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DOUBLE TAXATION, CONCEPTUAL FRAMEWORK AND COMPARISON OF MODEL CONVENTIONS

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Double taxation occurs when a tax is levied and paid two or more times on the same tax subject. Double taxation is a problem that must be resolved on an international level in order to avoid negative economic and political consequences. This problem can be prevented by international double taxation agreements. In order to provide a basis for and facilitate the signing of such agreements, models have been proposed by both the Organisation for Economic Co-operation and Development and by the United Nations. Agreements developed according to these models dictate how international revenue streams maybe taxed by a given country in relation to international tax law. In this respect, the article provides a basic review of the literature and compares and explains the differences between the two international models.

Keywords: Tax, Double taxation, Tax convention, Tax model convention**.**

Introduction

The effects of globalization have been dramatically increasing day by day. The borders between countries have disappeared due to the impact of globalization on the economy. In this respect, international commerce has reached a significant level. As a result of these developments, inter-country allocation of taxation rights, which is the result of the right of sovereignty of the countries involved, has become a critically important issue. Individual nations want to tax the resources available within their borders, as granted them by their right of sovereignty; furthermore, they want to exercise their right to tax their citizens' global incomes. This situation, which arises as a result of conflicting regulations of the countries involved, leads to problems with double taxation. That this is double taxation is in question. Double taxation can be classified as virtual and non-virtual double taxation, as well as economic and juridical double taxation. Double taxation is a problem that must be resolved on an international level; otherwise, it can lead to negative economic and political consequences. In this respect, countries work to generate solutions through mutual or multilateral precautions; this problem has also been addressed through international double taxation treaties. International associations that have previously studied this issue have developed model tax conventions in order to ease the agreement process and guide the countries in the agreement procedure. These associations include the Organisation for Economic Co-operation and Development –OECD and the United Nations –UN. Broadly, the main aim of both of these associations is to prevent international double taxation. The models developed by these organizations provide arrangements with respect to which country is to tax a particular international revenue stream according to international tax law. In other words, this arrangement clarifies whether the revenue is to be taxed in the country where the revenue has originated or in the country where the taxpayer resides. In this study,

the contract samples that have been issued by these international associations as a result of a long-term effort are referred to as "Model Tax Conventions."This study aims to examine the implementation of taxation laws in given situations and to compare the OECD and UN models and their provisions.

The Application of Domestic Law on the Basis of Location

Exercising their right of sovereignty, countries issue legal regulations in nearly every field. These regulations constitute the legal systems of states; and different legal systems exist in the various states around the world (Cenkeri, 2010:193). In this respect, the legal regulations of the states are valid only within their boundaries; however, the legal regulations of a state can be subjected to the *de jure* boundaries of other states in certain situations. This circumstance is referred to as *conflict of laws*. This conflict can be explained through two criteria in the application of domestic law to the situation; *situs principle* and *personality principle*.

Equal application of laws to the citizens of a country and to foreigners is explained by the situs principle (Pehlivan, 2010:35), which is accepted as a core principle in the application of domestic laws on the basis of location. On the other hand, the personality principle of law means that a rule of law stipulated by a country is applied to the citizens or residents of that country, even when they are outside the borders of the country (Cenkeri, 2010:194).In this case, the legal system of a state can cross its sovereign borders.

The Application of Tax Law to Situation

Source Principle

Under the source principle, income is taxed in the country where it is earned (Öz, 2004:92), termed as the source country or home country. According to this principle, legal relations are shaped on the basis of financial relations, and a taxpayer's citizenship or place of residence is not important in terms of taxation (Berkay and Armağan, 2011:90). In this sense, countries consider revenue issues under "territorial sovereignty" or tax-generating incidents (Çölgezen, 2010a:149). Application of the source principle separates the relationship between the revenue and the taxpayer, because in the application of source principle in taxation, the connection between a non-resident taxpayer's investment income and personal revenue is eliminated (Özer, 2006:82). In other words, only the domestic income of the taxpayer is taxed as a result of the "limited liability to tax" (Çölgezen, 2010a:149). As previously noted, the exercise of taxation according to the source principle implies that a taxpayer's nationality and place of residence is insignificant in the taxation process (Çubukçu, 2006:33); thus, the country where the revenue is generated becomes much more important than who earns the revenue. From this point of view, income is considered as the product of the source country, and its requirement of being regarded under the country's public finance clarifies the necessity of source principle.

This principle, which is a basis for taxation in all countries, is practiced exclusively in the tax systems of some countries (SoydanYaltı, 1995:18). Those countries adopting the source principle and hoping for resulting revenues abandon their tax revenues abroad and act within their boundaries in terms of their taxation rights (Çölgezen, 2010a:149).

It is accepted that there are obstacles to the application of the source principle. One of the problems is the difficulty in the determination of the country where the income has been generated. For instance, confirming whether the revenue earned through a commodity's being offered for sale outside a country is generated in the country where the commodity is produced or in the country where the commodity is sold can constitute a significant challenge, as every country demands that components produced from domestic sources be appraised in its tax revenues. Stemming from this problem, another highly controversial issue is which tax criterion should be exercised in situations where both countries can claim tax rights. Despite

the difficulties, the application of these principles is simple and far from complex (Çubukçu, 2006:33; Tuncer, 1974:14).

Nationality Principle

Citizenship is a relationship between an individual and the state, and this relationship involves political, psychological and emotional elements (Aybay: 1993:101). According to the nationality principle, when exercising tax rights, countries tax both the domestic and international revenues and properties of their citizens. Currently, this principle is applied in very few countries (Berkay and Armağan, 2011:91). Another aspect of this principle entails that, based on their home countries, taxation of foreigners who earn revenues in a given country is to be applied according to the full liability to the tax basis of that country (Özcan, 2011:3).From another standpoint, countries stipulating taxation according to the nationality principle consider "personal sovereignty" (Çölgezen, 2010a:149). The nationality principle is not independent, but rather a subsidiary principle that is practiced within the situs principle (Çubukçu, 2006:38);in this sense, the gaps inthe situs principle are addressed by application of the nationality principle. The most significant criticism raised against the nationality principle is that when a citizen's total domestic and international revenues are taxed, this leads to double taxation (SoydanYaltı, 1995:20; Bayar, 2006:13; Cenkeri, 2010:203).

Situs Principle

The lexical meaning of the word "residence" is defined as the official place in which one stays or lives. In the application of tax laws, the situs principle entails that a person pays taxes on his or her revenues in the country where s/he resides, regardless of where the revenues are earned. According to the situs principle, tax liability involves revenues earned from domestic and international business (Öz, 2004:92). The basic purpose of the situs principle is the financing of public services, which is one of the reasons for taxation. In this respect, imposing and levying taxes on the citizens who benefit from public services is a fundamental consideration.

Therefore, the point to be considered in relation to the situs principle of taxation is the concept of *residence*. It is easy to come across various definitions of residence. In particular, there is a tendency to move from the concept of individual residence towards an alternate concept of in the treaties with respect to avoidance of double taxation. This concept, which is published by the OECD and described in the fourth article of the "Model Convention with respect to taxes on income and on capital," is referred to as is called "resident."Subsequently, the concept of "resident" is applied in place of the definition of *fiscal domicile*, which is considered as the basis of residence in the conduct of international affairs (Özcan, 2011:3). "Resident" is defined in Article 4 as a person "who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature and also includes that State and any political subdivision or local authority thereof;" and this term excludes one "who is liable to tax in that State with respect only to income from sources in that State, or to capital situated therein."

Double Taxation Prevention Methods

Taxation of residents on the basis of fairness and their ability to pay ceases to exist when the double taxation is in question. In addition, it is clear that double taxation will create disadvantages for all of the actors on the financial stage. Accordingly, countries seek a solution for this problem, resorting to national and international answers to the issue (Soydan, Yaltı, 1994:1). Generally, these safeguards can be classified as bilateral, unilateral and multilateral. Unilateral safeguards are often national, while bilateral or multilateral safeguards refer to international measures. Unilateral safeguards involve exception, credit and protected offsetting methods, while bilateral or multilateral measures refer to the conventions which

ease conflicts on the basis of the mutual agreement of two or more states. For the sake of reaching agreement on these issues, OECD and UN model conventions have been developed as a means to mitigate the constraints of time and conflict.

One of the unilateral measures, the exception method, entails the taxation of the revenues a taxpayer earns in the country in which he resides, with exemption from taxes on revenues he earns through international business (Öz, 2005:32). In other words, the state forgoes taxation of some tax subjects. Another unilateral measure is the credit method, whereby the revenues a taxpayer earns in the country in which he resides are subject to taxation. Furthermore, according to this method, the taxes to be paid on international revenues and income are appropriated from the domestic tax a taxpayer is liable to pay. In addition to applying tax credits in this manner, another technique related to this method involves reducing the taxes on gross revenue by considering the taxes paid outside the country as expenditures. It is easy to state that reducing taxes by this technique has a very limited area of practice (Yüce, 1991:1).Both of these methods are regulated by the OECD and UN model tax conventions. In addition to these methods, there is also the Tax Sparing Credit Method; this involves appropriating taxes from the revenues that taxpayers earn outside their countries of residence by assuming that they have already paid their taxes outside the country when declaring their revenues earned in the country in which they reside. This method can be considered as a tax incentive. A comparison of these three methods and their advantages is illustrated in the example below.

The revenue earned in the host country is 1.000.000 TL; the tax rate in home country A is 45%, and 30% in country B, where the affiliated enterprise is located. The amount of tax to be paid by the taxpayer and total amount of his earnings are presented in the table below according to the methods used to prevent double taxation.

Table 1. A sample practice for the double taxation preventing unilateral methods.

Total Earnings 1.000.000		**Country A (Residential Country) 45% Tax Rate**	**Country B (Source Country) 30% Tax Rate**	**Total Tax Burden**	**Net Earnings**
Methods					
Exception Method		0	300.000	300.000	700.000
Credit Method	Deduct from the tax	150.000	300.000	450.000	550.000
	Deduct from the tax assessment	315.000	300.000	615.000	385.000
Tax Sparing Credit Method		150.000	0	150.000	850.000
Double Taxation Status		450.000	300.000	750.000	250.000

Source: Eyyüpİnce, "International Double Taxation and Prevention Treaties", *LebibYalkın Regulations Journal,* Vol. 114, June 2013, p. 71

It is clear that the tax sparing credit method is a concessional method (İnce, 2013: 71). In addition, a tax regulation of the home country appears to be decisive in foreign investments and have a significant impact on investment decisions.

Model Conventions: OECD and UN Conventions

General Overview

Assessment of taxes due in the home country refers to taxation according to the source principle. Moreover, a country gains revenue from the income and revenue of the foreign activities of its citizens.

These two situations result in tax regulations conflicts between two different countries, and double taxation of the taxpayers occurs. In the OECD report "A Model Convention with respect to Taxes on Income and on Capital" international double taxation is generally described as two or more countries' collecting similar taxes from the same taxpayer on the same subject and in specific periods. In order to prevent double taxation, countries enter into international agreements aiming to settle double taxation issues. These international treaties can be described as written conventions signed by the persons to whom the law grants treaty-making power in order to create a new legal situation or to change or remove an existing one (Cenkeri, 2011:168).In this manner, countries may limit their taxation rights through bilateral or multilateral double tax prevention conventions or through joining international associations (Çölgezen, 2010b:132).

Agreements to avoid double taxation embody some challenges (Berkay and Armağan, 2011:92), particularly due to differences in tax systems and conflicts of interest of countries in terms of tax revenues; these differences complicate the compromise process in terms of entering into the agreements to avoid double taxation (Berkay and Armağan, 2011:92). For this reason, both the OECD and the UN have prepared model conventions for the related issues. On the one hand, these model conventions aid in solving technical difficulties during the negotiation process, and on the other hand, they address the following issues:

- Serve as the basis of agreements;
- Non-binding,
- Shorten the length of interviews,
- Facilitate contract agreements,
- Provide integrity in legislation and application,
- Ease the harmonising of agreements for taxpayer and governance,
- Provide flexibility.

The OECD model, considers tax rights on the basis of residence and regards the home country of the revenue as secondary in taxation of income and capital. The UN model has been proposed as an alternative to the OECD model in terms of protecting national interests of developed countries by taking the source country of the revenue into consideration. The significant difference between the two models is in the description of the workplace. In this sense, when the UN model describes the concept of workplace, it resorts to a mode that expands the authority of taxation rights. However, the system works the same way in both models (Berkay and Armağan, 2011:93).

OECD Model Tax Convention

The OECD model convention incorporates seven chapters and thirty-one articles. Its primary objective is to prevent double taxation. The first chapter of the model convention presents the scope of the model, and the second chapter is dedicated to the description of the terms used in the model. Chapter three is devoted to taxation of income, and chapter four deals with the taxation of capital. Chapter five describes the methods for avoiding double taxation, while chapter six and chapter seven detail special and final clauses respectively (OECD, 2010:9-16).

As described in the first article of the OECD model tax convention, titled Persons Covered," the agreement is to be applied to the persons who are the residents of one of the contracting countries. It is clear from this article that two primary principles are required in order for the agreement to be applied. One of the principles is that the person who earns the revenue and income beg compatible with the person described in the model tax convention; the other principle entails the person's being the resident of one of the contracting countries (Ferhatoğlu, 2011:107).That is to say, the persons who are limited taxpayers in both countries shall not benefit from the tax convention provisions (Özcan, 2011:7).

In the first paragraph of Article 2, titled "Tax Covered, it is stated that "This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political subdivisions

or local authorities, irrespective of the manner in which they are levied"(OECD Model Tax Convention Article 2/1).

The tax covered in the model convention is described in detail in the subsequent paragraphs of Article 2. The general concepts are defined in the second chapter. The concepts of person, company, enterprise, enterprise of a Contracting State, enterprise of the other Contracting State, international traffic, competent authority, national, and business are described in the items of the first paragraph of Article 3, titled "General Definitions". In the second paragraph, it is emphasized that any undefined term shall "have the meaning that it has at that time under the law of that State".

The taxpayer is considered as a "resident of a Contracting State" in Article 4, which refers to the resident of a Contracting State as a person "who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof" (OECD Model Tax Convention Article 4/1).

The term "permanent establishment" is also explained clearly in the definitions section of Chapter II. In the first and second paragraphs of Article 5, the term "permanent establishment" is defined as "a fixed place of business through which the business of an enterprise is wholly or partly carried on" (OECD Model Tax Convention Article 5/1). Furthermore, a permanent establishment refers to "a place of management, a branch, an office, a factory, a workshop, and a mine, an oil or gas well, a quarry or any other place of extraction of natural resources." Moreover, it is stated in paragraph three of Article 5 that the building site of the Project is considered as a permanent establishment in the case that a construction or installation Project exceeds twelve months. In paragraph four, regardless of the preceding provisions of the article, the conditions relating to sites that shall not be considered as permanent establishments are identified. In the subsequent paragraphs, other points and conditions are explained in relation to the term "permanent establishment."

Spanning from Article 6 to Article 21, Chapter III is devoted to several regulations considering "taxation of income". Below are the headings of the articles found in Chapter III:

- taxation of income from immovable property in Article 6
- taxation of business profits in Article 7,
- taxation of shipping, inland, waterways transport and air transport in Article 8,
- taxation of associated enterprises in Article 9
- taxation of dividends in Article 10,
- taxation of interest in Article 11,
- taxation of royalties in Article 12,
- taxation of capital gains in Article 13,
- taxation of independent personal services in Article 14
- taxation of income from employment in Article 15,
- taxation of directors' fees in Article 16,
- taxation of artistes and sportsmen in Article 17,
- taxation of pensions in Article 18
- taxation of government service in Article 19,
- taxation of students in Article 20,
- taxation of other income in Article 21.

To illustrate one of the articles found in Chapter III, I take Article 6, which states that "income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State". In Article 7, business profits are explained in the first paragraph in that "the profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein."

Chapter IV relates to Taxation of Capital and involves only one article and four paragraphs. Other important articles, including Article 23A and Article 23B, explain the methods for avoiding double

taxation, which include the exemption method and credit method respectively. The last two chapters of the model convention are dedicated to "Special provisions" and "Final provisions".

Evaluation of the OECD Model Tax Convention

As mentioned in the previous paragraphs, the primary objective of the OECD model tax convention is the avoidance of international double taxation. This situation can be ensured through tax conventions to be contracted by the countries where the taxpayers are subject to the laws of the state in terms of their citizenship and residence. In such conventions, which are based on the principle of taxation under the law of only one of the contracting countries, an agreement can be achieved among the parties on taxation under the law of either the home country or the source country. The basic approach adopted in OECD model is that income derived from other countries is to be taxed in the home country of the taxpayer (Balcı, 2003c:15); however, some exemptions are also available in some conventions. Among the latest conventions, there are some which stipulate that taxation rights shall be given to the source country in full or in part, and final taxation rights shall be given to the resident country (Çubukçu, 2006:135).The model developed by the OECD was first intended as a basic model for the treaties to be entered into by OECD member countries. Afterward, the successful application of the model conventions led to the model being adopted by other countries that were not the OECD members. This also enabled these non-member countries to attend the activities of OECD as observers and to make contributions (Çubukçu, 2006:135).

However, there are several criticisms against the OECD model. In particular, financial balance problems, which are not in question when both contracting countries are developed countries, subvert treasury interests to the detriment of a developing country when one of the contracting parties is a developing country (Özcan, 2011:8). Therefore, the OECD model is criticized for its unidirectional approach (Çölgezen, 2010b:132). The substantial reason for this criticism is the impact of the OECD on the developed countries. With a few exceptions, OECD members are developed countries, and they lead the OECD studies; in this respect, they are able to regulate the principles prescribed in the model convention in their favour. In this respect, Articles 10, 11, 12 and 21 are in favour of financially developed countries. For instance, in the case of Article 15, the resident principle concerning the taxation of alien labour wages is abandoned, and source principle is adopted, thus favouring developed countries (Çubukçu, 2006:137).

Moreover, the OECD model, apart from the avoidance of double taxation, has no role in the avoidance of inconsistencies that arising from globalization and internationalization of trade in the balance of company taxes. The exception method, which is one of the methods for avoidance of double taxation, encourages flight of capital, and the credit method stimulates tax export. The principle that there shall be no discrimination among domestic and international investments prevents discrimination against the countries of capital export (Çubukçu, 2006:138; Batırel, 1990:48-49). Consequently, one of the qualifications of the OECD model is that the convention is valid for mutual negotiations and is essentially a recommendation. In other words, the agreements among OECD members are instructive and illuminating conventions (Çubukçu, 2006:136).

The United Nations Model Tax Conventions

As mentioned in the previous paragraphs, the UN model consists of seven chapters and thirty articles and has parallels with the OECD model. The scope of the convention is stated in Chapter I and explained in two articles, titled "Persons Covered" and "Taxes Covered." Chapter II, titled "Definitions," consists of three articles. Article 3 is devoted to general definitions, Article 4 covers residence, and Article 5 explains the issues related to permanent establishment. Chapter III spans from Article 6 to Article 21 and illuminates the concepts of Income from immovable property, Business profits, Shipping, inland waterways transport and air transport, Associated enterprises, Dividends, Interest, Royalties, Capital

gains, Independent personal services, Dependent personal services, Directors' fees and remuneration of top-level managerial official, Artistes and sportspersons, Pensions and social security payments, Government service, Students and Other income.

Chapter IV regulates the taxation of capital in one article. Chapter V explains the methods for the elimination of double taxation in Articles 23 A and 23 B. Chapter VI involves Special Provisions, and Chapter VII features Final Provisions. In Chapter VI, Article 24 features the principle of Non-discrimination, and Article 25 covers the Mutual agreement procedure, while Article 26 explains the concept of Exchange of information. Additionally, Article 27 unravels the issue of Assistance in the collection of taxes; and finally, Article 28 illuminates the situations of Members of diplomatic missions and consular posts. Chapter VII, titled "Final Provisions," features the regulations of Entry into force and termination in Article 29 and Article 30 (UN, 2011:1-483). It is clear from this that the model conventions of the OECD and UN are quite similar in terms of headings, subject arrangements and all other aspects. For this reason, the provisions of the UN model are not explained in detail in this study.

Assessment of the United Nations Model Tax Convention

As mentioned before, the UN model, which, apart from a few exceptions, is exactly the same as the OECD model, can be considered as a model for advocating for developing countries in the treaties to be made between developed and developing countries. However, an important point not to be missed here is that the scope of the OECD model is regarded as technically a respectable text (Çölgezen, 2010b:132). On the other hand, the provisions of the OECD model are criticized for the reason that provisions fails to satisfy when one of the contracting countries is a developing country.

In consideration of this issue, the UN model was developed as an alternative to compensate for the shortcomings of the OECD model and to consider the interests of developing countries by giving taxation rights to the source country (Berkay and Armağan, 2011:93; Çubukçu, 2006:141). The UN model aims to reconcile the treasury interests of developing and developed countries on the same level. The UN model primarily considers source principle in taxation and rejects the principle that taxation right shall only be given to the source country. Additionally, the UN model tries to soften the strict perspective of the OECD model considering the residence principle (Çölgezen, 2010c:125).

The UN model, as with the OECD model, has an illuminating function and aims to settle problems in terms of time and agreement among the contracting parties. On the other hand, the UN model, with regard to contracting developing countries, helps to balance the benefits to be gained through the convention and commitment to be placed upon the treasury. Developing countries are generally in need of international capital and have limited capability of investing in a foreign country. The tax systems in these countries regulate taxation on the basis of source principle. For this reason, it is observed that the direction of capital flow is one way from developed countries towards developing countries. With the OECD model, becoming a party to a treaty can be disadvantageous for developing countries; whereas the UN model, by emphasizing the principle of taxation of capital in the source country, tries to balance the disadvantageous condition of developing countries (Çölgezen, 2010c:125).

Comparison of the OECD and UN Model Tax Conventions

It is reasonable to suggest that both models, as they have been developed in the same line, have similar regulations. Namely, apart from a few regulations, the provisions they stipulate are the same. The primary objective of both models is the avoidance of double taxation. In this respect, the approaches they stipulate aim to provide benefits to contracting countries through fair taxation of taxpayers and avoidance of double taxation. Nonetheless, both models adopt a different approach in terms of taxation rights.

The OECD model emphasizes the residence principle, whereas the UN model foregrounds the source principle (Pehlivan and Öz, 2011:81). However, the boundary is not clearly defined in either models.

Although the OECD model has been developed for treaties to be made by both developed and developing countries, it implies regulations for the benefit of developed countries. On the contrary, the UN model features provisions for the benefit of developing countries among the contracting parties (Pehlivan and Öz, 2011:81). In this respect, when compared to the OECD model, the definition of "resident" in the UN model is framed in such a way that taxation rights shall be given to the source country (Çubukçu, 2006:142). Another issue concerns the taxes covered in both models. The OECD model has prepared a model convention for succession duties in addition to the model conventions for taxes on income, and on capital on the UN models (Pehlivan and Öz, 2011:81). Furthermore, the UN model does not allow for an article which is related to the extension of sovereignty, as in the OECD model, due to the UN's anti-colonialism policies (Çubukçu, 2006:142).

The OECD model, in the third paragraph of Article 5, titled "Permanent Establishment," stipulates that "A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months." According to the UN model, as stated in the third paragraph of Article 5, a building site or construction or installation project is considered as a permanent establishment when it lasts more than six months. On the other hand, in the UN model, the practicing area has been enhanced through "assembly" and "supervisory activities." In comparison to the OECD model, Clause B of Article 5 of the UN model explains the provision that for some services, more than 183 days in a fiscal year shall be spent in the contracting country. The objective of the aforementioned paragraph specified in the UN model is to provide an advantage on behalf of developing countries, as the international construction and contracting business of developing countries outnumber those of developed countries. All the same, the regulation related to 183 days is stated in Article 15, entitled "Income from Employment," in the OECD model. In Article 15, where the principles related to the taxation of wages are identified, the taxation term for salary income gained in a source country is obligated to the term that 183 days shall not be spent in the other contracting country.

In the UN model, which has the same system as the OECD model, the maximum deduction rate applied to investment income is more flexible; it grants taxation rights to the source country in independent personal services income and proposes flexible choices for taxation of international transportation revenues (Özcan, 2011:8).

Substantial differences between the UN model and the OECD model are found in Article 5, titled "Permanent Establishment;"Article 7, titled "Business Profits;" Article 9, titled "Associated Enterprises;" Article 10, titled "Dividends;" Article 11, titled "Interest;" and Article 12, titled "Royalties" of the OECD model. On the other hand, Article 13, titled "Capital gains," and Article 21, titled "Other income" in the OECD model show differences when compared with the UN model. Although in the OECD model, Article 14, which is about independent personal services, has been deleted, the UN model has given respectable room for this provision with more widespread regulations. The UN and OECD models have defined exactly the same concepts in their general definitions section; additionally, the UN model explains the concepts of "enterprise" and "business".

Conclusion

The issue of double taxation is gradually becoming more significant around the world, and countries may partially relinquish their taxation rights and in order to minimize the unfavourable financial and social effects. However, in avoiding double taxation through bilateral agreements, the extent to which each country shall relinquish its treasury income constitutes a critical point. This issue differentiates the approaches of the countries, who seek for consensus, towards the terms of agreement. For this reason, providing guiding model conventions for countries should be the fundamental rationale in this issue. In this respect, the OECD and UN's development of parallel convention models has contributed to the problem from several aspects.

In particular, the UN model stands out with its feature of securing taxation rights for developing countries. The UN model, through taking source principle as its basis, has developed many regulations in

favour of developing countries. Another significant point to be mentioned here is that favouring developing countries that are centred on international construction and contracting businesses over the countries exporting capital shall serve to minimize the unfavourable effects of globalization. In this respect, it is believed that if the OECD model changes its approach and adopts a more objective attitude, the criticisms of its unidirectional approach to the issue will be eliminated. The OECD has developed a similar model convention for succession duties, aside from the guiding model convention explained in the above sections. From this point of view, the UN should develop a model convention for succession duties as well.

Consequently, it is clear from both convention models that the OECD model should be considered as a guide in treaties between two developed countries, and the UN model should be used as a guide in treaties between a developed and a developing country. Nonetheless, as it is the substantial objective of both model conventions to avoid double taxation, the issue can be resolved through the contracting countries' handling the of the convention provisions in a flexible manner. After all, it is apparent that the residence principle in the OECD model has exceptions.

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