
CHAPTER 16

SUMMARY AND CONCLUSIONS

16.1. Introduction and definitions

This thesis is about the taxation of international performing artistes. Their performance income is often generated in many countries other than their country of residence, and this performance income is subject to special tax treatment. Most countries have followed the OECD recommendation to tax the performance income of non-resident artistes. Article 17 of the OECD Model Tax Convention sets aside the normal allocation rules of Article 7 (Business Profits) and Article 15 (Income from Employment). The OECD named two reasons for this special treatment of international artistes: (1) top stars are trying to avoid normal taxation by pretending to live in tax havens (tax avoidance); and (2) many are not reporting their foreign performance income in their home country (non-compliance).

With Article 17(2) the tax right for the source country has been extended to all payments for a performance, not only when made to the artiste but also to other entities. The OECD believes that taxation at source is a reasonable measure to ensure that every artiste pays his share of his earnings to the government.

At the same time, artistes also have to report their foreign earnings and expenses in their country of residence, which will tax its residents on their worldwide income. International double taxation is eliminated by either exempting the foreign income in the country of residence or granting the artiste a foreign tax credit.

This suggests that the taxation of the performance income of artistes is balanced, even though it deviates from the normal allocation rules of Articles 7 and 15. But unfortunately it has also increased the risk of practical inadequacies, because the taxable base in the country of performance can be higher than in the residence country, the exchange of information between countries for these often short-term business activities has not been developed properly and tax credit problems often arise in the country of residence. And the artistes in any case end up with comparatively high advisory costs, in the country of performance as well as in the country of residence. The literature shows that these problems

occur frequently and that the artistes and the organizers of performances both experience the special international taxing rules as an obstacle to cross-border activity.

The aims of this thesis are, first, to study whether the effects resulting from the special taxing rules for international performing artistes, as derived from Article 17 of the OECD Model Tax Convention, lead to unequal treatment for artistes in comparison with other taxpayers and if so, whether the result is reasonable and if not, whether the treatment can be justified; and, second, to discuss the consequences of possible adjustments.

Coordination by the OECD started with the 1963 Draft Model Tax Convention. This Draft contained a special artiste clause in Article 17, together with an official Commentary. Article 17 was extended in the 1977 OECD Model Tax Convention with a second paragraph which made payments for performances to persons other than the artistes also taxable in the source country. The text of Article 17(2) was quite broad, but the Commentary limited the scope to the mere “rent-a-star” situations, where tax avoidance was the main objective.

A further extension took place with the 1987 OECD Report on artistes (and sportsmen). The report expressed mistrust, not only of entertainers but also of their managers, accountants and other advisers. It seems as if everyone was trying to evade taxation by claiming to live in tax havens or by not declaring foreign income in their home country. Although the report would basically prefer to follow the normal allocation rules, it gave preference to a special artiste (and sportsman) rule to “avoid practical difficulties”. But strangely enough the report also recommended widening the scope of Article 17(2) to the unlimited approach, meaning that for any payment to a person other than the artiste himself the country of performance would have full taxing rights, not only in “rent-a-star” situations. The 1987 Report only paid attention to possible undertaxation and did not initiate a discussion about the overtaxation resulting from the measures. Most of the recommendations were taken up in the renewed 1992 Commentary on Article 17. This led to a glaring contrast with the 1996 US Model and its Technical Explanation, which promoted the limited approach of Article 17(2), together with other measures, such as a *de minimis* rule for small artistes.

The special provisions for artistes in Article 17 of the OECD Model Tax Convention require a clear definition of who is an artiste. The definition and the list of examples in chapter 3 have clarified to a certain extent who is an “artiste” and who is not. But in some cases difficulties with the definition can still be expected and even though the general interpretation rule of Article 3(2) of the OECD Model may be able to solve some of these problems, the remaining will inevitably lead to double taxation. A better and more complete definition of an “artiste” is needed.

Qualification problems also exist with the term “performance income”. A better and more unambiguous definition of this term is needed, to take away the risk of double taxation.

16.2. Present situation – bilateral treaties

Article 17 of the OECD Model Tax Convention provides special allocation rules for artistes. In chapter 5 the results of an extensive survey on the use of Article 17 and its variations in the tax treaties of 46 countries were shown. This survey shows that 97% of these tax treaties contain an article that is comparable with Article 17. At this point the recommendation of the OECD seems to work very well. A vast majority of 87% of the tax treaties with Article 17 have also inserted Article 17(2), the broad second paragraph of Article 17, which also covers the payment of performance income to anyone other than the artiste. A minority of the countries limit this Article 17(2) only to situations where the artiste participates in the profit of the company involved or controls that company. Only Canada, Switzerland and the United States use the limited approach in most of their tax treaties.

The surprise of the survey is that Article 17(3) is used in 66% of the many tax treaties of the 46 countries. With this exception the taxing right for performances supported by public funds is allocated to the country of residence of the artiste(s). The use of this restrictive rule is especially striking, because it is no more than an option to Article 17 of the OECD Model, mentioned in Paragraph 14 of the Commentary. It may be that countries want to defend their state’s budgets by allowing residence state taxation to subsidized artistes and prevent these artistes from experiencing excessive or double taxation.

For two countries, the United States and the Netherlands, all tax treaties have been reviewed in chapter 5. Neither of these two countries seems to be very consistent in its tax treaty policy with regard to Article 17.

Triangular situations have caused some discussion over the years. The OECD has broadened its Commentary on Article 17 in 2000 with the explanation that in abusive situations the country of performance can consider that the artiste is living in the same country as the company involved. To avoid confusion, a triangular situation can best be dealt with from the perspective of Article 1 of the OECD Model Tax Convention, which states that a tax treaty can only be applied if a resident is involved, in combination with the normal use of Article 17(2).

The non-resident artiste tax rules in the various countries are often comparable but can also be different. The survey of 34 countries published in chapter 6 shows that only two countries do not have non-resident artiste tax rules, i.e. Denmark and Ireland, although the latter country levies VAT as a concurrent tax.

The deduction of expenses is not allowed in 24 of the other 32 countries (= 75%). This seems to be in line with Paragraph 10 of the Commentary on Article 17 of the OECD Model, but the United Kingdom and the Netherlands, amongst others, show that it is perfectly possible to implement a well-functioning system for deduction of expenses before withholding tax is calculated.

The withholding tax rate is most often a flat tax rate, varying between 15% and 47%, the rate often depending on whether expenses are deductible. Income tax returns after the taxable year are not allowed in 20 of the 32 countries with a non-resident artiste taxation (= 63%). In these countries the withholding tax is also the final tax.

Other charges, levies or concurrent taxation than direct income taxation are also possible. Ireland does not levy income tax but charges VAT from non-resident artistes, which can also happen in Germany, Spain, Italy and other EC Member States. US state taxes are levied separately from federal income tax. Social security contributions are raised in the absence of the right E-101 or D-101 forms, but also even when these forms are present, as the example of Germany shows.

Countries sometimes introduce unilateral exemptions, either structural, such as the *Orchestererlass* in Germany or the cultural exemptions in New Zealand and Norway, or incidental, such as for the World Expo or bigger sports events. Some countries exclude amateurs and non-profit organizations from the tax rules for non-resident artistes.

In general, the national non-resident artiste tax rules in the various countries are not very clear-cut for an international performing artiste.

The tax credit method is recommended for artistes as compensation in the residence country for the allocation of the taxing right to the country of performance. This deviates from the policy in many continental European countries which normally use the exemption method for “active income”. The recommendation of the OECD for the tax credit for Article 17 also deviates from the recommendations for other sources of active income in the OECD Model, Articles 7 and 12. Countries are free to choose for these sources whether they want to insert the tax credit or exemption method in their bilateral tax treaties.

The recommended ordinary tax credit is unfortunately the method leading to the worst result of the four possible elimination methods. It looks reasonable that foreign income is not exempt and that the foreign tax is creditable, but the limitation to the amount of tax that is due in the residence country can easily lead to an excess tax credit. Therefore, in the optimal situation, an artiste can achieve a complete tax credit, but can also end up with overtaxation on his foreign income. This can become more likely when the residence country uses the per-country method for the tax credit.

Many tax credit problems may occur in practice, arising from the absence of a tax certificate, the qualification of the foreign tax, the person of the artiste, the differences in the taxable base and triangular situations to the complexity of the systems of foreign tax credits in many countries. There is a major risk that a tax credit in the country of residence may not be (fully) obtainable.

The tax exemption method would mitigate some of the problems and would seem to divide the issues of the proper elimination of double taxation more between the tax administration and the artiste. With the recommended tax credit method the risks unfortunately lie mainly with the international performing artistes and not with the tax authorities.

The conclusion needs to be that the elimination of double taxation for performing artistes is far from complete and causes many difficulties. Economically speaking, the existing system of taxation of international performing artistes leads to market inefficiencies.

International performing artistes incur high expenses. Very often these expenses are not deductible in the country of performance, either at the withholding stage or in a later income tax return. Paragraph 10 of the Commentary on Article 17 of the OECD Model supports this gross taxation. It seems as if the importance of expenses for artistes is underestimated.

A survey in the Netherlands shows the importance of the expenses. For the survey the information from 2,498 performances in three years (2001-2003) was gathered. The results show that the expenses vary a great deal, between 0% and more than 150% of the performance fees, and that their average is 75%. The study includes all kinds of artistes, from classical to pop music, from theatre to dance and from amateurs to very high earners. The figures of the survey are presented in chapter 8 in various ways, in total, details per year, details per performance and in graphs.

The figures are confirmed by an evaluation which was published by the Dutch tax authorities in May 2004. They have studied the taxation of all artiste and sportsman performances in the year 2002 and the average of expenses from this survey was 64%.

The differences between these two surveys may still need to be explained, but the conclusion of both surveys is that at either two thirds or three quarters of the earnings, the element of expenses plays a major role in the determination of the profit on performances.

The reasons behind these high expenses have also been studied in chapter 8. The conclusion needs to be that artistes are no different from other businesses or service providers, which means that they can only generate earnings if they invest enough in a good product and a proper organization. Expenses of 64% or 75% do not seem high compared to those of other businesses, where profits of 10%-15% seem to reflect a very healthy organization.

Artistes can also have other income, such as royalties from sales of records. It has been discussed whether the expenses for performances need

to be allocated to this other income, especially when performance income is not sufficient to cover the expenses. But this split of expenses will very often not be easy. And it can also be argued that a division of expenses would not be correct if the connection with the performance were very direct, while the connection with royalties were indirect and uncertain. In other cases an apportionment would be feasible.

The risk of excessive taxation is very real for international performing artistes. The eight examples of chapter 9 show that the strict national artiste tax rules and the unlimited approach of Article 17(2) of the OECD Model Tax Convention lead to a higher than normal tax burden in the countries of performance. The effective tax rates on the profit of performances by non-resident artistes are higher than the highest marginal tax rate in the source country's income tax table.

On the other hand residence countries restrict the tax credit to the (average) amount of tax that is due on the foreign performance income. This is in accordance with Article 23B of the OECD Model Tax Convention, but increases the problem of international excessive taxation. That maximum gives the same compensation as the tax exemption method would give.

Not only are the tax rates in the countries of performance too high, the reversal of Article 17(2) to the unlimited approach in the 1992 OECD Commentary also hits the wrong target. The examples show that the unlimited approach does not give an extra defence measure against tax avoidance schemes, but on the contrary taxes artistes in tax treaty countries more severely than the limited approach.

The risk of undertaxation or double non-taxation is small, because most countries follow the proposal from Paragraph 12 of the OECD Commentary on Article 17 to insert the tax credit method in their tax treaties. One example shows that a missing source tax in the country of performance does not lead to any overall tax advantage for the performing artiste.

The Dutch survey on expenses for the years 2001-2003 from chapter 8 and the evaluation of the Dutch artiste (and sportsman) tax rules for the year 2002 give figures about the size of the artiste market and Dutch tax revenue. The conclusion is that the Dutch tax revenue from non-resident artiste and sportsman taxation lies between EUR 1.5 and 6.7 million per

year. The variations are due to the fact that not all artistes (and sportsmen) apply for the deduction of their expenses.

Three other countries have also published figures about the tax revenue from their non-resident artiste and sportsman tax system, i.e. the United Kingdom, Australia and New Zealand. The tax revenue varies from GBP 25-30 million in the United Kingdom (0.009%-0.011% of total tax revenue), AUD 25-29 million in Australia (0.010%-0.011% of total tax revenue) to NZD 5-10 million in New Zealand (0.013%-0.026% of total tax revenue).

When these figures are brought together with the Dutch tax revenue figures, a weighted average can be calculated for the four countries, i.e. the tax revenue from non-resident artistes and sportsmen is 0.01% from the total tax revenue in these countries. The conclusion from this calculation is that the taxation of the performance fees of non-resident artistes (and sportsmen) does not make a significant contribution to a country's budget.

The country of residence, on the other hand, needs to allow a tax credit or tax exemption to resident artistes for their foreign performance income. And although there may be tax credit problems, the conclusion must be that the total tax revenue from international performing artistes is negligible.

The administrative burden on artistes as well as on the tax administration is quite high, because much work needs to be done in both the performance and the residence country, not only for the artistes but also for the tax administration.

16.3. Present situation within the European Union

The European Community tries to realize its objectives by market integration. It has created a common market without borders and with as few formalities as possible, together with secondary legislation that supports the principles of freedom, equal treatment and fair competition. Indirect taxation, such as VAT, is harmonized within the European Community, but direct taxation still remains the responsibility of individual Member States, although national tax rules are influenced by the (general) EC Treaty and some positive integration has occurred. The

European Court of Justice plays an important role in the negative integration process.

The *Arnoud Gerritse* case of the European Court of Justice was decided in June 2003 and shows the unequal treatment of non-resident artistes. In this case Germany was the example with the non-deductibility of expenses and the exclusion from a normal income tax settlement; but other countries also have these limitations in their legislation. The ECJ decided that expenses should be deductible and that a tax refund should be possible if the income tax was lower than the withholding tax.

This decision started a discussion about gross taxation for artistes (and others). It is continuing in two other cases that are pending at the time of writing of this thesis before the ECJ, *Scorpio Konzertproduktionen* and *Centro Equestre da Leziria Grande Lda*. Besides other issues, these cases again focus on the deductibility of expenses. In *Scorpio Konzertproduktionen* the question is whether expenses can be deducted at the time of the performance and withholding of the tax, in *Centro Equestre da Leziria Grande* the discussion concerns whether indirect expenses are also deductible. The latter case also discusses the extra administrative measures needed for the special tax refund procedure.

The author expects the ECJ to decide that any limitation in the treatment of non-resident artistes with regard to the timing and the scope of the deductible expenses, as compared to residents, will be considered not in conformity with the freedom principles of the EC Treaty. This has to lead to the deduction of expenses at the withholding level, no stricter rules for the acceptance of expenses and no special refund procedure with extra administrative conditions.

These problems would disappear if the artiste created a permanent establishment in the country of performance. In that situation the problems would evaporate and the normal situation for other businesses would prevail. The non-discrimination rules of Article 24(1) of the OECD Model would also be applicable to these artistes. This different treatment is unacceptable under the EC Treaty, especially under the freedom of establishment, but also under the freedom to provide services.

Both the OECD Model Tax Convention and the EC Treaty have the objective of removing double taxation. But while bilateral tax treaties fully focus on this issue, the EC Treaty has many more provisions and does not

even wish to interfere directly in the direct tax rules within the Community. However, the EC Treaty has a great influence on direct tax rules, through its equal treatment and freedom principles. It is not surprising that with these very different approaches conflicts of competence can easily arise.

The first conflict regarding artiste taxation is about the deductibility of expenses. The OECD Model Tax Convention tries to stay neutral in its comments in Paragraph 10 of the Commentary on Article 17, although many countries have used this position as a recommendation for the gross taxation of performance fees; but the European Court of Justice has been very clear in its *Arnoud Gerritse* decision and stated that the non-deductibility of expenses is in conflict with the freedom to provide services of the EC Treaty. This means that EU Member States which are members of both the European Union and the OECD, can no longer rely on Paragraph 10 of the Commentary on Article 17 of the OECD Model.

Furthermore, the interpretation of Article 17(2) about whether the limited or unlimited approach should be used for payments to people other than the artistes personally leads to a clash between the OECD Model and the EC Treaty. The unlimited approach causes disadvantages for international performing artistes, because it increases the risks of excessive taxation and tax credit problems considerably, and extra administrative expenses need to be incurred. And there seems to be no need for the unlimited approach within the European Community, because the risk of tax avoidance is nil. There are no tax havens and the exchange of information to the country of residence is possible with the EC Directives. Therefore the unlimited approach of Article 17(2) does not seem to correspond with the principles of Community law.

The pending *Stauffer* case also puts pressure on Article 17(2). The question in this case is whether an exemption for corporation tax can be allowed only to residents, while non-residents cannot make use of this exemption, even if they would have qualified for the same exemption had they been residents. Non-conformity with the freedom principles seems very likely.

The optional and extensively used Article 17(3) clause in tax treaties can also lead to a conflict with the principles of the EC Treaty. The exemptions for source taxation for either subsidized artistes or exchange programmes cause disadvantages for those artistes who do not meet the conditions.

There is no justification for this unequal treatment, which would give scope for an extension of the Article 17(3) clause to every performing artiste from the same two treaty countries and the virtual removal of artiste taxation in the country of performance.

The disadvantages of the system of artiste taxation, i.e. risk of excessive taxation, tax credit problems and high administrative expenses, lead to a discussion of whether Article 17 of the OECD Model in general is compatible with the principles of the EC Treaty. There seems to be no valid justification for the hindrances to the freedom provisions. But after the decision in the *D* case, it can be doubted whether the ECJ is willing to prioritize equal treatment of non-resident artistes under Community law over the special position of artistes in bilateral tax treaties.

Possible conflicts can also arise in the country of residence of the international performing artiste. The recommended ordinary tax credit method can very easily lead to excessive taxation, while the artiste cannot profit from an advantage in the opposite situation. This makes the tax credit method inconsistent and not useful for the internal market of the European Community. The tax exemption seems to be more suitable, because it stimulates competition.

Tax credit problems are now only the risk for the performing artiste/taxpayer. But there are very clear provisions in bilateral tax treaties, the EC Treaty and EC Directives that give both the country of performance and the country of residence the responsibility to exchange information and to take action to prevent double taxation. The ECJ has acknowledged this in the *W.N.* case and decreed that this responsibility exists even when only a small amount of tax is involved. Therefore the mitigation of tax credit problems for international performing artistes is the combined responsibility of both the artiste/taxpayer and the tax authorities in the two countries. Unfortunately this has not been recognized up to now.

New developments before the ECJ may lead to the conclusion that it is changing its approach towards the full tax credit system.

16.4. Conclusions for the present situation

At the end of the study for the first aim of this thesis it can be concluded that Article 17 of the OECD Model was justifiable when it was introduced

in 1963, as a means of counteracting tax avoidance and improving compliance. The existence of Article 17 and its implementation in many bilateral tax treaties has led most countries to impose a withholding tax in their national tax rules. This is very positive.

But the influence of Article 17 has gone too far and the rules have become too oppressive, especially after the 1987 OECD Report and the changes in the 1992 Commentary. The risk of excessive or even double taxation is now very real, as the study of the present situation has shown. The results of the study largely exceed the criteria that the author had given as benchmark for the first aim of the thesis:

- the definitions are not clear and unambiguous enough to allow special tax rules for only this specific group of taxpayers;
- bilateral tax treaties and national tax treaties have too many variations to make the special taxation fair and reliable;
- the elimination of double taxation is complicated and incomplete;
- the tax burden for artistes is higher than for other taxable persons;
- the tax revenue for the state's budget is minimal, while the administrative expenses are high; and
- the special artiste tax rules cause disturbances on the market.

Also, the risk of tax avoidance behaviour seems to be exaggerated. It cannot be concluded that artistes nowadays show more than normal tax avoidance behaviour and the compliance behaviour of artistes has changed over the years. Cash payments are now made only for small performances, bank transfers have become normal in the performance business. The original reasons behind the special artiste tax provision in tax treaties no longer seem to be valid.

The OECD already recognized in its 1987 OECD Report that artistes should be taxed in the same way as other taxpayers. But because of problems with the exchange of information about performance income it did not seem possible to achieve this and therefore source taxation was recommended. This was a negative approach and showed that it was mainly the inefficient work processes of the tax authorities that kept the source taxation of performing artistes in place. It is unfortunately unclear whether the OECD has taken action over the last two decades to remove these inefficiencies in order to pave the way for better tax treatment for performing artistes.

Altogether, the study of the effects resulting from the special taxing rules for international performing artistes, as derived from Article 17 of the OECD Model, shows clear signs of inefficiencies, excessive or double taxation, unequal treatment and an unbalanced division of rights and responsibilities between the artistes and the tax authorities. The negative results are not reasonable and the arguments of tax avoidance and non-compliance cannot justify a special tax regime for a specific group of taxpayers, which deviates so heavily from the normal taxing rules of the Articles 7 and 15 of the OECD Model Tax Convention and in which so many artistes are worse off than other taxpayers.

16.5. Future

Many of the problems with the taxation of international performing artistes can more or less be avoided with measures which are already available. Some of these can be activated at short notice, while other measures need more action to become effective.

The first available option is to reintroduce limited approach for Article 17(2), as was originally intended at the introduction of the paragraph in 1977.

Another directly available option would be a change of Paragraph 10 of the Commentary on Article 17 of the OECD Model into a recommendation for the deduction of expenses and normal net taxation. To this recommendation it can be added that non-resident artistes should be allowed to file a normal income tax return after end of the taxable year and make use of normal tax rates.

Special provisions for small artistes would reduce the administrative burden, which affects these artistes relatively harder than bigger artistes. The OECD could consider adopting the USD 20,000 *de minimis* rule of the 1996 US Model as the general recommendation for Article 17(1) of the OECD Model Treaty.

Two options from the Commentary on Article 17(2) would exclude the salaries of performing artistes/employees from taxation in the source country, i.e. the restriction of Article 17(1) to business activities of Article 7 of the OECD Model and the exemption of fixed salaries of artistes/employees from source taxation in the country of performance.

Unfortunately, the negative side of the latter option is that it would be problematic to calculate which part of the salaries could still be taxed.

The option of Paragraph 14 of the Commentary to exempt artistes from source taxation if their performance is supported by public funds is already frequently used by countries in their tax treaty negotiations. The OECD could consider adding this option as an official Article 17(3) to the text of Article 17 of the OECD Model, although it needs to be aware of the discriminatory character of this measure.

The recommendation in the Commentary to use the ordinary tax credit method seems to be unfair to international performing artistes because they can at best be normally compensated but can very easily end up suffering excessive taxation. A change to the exemption method or the full tax credit method would create a better balance of responsibilities between artistes and the tax authorities.

The implementation of the available options would lead to a much lower risk of excessive taxation for international performing artistes. More artistes could be exempted in the country of performance and return to exclusive taxation in the country of residence. But this would also bring up new discussions about the qualification for the conditions for the exemptions and it would make the use of Article 17 more difficult.

Chapter 15 puts forward a proposal for a radical change of Article 17 of the OECD Model. The article could be turned around, which would mean that artistes from treaty countries could make use of the same treaty provisions (Article 7 or Article 15(2)) as other self-employed persons or employees and could change from source to residence state taxation if they met the conditions of these treaty provisions.

However, every country of performance needs to keep a withholding tax for non-resident artistes as protection against tax avoidance behaviour, but this withholding tax could be waived in a bilateral treaty relationship after a proper exemption application procedure had been completed. With this, the risk of tax avoidance would be minimal, because there are no tax treaties with tax havens and therefore artistes residing in those territories could not get an exemption but would still be taxed in the performance country. The risk of non-compliance would not be very great, because the tax authorities of the residence country would be involved in the exemption procedure of the source country and could gather information

about the existence of the foreign income. Compliance could be further improved with a proper exchange of information from the performance to the residence country about the performance income.

The modified Article 17 of the OECD Model has been tested against the nine criteria that are used as reference for the aim of this thesis. The conclusions are positive.

It could only be problematic for countries to implement the modified Article 17 at short notice because tax treaties have been concluded and renegotiations have more consequences than just a change of Article 17. But if countries have the will to improve the taxation of their international performing artistes, then they can choose to add a protocol to their existing bilateral tax treaties and decide not to use the taxing right of the existing Article 17. This option is directly available.

The radical change of Article 17 would not lead to a loss of tax revenue. Countries would not just give up their taxing rights on performance income from non-resident artistes but would also no longer have to allow tax credits or exemptions to residents for their foreign performance income. The net result would be close to zero. Another positive effect would be that the administrative burden would be considerably reduced for everyone involved.

A special method to eliminate double taxation would no longer be necessary for performing artistes. Tax credit problems would occur no more frequently for artistes than for other taxpayers.

The taxation of international performing artistes would accord with the non-discrimination and freedom principles of the EC Treaty and an important obstacle to the circulation of performing artistes in the European Union and in other territories would be removed. This would increase cross-border activity and lead to more economic growth for the live performance industry.

The conclusion can be drawn that with the radical change of Article 17 of the OECD Model the unequal treatment of international performing artistes, as displayed in the study in this thesis, would be removed much more completely than with the modifications in the preceding chapter. The radically changed Article 17 of the OECD Model would meet all the criteria, which were set out at the beginning of this thesis.

Courage is needed to take the initiative for this radical change, but everyone would be better off, not only the artistes but also the tax authorities.