

MECHANISMS TO MITIGATE DOUBLE-TAXATION

- Exemption Method → Capital Import Neutrality
 - equal tax treatment of business operations within source country
- Credit Method → Capital Export Neutrality
 - equal tax treatment of all investors residing in residence country
- Deduction Method → National Neutrality
 - no special preference given to foreign taxes – treat like any other expenditure
- Bilateral Tax Treaty

METHODS FOR ALEVIATING DOUBLE-TAXATION

Problem:

Jurisdiction to tax can be claimed by both:

- country of taxpayer's residence/citizenship ("residence" country)
- country where income-producing property/business located ("source" country)

Unilateral Solutions:

- Residence country imposes worldwide taxation, but gives foreign tax credit ("credit method")
- Residence country does not tax income earned in other countries ("exemption method")

Bilateral Solution:

- Income tax treaty (generally limits source-country taxation)

INCOME TAX TREATIES - OVERVIEW

- Bilateral agreement tailored to specifics of 2 countries tax laws
- Based on various model agreements (US / OECD / UN)
- Principal Goals:
 - Reduce/Eliminate potential for double taxation
 - Administrative aspects – info sharing & mutual agreement procedure
- Relationship with Internal Revenue Code
- Methods for reducing/eliminating potential for double taxation:
 - Business & personal services Income: Threshold activity before source-country taxation
 - Non-business investment income & capital gains:
Reduce (sometimes to 0) source-country tax rate
 - Other types of income (e.g., pensions): limit source-country taxation
- Eligibility for benefits: “Resident” of a Contracting State
 - Tie-breaking & “Limitation on Benefits” provision

U.S.-France Treaty (1994)

Article 4, para. 1

“For the purposes of this Convention, the term ‘resident of a Contracting State’ means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation, or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State, or of capital situated therein.

“(a) France shall consider a U.S. citizen or an alien admitted to the United States for permanent resident (a “green card” holder) to be a resident of the United States for purposes of paragraph 1, only if such individual has a substantial presence in the United States . . .”