International Civil Aviation Organization | Organisation de l'aviation civile internationale | Organización de Aviación Civil Internacional | Международная организация гражданской авиации | منظمة الطيران المدني الدولي | 国际民用航空组织

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Ref.: EC2/10 – 25/1

9 January 2025

Subject: Taxation in the Field of International Air Transport

Action required: Member States are invited to note the revision to Article 8 – International Shipping and Air Transport of the *United Nations Model Double Taxation Convention between Developed and Developing Countries* (the UN Model) and coordinate with relevant taxation or finance authorities of your States regarding compliance with *Assembly Resolution A41-27, Appendix B – Taxation*, urging Member States to follow *ICAO's Policies on Taxation in the Field of International Air Transport* to avoid double taxation in the field of air transport.

Sir/Madam,

I have the honour to inform you of the decision made by the United Nations Committee of Experts on International Cooperation in Tax Matters (UN Tax Committee) at its 29th Session, held from 15 to 18 October 2024 in Geneva, Switzerland. The UN Tax Committee, a subsidiary body of the UN Economic and Social Council (ECOSOC), responsible for the *United Nations Model Double Taxation Convention between Developed and Developing Countries* (the UN Model), approved a revision to Article 8 on international shipping and air transport of the UN Model.

The proposed revision provides two options for the treatment of taxation over income from international shipping and air transport, namely, source State taxation and residence State taxation. This represents a shift from the exclusive residence State taxation applied to international air transport in the current UN Model. The approved new Article 8, along with additional amendments to its Commentary, will be presented at the 30th Session of the UN Tax Committee, scheduled to be held from 24 to 27 March 2025 at UN Headquarters in New York. The details of Article 8 in the current UN Model and the approved new Article 8 are provided in Attachments A and B, respectively.

While the new Article 8 of the UN Model grants the source State (where services are performed or income is generated) the right to tax income from international air transport, *ICAO's Policies on Taxation in the Field of International Air Transport* (Doc 8632) recommend exclusive residence State taxation (where an airline profit is taxed only in the State of effective management of the airline). The approach in ICAO's policies aims to avoid multiple taxation on the income of air transport enterprises, based upon the principle of reciprocity. In addition, the 41st Session of the International Civil Aviation Organization (ICAO) Assembly, as outlined in Assembly Resolution A41-27, Appendix B – Taxation, urged Member States to follow *ICAO's Policies on Taxation in the Field of International Air Transport* and to avoid double taxation in the field of air transport.

In light of the revision to Article 8 – *International Shipping and Air Transport* of the UN Model and considering its potential implications for international air transport, ICAO will continue to collaborate with aviation stakeholders to engage with the UN Tax Committee and the UN ECOSOC on the matter.

Please accept, Sir/Madam, the assurances of my highest consideration.

Juan Carlos Salazar
Secretary General

Enclosures:

A – *Current Article 8 in the United Nations Model Double Taxation Convention between Developed and Developing Countries (2021 Edition) (English, French and Spanish only)*

B – *Revised Article 8 of the United Nations Model Double Taxation Convention between Developed and Developing Countries as approved by the 29th Session of the UN Tax Committee (English only)*

ATTACHMENT A to State letter EC2/10 – 25/1

ARTICLE 8 IN UNITED NATIONS MODEL DOUBLE TAXATION CONVENTION BETWEEN DEVELOPED AND DEVELOPING COUNTRIES (2021 EDITION)

Article 8
International Shipping and Air Transport

Article 8 (Alternative A)

1. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

2. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 8 (Alternative B)

1. Profits of an enterprise of a Contracting State from the operation of aircraft in international traffic shall be taxable only in that State.

2. Profits of an enterprise of a Contracting State from the operation of ships in international traffic shall be taxable only in that State unless the shipping activities arising from such operation in the other Contracting State are more than casual. If such activities are more than casual, such profits may be taxed in that other State. The profits to be taxed in that other State shall be determined on the basis of an appropriate allocation of the overall net profits derived by the enterprise from its shipping operations. The tax computed in accordance with such allocation shall then be reduced by ___ per cent [*the percentage is to be established through bilateral negotiations*].

3. The provisions of paragraphs 1 and 2 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

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ATTACHMENT B to State letter EC2/10 – 25/1

REVISED ARTICLE 8 IN UNITED NATIONS MODEL DOUBLE TAXATION CONVENTION BETWEEN DEVELOPED AND DEVELOPING COUNTRIES

Article 8
International Shipping and Air Transport

Article 8 (Alternative A)

1. Income arising in a Contracting State from the operation by a resident of the other Contracting State of ships or aircraft in international traffic may be taxed in that other State.

2. However, income from the operation of ships or aircraft in international traffic arising in a Contracting State may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the income is a resident of the other Contracting State, the tax so charged in the State in which the income arises shall not exceed:

   (a) 50 per cent of the tax that would be imposed by the taxation law of that State on the net profits from that income in the absence of this Convention, or
   (b) __ per cent [the percentage is to be established through bilateral negotiations] of the gross amount of the payments underlying such income,

   whichever is lower.

3. For the purposes of this Article, "income from the operation of ships or aircraft in international traffic" means the total gross amount received from the carriage of passengers, mail, livestock or goods in international traffic. The term shall not include items of income dealt with separately in other Articles of this Convention (other than Article 7).

4. For the purposes of this Article, income from the operation of ships or aircraft in international traffic shall be deemed to arise in a Contracting State if that income is received for the carriage of passengers, livestock, mail or goods:

   (a) from a location in that Contracting State to a location outside that Contracting State; or
   (b) to a location in that Contracting State from a location outside that State.

5. The provisions of paragraphs 1 and 2 shall also apply to income from the participation in a pool, a joint business or an international operating agency engaged in the operation of ships or aircraft.

Article 8 (Alternative B)

1. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

2. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

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