



The Director

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Dear Ms Baumann and Mr Morrissey,

Thank you for your letter of 17 March 2014 regarding Article 17 of the OECD Model Tax Convention.

As you are aware, on 23 April 2010 the OECD published a discussion draft on proposed changes to the Commentary on Article 17 of the OECD Model. The comments submitted in response to that discussion draft – including those submitted by Pearle* (by letter dated 30 July 2010, see www.oecd.org/tax/treaties/45783326.pdf) – were comprehensively considered by the Committee on Fiscal Affairs' Working Party 1 during a number of its biannual meetings, beginning in September 2010.

As a result of those discussions, Working Party 1 agreed to make a number of changes to the Commentary on Article 17 as part of the 2014 Update to the OECD Model. The contents of that Update, which are expected to be formally approved this summer, are planned to be released in the next few weeks.

Whilst the Working Party did consider a proposal to eliminate Article 17 from the OECD Model, that proposal attracted only very limited support. With respect to the other recommendations contained in your letter, however, the 2014 Update to the OECD Model will contain the following:

- An alternative provision excluding from the scope of Article 17 non-resident entertainers and sportspersons who derive *de minimis* amounts of income from activities performed in a State; and
- Guidance on approaches to avoid double taxation of income covered by paragraphs 1 and 2 of Article 17, as well as a discussion of the practice of some States to exclude remuneration of members of foreign teams, troupes or orchestras from the scope of the Article (together with an alternative provision applicable to members of a sports team that could be used for that purpose).



Finally, please note that paragraphs 13 and 14 of the Commentary on Article 17 have for some time dealt with the issue of non-resident entertainers and sportspersons employed by organisations subsidised out of public funds. The alternative provision in paragraph 14, which was added to the OECD Model in 1992, may be used to exclude from the scope of Article 17 income derived by non-resident entertainers and sportspersons where their visit to the source State is wholly or mainly supported by public funds.

Thank you again for your comments.

Yours sincerely,

Pascal Saint-Amans
Director, CTPA