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Ref.: DTA/PRJ/PWE/MBR

Dear Mr Owens,

Re: FEE comments on the public discussion draft on clarification of the meaning of “Beneficial Owner” in the OECD Model Tax Convention

FEE (the Federation of European Accountants) is pleased to provide comments on the public discussion draft on clarification of the meaning of “Beneficial Owner” in the Commentary on Articles 10, 11 and 12 of the OECD Model Tax Convention.

We welcome the suggested clarification of the meaning of “Beneficial Owner”.

Currently, there are many different concepts of “beneficial” or “economic” ownership that are being used in different jurisdictions and in different contexts.

If the concept of “beneficial ownership” is used in an inconsistent way it may result in over-taxation or double taxation (or sometimes even in double non-taxation) when dividends, interest or royalties are deemed to have been received by a taxpayer different than the direct payee.

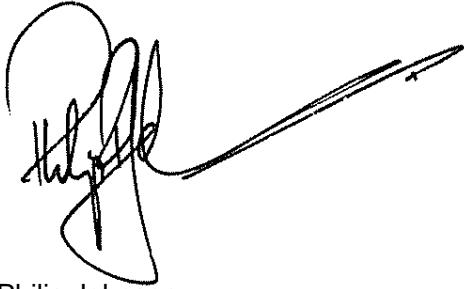
In case the source country denies treaty benefits to the direct payee because he is deemed not to be the beneficial owner then the source country should at least be obliged to grant treaty benefits to the person the source country considers to be the beneficial owner (if the beneficial owner is a resident of a treaty country).

We suggest clarifying that also mere holding companies can be the beneficial owner and that beneficial ownership does not depend on physical substance (having an office or employees).

We welcome that the OECD is pointing out the difference between the meaning of "beneficial owner" in the context of taxation (granting the benefits of a double tax treaty) and in the context of anti-money laundering.

For further information on this letter, please contact Ms Petra Weymüller from the FEE Secretariat (email: petra.weymuller@fee.be, Tel.: +32 2 285 40 75).

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Philip Johnson', with a long, sweeping horizontal stroke extending to the right.

Philip Johnson
President