4eneral

Treaty r)les on do)#le tax relief

Exemption systems typi"ally only "ertain types of in"ome/ e+g+/ in"om permanent esta#lishment lo"ated in

- Amount to be exempted is determined under residence country law. Commentary on Article 23, para 16
- Source state must be taxing “in accordance wit t e treaty!
- Classi"ication issues

- The residen"e state may take the ex
a""o)nt in "al")lating the amo)nt
in"ome 51exemption -ith progressi
  - $arious ways o" calculating t e impact o" t e exemption
- Consideration of the effe"t of foreign losses on the "omp)tation of tax on domesti" in"ome -here foreign in"ome -o)ld ha0e #een exempt
  - Country practices %ary

Basi" feat)res of a "re

There are typi"ally limits on the amo
-hi"h "an #e "redited against the d
")rrently+

Basi" limit is #ased on the amo)nt of domesti" tax paid on the in"ome: 1ordinary "redit2

No "redit for foreign taxes in ex"ess of domesti" tax on foreign in"ome; foreign tax "redits "annot red)"e tax on domesti" so)r"e in"ome

<ario)s other forms of limitation on the "redit possi#le and m)"h 0ariety in domesti" systems

,imitations on the foreig
Per item limitat

1Per item2 limitation: only "redit for the f
parti")lar item of in"ome

Example $: Company ' of Co)ntry ' has 1%
from Co)ntry . taxa#le at 8%= and 1%% of royalties from Co)ntry .
taxa#le at $%=+ The tax rate in Co)ntry ' is %=+

- &entati%e Country (tax) 3*x+1**,1**-.6*
- 2oreign tax credit on t e business pro"its) limited to 3*
- 2oreign tax credit on t e royalties) 2*, additional Country (tax on t e royalties, 1*
- &otal tax) 3*
- 4o a%eraging o" "oreign taxes on business pro"its and royalties.

,imitations on the foreig
Per Co)ntry ,imi

Example : Company ' of Co)ntry ' has 1%
from Co)ntry . taxa#le at 8%= and 1%% of #
Co)ntry T taxa#le at $%=+ The tax rate in Co

- &entati%e Country (tax) 3*x+1**,1**-.6*
- 2oreign tax credit on t e business pro"its "rom Country S) limited to 3*
- 2oreign tax credit on t e business pro"its "rom Country &) 2*, additional Country (tax on t e business pro"its, 1*
- &otal tax) 3*
- 4o a%eraging between t e business pro"its "rom Country S and Country &

Comparison of exemptic systems

In a "redit system/ the effe"ti0e rate appli"a#le foreign so)r"e in"ome i higher of the domesti" rate or the fc

– Capital export neutrality

A "redit system -ith an o0erall limitation is relati0ely simple BUT may allo- inappropriate a0eraging/ "reation of passi0e foreign so)r"e in"ome/ et"+

>ther limitations "an 0ary in "omplexity

A "redit system "an eliminate the ad0antages of a so)r"e "o)ntry tax holiday: good or #ad7

Tax sparing

Exemption 0 Credit

Example 8: Company ' of Co)ntry ' has 1 from Co)ntry . taxed at $%=+ The tax rate ir

– 5" Country (as an exemption system as de and t e income 6uali"ies "or t e exemption, additional Country (tax liability. 7owe%er, t e exempt income mig t a""ect t e rate o" tax on ot er income +"exemption wit progression!-

– 5" Country (ad a credit system as described in Article 23 8, t ere would be a credit o" 2* "or t e Country S tax and 1* o" additional tax in Country (

– 5t t e tax rate in Country S was #* 9 , t ere would be no c ange under an exemption system. 5" Country (ad a credit system, all o" t e Country (tax would be eliminated by a credit o" 3* and t e result would be t e same as under an exemption system

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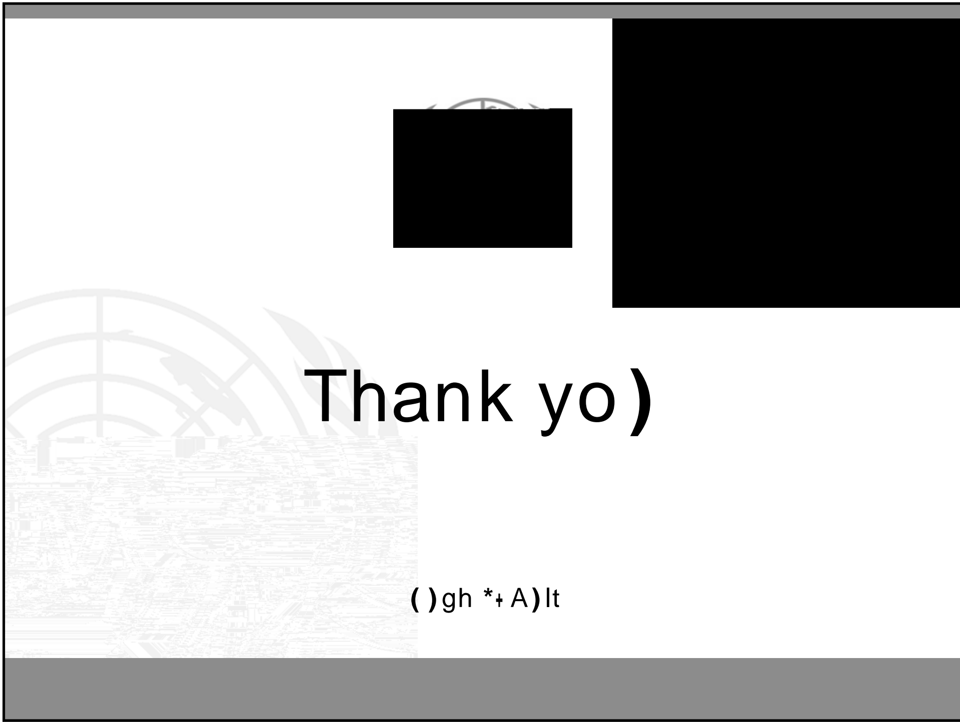
In0ol)ntary dis"los)re: need to o#ta
foreign so)r"e in"ome if not dis"los


Thank yo)
( )gh *+ A)lt