

CROSS-BORDER ACTIVITIES

Students and professors



Introduction

- International mobility of students and professors
- Tax income earned abroad
- Legal framework



Tax issues arising from the cross-border academic activities

DOUBLE TAXATION

Both the host state and the home state want to tax the income



DETERMINING TAX RESIDENCY

- Individuals who split their time between multiple countries
- Resulting in administrative and financial burdens

UNCLEAR

- Lack of clear definitions = unclear rules
- Inconsistent application of rules



Legal framework

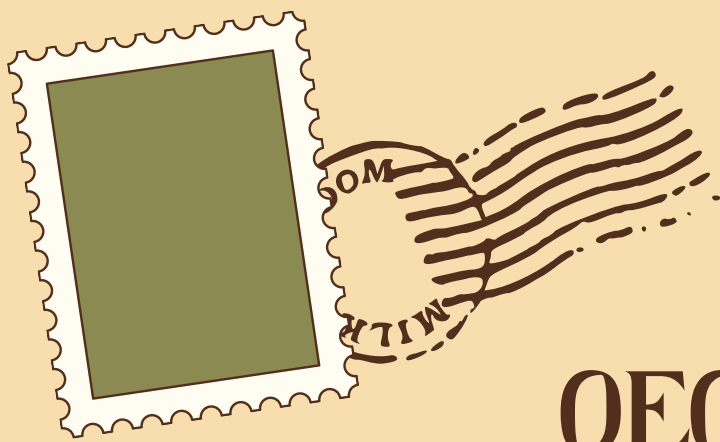
OECD MODEL

- foundational guide for negotiating, interpreting and applying bilateral tax treaties
- more favorable to capital-exporting countries

UN MODEL

- to address the allocation of taxing rights between developed and developing nations
- helping them retain a fair share of tax revenue from foreign investments





OECD MODEL

STUDENTS



UN MODEL

- **Article 20: granting an exemption in the host state for certain payments**
 - Residence immediately before departure
 - Purpose of presence is education or training
 - Payments from outside the host state
- Restricts the host state from taxing income sourced abroad
- “student” and “business apprentice”

- **Article 20: mirrors OECD MODEL**
- addition of “business trainee”



STUDENTS example

Anina, a **student** from Belgium, moves to Greece for one year to **study** law. She receives a **scholarship** from her university in Belgium to cover her **living and study expenses**. The payment comes from **outside Greece**, Anina was a **resident of Belgium** immediately before arriving in Greece and the payment is solely for her maintenance and education, article 20 applies. Greece cannot tax her scholarship. However, if Anina takes a part-time job in Greece, that salary is taxable in Greece because it is income under employment.





PROFESSORS AND TEACHERS

OECD MODEL AND UN MODEL

No specific article for visiting professors or teachers

General rules

Treaties by countries

- **Self-employed**
- Business profits
- Permanent establishment in host state = fixed place of business or another substantial presence
 - NO PE? = NO TAX by host state

Employed by a private university

- TAX by host state
 - +183 days
 - employer / PE in host state

Employed by a government body

- TAX by paying state
- UNLESS
 - resident of host state
 - unrelated to temporary academic post



PROFESSORS AND TEACHERS example

Professor Tsourouflis is a **Greek professor employed by a publicly funded university in Greece**. He is invited to teach and lead a research project at a university in **Belgium**. Professor Tsourouflis stays in Belgium for **more than 183 days during the year**, but he remains officially resident in Greece, where his spouse and children continue to live. His salary is paid entirely by his Greek university. At first glance, this situation seems to create a risk of double taxation, as both Belgium and Greece could potentially claim taxing rights over his income. To determine which country may tax his salary, we must look at the relevant provisions of the OECD Model Tax Convention.

First, **article 19**, which deals with government service, is relevant. Because Professor Tsourouflis is employed by a publicly funded Greek university, **his income qualifies as income from government service**. Under article 19, such income is generally **taxable only in the paying state**, in this case Greece, provided that the professor does not become a resident of the host state. As a result, Belgium must normally exempt his salary from taxation.





PROFESSORS AND TEACHERS example

However, the situation becomes more complex because Professor Tsourouflis **stays in Belgium for more than 183 days**. Under **Article 15, income from employment is in principle taxable in the state where the work is physically performed**. This raises the question of whether Belgium could claim taxing rights based on his extended presence.

The key point is that article 19 takes priority over article 15 when the income qualifies as government service income. **This means that the 183-day rule under Article 15 does not override the specific exemption granted under article 19**. As long as Professor Andreas remains a Greek resident and is paid by the Greek public institution, Belgium may not tax his salary, despite the length of his stay. To confirm his **residence status, article 4 of the OECD Model** must be considered. Although Professor Andreas spends a significant amount of time in Belgium, **his permanent home and family ties are in Greece**. Under Article 4(2), these personal and economic connections clearly establish Greece as his state of residence for tax purposes.

In conclusion, even though Professor Andreas stays in Belgium for more than 183 days, his income remains taxable exclusively in Greece under Article 19 of the OECD Model Tax Convention.



Difference between OECD Model and UN Model

OECD Model

- Shaped by developed, capital-exporting states
- Prioritise residence-based taxation
 - Article 5 on permanent establishment (PE) = 12 months
 - Article 20 limits its scope to students and business apprentices
- Never 20 (2)

UN Model

- Designed to address the needs of developing, capital-importing countries
- Places greater emphasis on source-based taxation
 - Article 5 on permanent establishment (PE) = 6 months
 - Article 20 broader terminology by referring to students, apprentices and business trainees
- 20 (2) provided additional tax relief = gone



example

A firm from **Country A (a developed country)** sends employees to **Country B (a developing country)** for **six months** to assist with a local project.

Under the **UN Model**, Country B may treat these activities as a service permanent establishment, even if the company has no office there. This **allows Country B to tax the income** earned from the project, because the economic activity takes place within its borders.

Under the **OECD Model**, **Country B cannot tax** the income, because the company does **not have a fixed place of business** and **the activity does not exceed the 12-month** construction threshold. As a result, the income remains **taxable only in Country A**, the residence state.





**Thank you for
your attention!**