



DANMARKS REDERIFORENING

(DANISH SHIPOWNERS' ASSOCIATION)

Mr. Jeffrey Owens
Director, CTPA
OECD
2, rue André Pascal
F-75775 Paris
FRANCE
(Sent by e-mail)

23 December 2008

Dear Mr. Owens,

Discussion draft on a new Article 7 (Business Profits) of the OECD Model Tax Convention and related Commentary changes (hereafter “the Draft”)

Thank you for the opportunity to comment on the new commentary to Article 7. The Danish Shipowners' Association have the following remarks which to a large extent follow our previous discussions regarding Article 8.

The proposed changes to the Commentaries to article 8, on pages 25 and 26 of the Draft can be supported because they are in line with the latest discussions on Article 8.

We have one suggestion regarding paragraph 75 of the Draft. It would in our opinion be a very useful clarification to add the following sentence at the end of paragraph 75 of the Draft. “However, income derived by an enterprise engaged in international transport, from the lease of containers which is either directly connected or ancillary to the operation of ships or aircraft in international traffic fall within the scope of article 8.”.

(Paragraph 9 of the 2008 Commentary to article 8 states “Containers are used extensively in international transport. Such containers frequently are also used in inland transport. Profits derived by an enterprise engaged in international transport from the lease of containers are usually either directly connected or ancillary to its operation of ships or aircraft in international traffic and in such cases fall within the scope of the paragraph. The same conclusion would apply with respect to profits derived by such an enterprise from the short-term storage of such containers (e.g. where the enterprise charges a customer for keeping a loaded container in a warehouse pending delivery) or from detention charges for the late return of containers.”)

In recent years we have seen a number of disputes regarding the use of containers and we therefore hope very much that this clarification can be inserted.

Yours sincerely,
DANISH SHIPOWNERS' ASSOCIATION
P.P.

Jacob K. Clasen
Head of division