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AD HOC GROUP OF EXPERTS ON  
INTERNATIONAL COOPERATION  
IN TAX MATTERS  
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TAX TREATMENT OF STUDENTS AND TEACHERS

Working document prepared by the Subgroup of the Ad Hoc Group  
of Experts on International Cooperation in Tax Matters 1/

A. Treatment of students under the United Nations Model

1. Article 20 of the 1980 United Nations Model deals with the taxation of visiting students. The article provides for host-country exemption of a visiting student, who was immediately before the visit a resident of the other State, with respect to payments arising outside the host State that are for the student's maintenance, education or training. The article also provides that the visiting student will be treated in the same manner as a resident student with respect to domestic grants, awards etc. The Preparatory Subgroup does not propose any significant changes in article 20 of the Model.

2. One minor clarifying change is proposed in the text of paragraph 1. Instead of making the subject of the article a person who visits a contracting State solely for the purpose of his education or training, the Subgroup proposes that education or training be the visitor's principal purpose. Thus, a visiting student may engage in other activities without jeopardizing his host-country exemption, as long as his studies remain the principal purpose of his presence in the host country.

3. The Subgroup, like the drafters of the Model and its commentaries, continues to believe that host-country exemptions for locally earned income, even if limited in amount, should not be part of the Model. Visiting students should not be given a significant tax advantage over their locally resident

classmates. Nevertheless, as clearly stated in the commentaries to the 1980 Model, those countries that wish to do so may provide for such exemptions in bilateral agreements.

B. Treatment of teachers under the United Nations Model

4. As with the OECD Model, the United Nations Model provides no special rules for host-country taxation of visiting teachers. Such persons are subject to the normal personal services provisions of articles 14 and 15 of the Model.

5. A number of bilateral tax treaties, particularly, but not exclusively, those involving developing countries, contain special rules for host-country exemption of visiting teachers, typically for a two-year period. The Subgroup does not recommend an amendment to the Model to add such a provision. The principal reason for the Subgroup's view is that host-country exemption generally results in double exemption, because the teacher will, in most cases, cease to be a resident of the country from which he has come, and he will, therefore, no longer be subject to its tax. If a country wants to use its tax system to encourage visits from foreign teachers, the Subgroup recommends that it do so unilaterally through statutory rules, not through treaties. Treaties are intended to avoid double taxation, not to create double non-taxation.

6. As noted above, however, many countries do wish to include such provision in bilateral treaties. In such an event, the Subgroup recommends that the exemption be limited to cases in which the teacher's visit does not exceed two years. In the event that the stay exceeds two years, the exemption should be lost from the time of arrival, unless the competent authority of the host country determines that a limited extension is appropriate in a particular case. Furthermore, it is suggested that an exemption be granted to an individual under a particular treaty only one time.

7. Some treaties that include a rule for teachers also cover researchers under the same provision. The Subgroup recommends that the negotiators of such provisions consider whether and how to limit the benefits to research undertaken in the public interest, denying benefits to research for private interests.

Notes

1/ This document was elaborated by the Subgroup of the Ad Hoc Group of Experts which met at United Nations Headquarters from 14 to 16 June 1993. The Subgroup was composed of C. R. Miller, Chairman (Jamaica), M. Feinberg (United States of America), R. Mansury (Indonesia), D. Luthi (Switzerland) and J. B. Shepherd (United Kingdom of Great Britain and Northern Ireland).

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