

EFFECT ON OTHER REVENUE RULINGS

Rev. Rul. 89-42, Rev. Rul. 97-31, and Rev. Rul. 2001-48 are modified and superseded.

DRAFTING INFORMATION

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TABLE I

Countries Granting Equivalent Exemptions For Income From The International Operation of Ships and Aircraft

PART A — EXCHANGE OF NOTES¹

TYPES OF SHIPPING AND AIRCRAFT INCOME EXEMPTED²

Countries And Territories	Cumulative Bulletin Or Internal Revenue Bulletin Citation	Operating Income	Full Rental (Time or Voyage Charter)	Bareboat Rental	Incidental Container Rental	Cap ³ Gains
Angola	2007-42 I.R.B. 801	X	X	X	X	X
Argentina	1988-1 C.B. 456	X	X	X	X	X
Bahamas	1988-1 C.B. 458	X	X	X	X	-
Bahrain	2000-2 C.B. 475	X	X	X	X	X
Belgium	1988-1 C.B. 459	X	X	-	X	-
Bolivia ⁴	1988-1 C.B. 460	X	X	X	X	-
Cape Verde	2005-2 C.B. 855	X	X	X	X	X
Chile ⁵	1991-1 C.B. 304	X	X	X ³	X	-
Colombia	1988-1 C.B. 461	X	X	X	X	-
Cyprus	1989-2 C.B. 332	X	X	X	X	-
Denmark	1988-1 C.B. 462	X	X	X	X	-
El Salvador ⁵	1988-1 C.B. 463	X	X	X	X	X
Ethiopia	1999-1 C.B. 1134	X	X	X	X	X
Fiji	1996-2 C.B. 202	X	X	X	X	X
Finland	1989-2 C.B. 334	X	X	X	X	-
Ghana	2002-1 C.B. 725	X	X	X	X	X
Greece	1988-2 C.B. 366	X	X	X	X	-
Hong Kong ^{6/7}	1995-1 C.B. 228	X	X	X	X	X
India	1990-2 C.B. 316	X	X	X ³	X	X
Isle of Man ⁶	1990-2 C.B. 317	X	X	X	X	X
Japan	1990-2 C.B. 318	X	X	X	X	-
Jersey	2007-10 I.R.B. 665	X	X	X	X	X
Jordan	1996-2 C.B. 202	X	X	X	X	-
Liberia	1988-1 C.B. 463	X	X	X	X	X
Luxembourg	1996-2 C.B. 203	X	X	X	X	-
Malaysia	1990-2 C.B. 319	X	X	X ³	X	X
Malta	1997-1 C.B. 314	X	X	X	X	X

TABLE I—Continued

*Countries Granting Equivalent Exemptions For
Income From The International Operation of
Ships and Aircraft*

*PART A — EXCHANGE OF NOTES¹**TYPES OF SHIPPING AND AIRCRAFT INCOME EXEMPTED²*

Countries And Territories	Cumulative Bulletin Or Internal Revenue Bulletin Citation	Operating Income	Full Rental (Time or Voyage Charter)	Bareboat Rental	Incidental Container Rental	Cap ³ Gains
Marshall Islands	1990–2 C.B. 321	X	X	X	X	X
Norway	1991–1 C.B. 304	X	X	X	X	X
Pakistan ⁶	1991–1 C.B. 305	X ⁸	-	-	-	-
Panama	1988–2 C.B. 366	X	X	X	X	-
Peru ⁶	1989–2 C.B. 335	X	X	X ³	X	-
St. Vincent & Grenadines	1989–2 C.B. 336	X	X	X	X	-
Saudi Arabia ⁹	2000–1 C.B. 1126	X	X	X	X	X
Singapore	1990–2 C.B. 323	X	X	X	X	X
Sweden	1988–1 C.B. 466	X	X	X ³	X	-
Taiwan	1989–2 C.B. 337	X	X	X	X	-
United Arab Emirates	1998–2 C.B. 528	X	X	X	X	X
Venezuela	1988–1 C.B. 467	X	X	X ³	X	X

*PART B — DOMESTIC LAW**TYPES OF SHIPPING AND AIRCRAFT INCOME EXEMPTED²*

Countries And Territories	Date Foreign Law Reviewed	Operating Income	Full Rental (Time or Voyage Charter)	Bareboat Rental	Incidental Container Rental	Cap ³ Gains
Antigua & Barbuda ⁶	NOV 1991	X	X	X	X	X
Aruba	JUNE 1999	X	X	X	X	-
Barbados	OCT 1989	X	X	X	X	X
Bermuda	NOV 1988	X	X	X	X	X
Brazil ¹⁰	DEC 1988	X	X	X ³	X	-
British Virgin Islands	MAR 2003	X	X	-	-	-
Bulgaria	FEB 1989	X	X	X	X	X
Cayman Islands ¹¹	JAN 1987	X	X	X	X	X
Chile ⁶	OCT 1988	X	X	X	X	X
Croatia	FEB 2007	X	X	X	X	X
Ecuador ^{6/12}	DEC 1989	X	X	X ³	X	X
Gibraltar	JULY 2006	X	X	X	X	X
Israel	FEB 1991	X	X	X	X	X

TABLE I—Continued

*Countries Granting Equivalent Exemptions For
Income From The International Operation of
Ships and Aircraft*

PART B — DOMESTIC LAW—Continued

Countries And Territories	Date Foreign Law Reviewed	Operating Income	TYPES OF SHIPPING AND AIRCRAFT INCOME EXEMPTED ²				Cap ³ Gains
			Full Rental (Time or Voyage Charter)	Bareboat Rental	Incidental Container Rental		
Kuwait ⁶	APRIL 2007	X	X	X	X	-	
Monaco	JAN 2005	X	X	X	X	X	
Netherlands	OCT 1988	X	X	X ³	X	-	
Netherlands Antilles	MAY 1988	X	X	X	X	X	
Peru ⁵	SEPT 1995	X	X	X	X	X	
Portugal ¹⁰	Ships	JUNE 1989	X	X	X	-	-
	Aircraft	FEB 1989	X	X	X	-	-
Qatar	Ships ⁶	JAN 1993	X ⁸	X	-	-	-
	Aircraft ⁵	AUG 1994	X ⁸	-	-	-	-
Spain ¹³	DEC 1988	X	X	-	X	-	
Surinam	NOV 1999	X	X	X	X	X	
Turkey ¹⁴	JAN 1987	X	-	-	X	-	
Turks & Caicos ¹¹	FEB 1990	X	X	X	X	X	
Uruguay	JAN 2007	X ⁸	-	-	-	-	
U.S. Virgin Islands	OCT 1988	X	X	X	X	X	
Vanuatu	MAY 1987	X	X	X	X	X	

TABLE II

Countries Granting Exemptions from Tax by Income Tax Convention¹⁵

Countries And Territories	BASIS FOR EXEMPTION			TYPES OF SHIPPING AND AIRCRAFT INCOME EXEMPTED ²				
	Residence Based No Flag	Residence & Flag Reciprocal	LOB ²⁹ Article	Operating Income	Full Rental (Time or Voyage Charter)	Bare-Boat Rental	Incidental Container Rental	Cap Gains
Australia ^{19/35}	X	-	X	X	X ¹⁶	X ³	X	X
Austria ³⁵	X	-	X	X	X ²⁰	X ²⁰	X	X
Bangladesh ^{19/35}	X	-	X	X	X ²⁰	X ²⁰	X	X
Barbados	X	-	X	X	X ²⁰	X ²⁰	X	X
Belgium ¹⁹	X	-	X	X	X	X ²⁰	X	X
Canada ³⁵	X	-	X	X	X	X	X	X
China ^{22/35} (People's Republic)	X	-	X	X	X ²⁰	X ²⁰	X	X

TABLE II—Continued

Countries Granting Exemptions from Tax by Income Tax Convention¹⁵

Countries And Territories	BASIS FOR EXEMPTION			TYPES OF SHIPPING AND AIRCRAFT INCOME EXEMPTED ²				
	Residence Based No Flag	Residence & Flag Reciprocal	LOB ²⁹ Article	Operating Income	Full Rental (Time or Voyage Charter)	Bare-Boat Rental	Incidental Container Rental	Cap Gains
Cyprus	X	-	X	X	X ²⁰	X ²⁰	X	X
Czech Republic ³⁵	X	-	X	X	X	X ³	X	X
Denmark	X	-	X	X	X	X ²⁰	X	X
Egypt	X	-	-	X	X ³	X ³	X	-
Estonia ³⁵	X	-	X	X	X	X ³	X	X
Finland	X	-	X	X	X ³	X ³	X	X
France ³⁵	X	-	X	X	X	X ²⁰	X	X
Germany ^{24/35}	X	-	X	X	X	-	X	X
Greece	-	X	-	X ⁸	-	-	-	-
Hungary ³⁵	X	-	-	X	X ³	X ³	X	X
Iceland ³⁵	-	X ²⁵	-	X	X ³	X ³	X	X
India	X	-	X	X	X ³	X ³	X	X
Indonesia ³⁵	X	-	X	X	X	X ²⁷	X	X
Ireland ³⁵	X	-	X	X	X	X ²⁰	X	X
Israel	X	-	X	X	X ³	X ³	X	X
Italy ^{28/29/35}	-	X ²⁵	X	X	X ³⁰	X ³	X	X
Jamaica ³⁵	X	-	X	X	X ²⁰	X ²⁰	X	X
Japan ^{28/19}	X	-	X	X	X ³	X	X	X
Kazakhstan ³⁵	X	-	X	X	X	X ²⁰	X	X
Korea ³⁵	X	-	-	X	X ³²	-	X	-
Latvia ³⁵	X	-	X	X	X	X ¹⁷	X	X
Lithuania ³⁵	X	-	X	X	X	X ¹⁷	X	X
Luxembourg	X	-	X	X	X	X ²⁰	X	X
Mexico ³⁵	X	-	X	X	X	X ²³	X	X
Morocco ³⁵	-	X ²¹	-	X ⁸	-	-	-	X
Netherlands	X	-	X	X	X ³	X ³	-	X
New Zealand ³⁵	X	-	X	X	X	X ³	X	X
Norway ²⁸	X	-	-	X	X ³²	X ³	X	X
Pakistan ⁵	-	X	-	X ⁸	-	-	-	-
Philippines ^{6/35}	X	-	-	-	-	-	-	X
Poland ³⁵	-	X ²⁵	-	X	X ³	X ³	X	X
Portugal ³⁵	X	-	X	X	X	X ³	-	X
Romania ³⁵	-	X	-	X	X ³	X ³	X	X

TABLE II—Continued

Countries Granting Exemptions from Tax by Income Tax Convention¹⁵

Countries And Territories	BASIS FOR EXEMPTION			TYPES OF SHIPPING AND AIRCRAFT INCOME EXEMPTED ²				
	Residence Based No Flag	Residence & Flag Reciprocal	LOB ²⁹ Article	Operating Income	Full Rental (Time or Voyage Charter)	Bare-Boat Rental	Incidental Container Rental	Cap Gains
Russian Federation ³⁵	X	-	X	X	X	X ²⁰	X	X
Slovak Republic ³⁵	X	-	X	X	X	X ³	X	X
Slovenia ³⁵	X	-	X	X	X	X ²⁰	X	X
South Africa ³⁵	X	-	X	X	X	X ²⁰	X	X
Spain	X	-	X	X	X	X ³	X	X
Sri Lanka ^{5/19/31/35}	X	-	X	X	X ²⁰	X ²⁰	-	-
Sweden	X	-	X	X	X	X ³	X	X
Switzerland ³⁵	X	-	X	X	X ³³	X ³	-	X
Thailand ³⁵	X ⁵	-	X	X	X	X ³	X	X
	X ⁶	-	X	-	-	-	-	X
Trinidad & Tobago ³⁵	-	X ²⁵	-	X	X ³	X ³	-	X
Tunisia ³⁵	X	-	X	X	X ²⁰	X ²⁰	X	X
Turkey	X	-	X	X	X	X ³	X	X
Ukraine ³⁵	X	-	X	X	X	X ²⁰	X	X
USSR/NIS ^{34/35}	-	X	-	X ⁸	-	-	-	X
U.K. ^{19/35}	X	-	X	X	X	X ³	X	X
Venezuela ³⁵	X	-	X	X	X	X ²⁰	X	X

FOOTNOTES TO TABLES

¹ Notes signed prior to the Technical and Miscellaneous Revenue Act of 1988 are interpreted in accordance with the technical corrections enacted by that Act.

² Under the heading "Types of Shipping and Aircraft Income Exempted" unless otherwise footnoted, an "X" indicates full exemption whether or not there is a permanent establishment.

³ The tax exemption is available only if the income is incidental to operating income.

⁴ The note was ratified by the Bolivian Congress and signed by the Bolivian President. The note and exemption officially became effective upon publication in the official Gazette on March 31, 1999, for income earned after that date.

⁵ This exemption applies to aircraft only.

⁶ This exemption applies to shipping only.

⁷ This diplomatic note applies to Hong Kong before July 1, 1997, and pursuant to Notice 97-40, 1997-2 C.B. 287, to the Hong Kong Special Administrative Region of the People's Republic of China on or after July 1, 1997. The note does not apply with respect to the People's Republic of China, which will continue to be treated as a separate country for purposes of the Internal Revenue Code.

⁸ Operating income is not defined.

⁹ The note is effective for all taxable years beginning on or after January 1, 1999, and for all prior open taxable years.

¹⁰ Only corporations are exempt under the Brazilian and Portuguese statutes.

¹¹ The country generally imposes no income tax.

¹² This exemption is generally effective for all open years beginning on or after January 1, 1987.

¹³ The Spanish statute exempts only corporations.

¹⁴ See generally Rev. Rul. 87-18, 1987-1 C.B. 178 (explaining the application of Turkey's domestic-law exemption).

¹⁵ Table II is relevant for determining whether a shareholder of a foreign corporation is a resident of a country that grants an equivalent exemption by means of an income tax convention with the United States. Table II is also relevant for determining whether a foreign corporation itself is eligible to claim an exemption under section 883(a) when it is organized in a country that only provides an exemption by means of an income tax convention.

¹⁶ Lessor must either regularly lease ships or aircraft on a full basis or operate them in international traffic.

- ¹⁷ This exemption applies if the ships or aircraft are operated in international traffic by the lessee, and the rental income is incidental to the operation of ships or aircraft in international traffic by the lessor.
- ¹⁸ Except to the extent depreciation has been allowed in the other country.
- ¹⁹ The following countries have entered into new income tax conventions or protocols with the United States that contain new Shipping and Air Transport articles that supersede prior income tax conventions reported in Rev. Rul. 2001-48:
- | | |
|--------------------------|-----------------|
| Australia | January 1, 2004 |
| Bangladesh | January 1, 2007 |
| Belgium | January 1, 2008 |
| Japan | January 1, 2005 |
| Sri Lanka | January 1, 2004 |
| United Kingdom | January 1, 2004 |
- ²⁰ This exemption applies if the ships or aircraft are operated in international traffic by the lessee, or the rental income is incidental to the operation of ships or aircraft in international traffic by the lessor.
- ²¹ In the case of aircraft only, the registration may be in the country of residence or in any country with a treaty providing an equivalent exemption between such country and the country of residence.
- ²² Pursuant to Notice 97-40, 1997-2 C.B. 287, the treaty between the United States and the People's Republic of China (China) will continue to apply only to China and will not apply to the Hong Kong Special Administrative Region of the People's Republic of China. The Shipping and Aircraft Agreement between China and the United States was ratified on September 6, 1983. The Shipping and Aircraft Agreement is separate from the income tax treaty with China.
- ²³ The exemption applies except where the containers are used solely between places within the other Contracting State.
- ²⁴ This treaty is effective for the eastern States of Germany (the former East Germany) from January 1, 1991.
- ²⁵ Documentation or registration required for ships or aircraft of United States residents only.
- ²⁶ This treaty exempts gains derived by an enterprise of a Contracting State if the ships or aircraft or containers are owned and operated by the enterprise and the income from them is taxable only in that State.
- ²⁷ Income from the bareboat rental of aircraft used in international traffic is exempt. Income from the bareboat rental of ships also is exempt if the ship is operated in international traffic and if the lessee is not a resident of, or does not have a permanent establishment in, the other Contracting State.
- ²⁸ See also the diplomatic notes or protocol accompanying this treaty.
- ²⁹ Each country identified in this column has entered into an income tax convention with the United States that contains a comprehensive limitation on benefits article. Accordingly, if a foreign corporation or shareholder of a foreign corporation intends to rely on an equivalent exemption provided through such an income tax convention with the United States, that person must be a resident of that country for treaty purposes and satisfy the limitation on benefits article in that convention.
- ³⁰ This exemption applies if the ship or aircraft is operated in international traffic or if the rental income is incidental to income from such international operation.
- ³¹ In connection with the revised U.S. protocol with Sri Lanka, an exchange of notes signed September 20, 2002, provides, "[w]ith respect to Article 8 (Shipping and Air Transport), it is understood that Sri Lanka shall exempt from tax the profits of an enterprise of the United States from sources within Sri Lanka from the operation in international traffic of ships for as long as there remains in force Article 8 of the Convention between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital Gains, signed at London on June 21, 1979; Article 8 of the Convention Between the Government of the Polish People's Republic and the Government of the Democratic Socialist Republic of Sri Lanka for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, signed at Colombo on April 25, 1980; or any provision granting the same treatment as accorded under aforesaid provisions to a resident of a third state."
- ³² As a result of correspondence, it was clarified that income from the international operation of ships or aircraft includes this category of income.
- ³³ This exemption applies if the ships or aircraft are used by the lessee in international traffic.
- ³⁴ The U.S. - U.S.S.R. income tax treaty signed June 20, 1973, continues to apply to the New Independent States (NIS) of Armenia, Azerbaijan, Belarus, Georgia, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan, and Uzbekistan. See Treasury News NB-1763.
- ³⁵ This country only provides an exemption from tax through an income tax convention with the United States. A corporation organized in this country and claiming an exemption under section 883(a) must satisfy the additional requirements set forth in §1.883-1T(h)(3).

Section 894.—Income Affected by Treaty

A revenue ruling is provided to assist a foreign corporation engaged in the international operation of ships or aircraft, and its shareholders, in determining whether the foreign corporation is organized in a country that grants an "equivalent exemption" from tax for purposes of section 883(a) and (c) of the Internal Revenue Code (Code). This revenue ruling is also intended to assist a nonresident alien individual engaged in the international operation of ships or aircraft in determining whether a country grants an equivalent exemption from tax for purposes of section 872(b) of the Code. See Rev. Rul. 2008-17, page 626.

Section 4371.—Imposition of Tax

An announcement describes a voluntary compliance initiative by the Internal Revenue Service (IRS) regarding the foreign insurance excise tax. See Announcement 2008-18, page 667.

(Also: 4372, 4373, and 4374.)

Insurance premiums; excise tax consequences. This ruling describes the insurance excise tax consequences (under section 4371 of the Code) of insurance premiums paid by one foreign insurer (foreign insurer) to another (foreign reinsurer). In particular, the ruling addresses the excise

tax consequences of such payments where the foreign insurer is eligible for a waiver of the excise tax by income tax treaty but the foreign reinsurer is not. There are two types of insurance excise tax waivers provided by treaty. The ruling addresses both types of waivers. Rev. Rul. 58-612 clarified and amplified.

Rev. Rul. 2008-15

ISSUES

1) Whether the reinsurance excise tax imposed by section 4371(3) of the Internal Revenue Code (Code) on policies of reinsurance covering contracts taxable under