paragraph 4: Amended on 15 July 2014 by the report entitled “The 2014 Update to the Model Tax Convention”, adopted by the OECD Council on 15 July 2014. After 15 July 2005 and until 15 July 2014, paragraph 4 read as follows:

“4. For the purpose of the Article, payments that are made by or on behalf of a resident of a Contracting State or that are borne by a permanent establishment which a person has in that State are not considered to arise from sources outside that State.”

Paragraph 4 was added on 15 July 2005 by the report entitled “The 2005 Update to the Model Tax Convention”, adopted by the OECD Council on 15 July 2005.

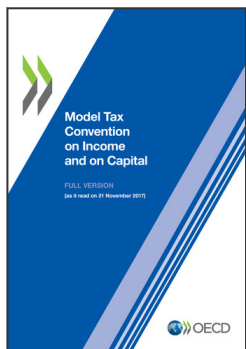
Paragraph 5: Amended on 21 November 2017, by adding Latvia to the list of countries making the reservation, by the report entitled “The 2017 Update to the Model Tax Convention”, adopted by the OECD Council on 21 November 2017. After 15 July 2014 and until 21 November 2017, paragraph 5 read as follows:

“5. *Estonia* reserves the right to amend the Article to refer to any apprentice or trainee.”

Paragraph 5 was added together with the preceding heading on 15 July 2014 by the report entitled “The 2014 Update to the Model Tax Convention”, adopted by the OECD Council on 15 July 2014.

Paragraph 6: Added on 21 November 2017 by the report entitled “The 2017 Update to the Model Tax Convention”, adopted by the OECD Council on 21 November 2017.

Paragraph 7: Added on 21 November 2017 by the report entitled “The 2017 Update to the Model Tax Convention”, adopted by the OECD Council on 21 November 2017.



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