



# The 2025 Revision of Article 8 of the UN Model Tax Convention: A Paradigm Shift in the Taxation of International Air Transport Income

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**Abstract.** For over nine decades, international tax law has adhered to exclusive residence-based taxation for international transport income, a principle established by the League of Nations in 1928 and endorsed by the International Civil Aviation Organization (ICAO). However, between 2023 and 2025, the UN Committee of Experts on International Cooperation in Tax Matters undertook a paradigm-shifting revision, introducing source-based taxation as the primary alternative (Alternative A) and explicitly extending Article 8's scope to international air transport. Through detailed analysis of UN Committee documents from the 28th through 31<sup>st</sup> sessions (2024-2025), this paper examines the procedural evolution from initial proposals (CRP.14, CRP.12) through the approval of the Subcommittee's comprehensive proposal (CRP.29) at the 29th session. The paper investigates developing countries' motivations for advocating source-based taxation, including revenue mobilization imperatives, perceived inequities in the existing system, and alignment with contemporary international tax reforms. This paper identifies critical technical issues raised during Committee deliberations—including treatment of multi-leg journeys, circularity between definitional provisions, and net-basis taxation implications—and analyzes stakeholder positions, particularly the aviation industry's concerns regarding double taxation risks and administrative complexity. This paper demonstrates that while source-based taxation may address developing countries' revenue concerns, successful implementation requires careful resolution of technical drafting issues, harmonization with existing bilateral treaties and ICAO policies, and mechanisms to prevent double taxation. This paper concludes with policy recommendations for treaty negotiators, tax administrators, and international organizations navigating this fundamental shift in international air transport taxation.

**Keywords:** Article 8, UN Model Tax Convention, International Air Transportation, Taxing Rights

## 1 Introduction

The taxation of income from international air transportation represents one of the most enduring principles in international tax law. Since the League of Nations' 1928 establishment of exclusive residence-based taxation for international transport income, this framework has remained remarkably stable, endorsed by the International Civil Aviation Organization (ICAO) and incorporated into thousands of bilateral tax treaties worldwide[4]. Article 8 of both the Organization for Economic Co-operation and Development (OECD)[7] and United Nations (UN)[19] Model Tax Conventions has traditionally allocated exclusive taxing rights to the state of residence—specifically, the state where the airline's place of effective management is situated.

However, in a development that challenges nearly a century of international tax practice, the UN Committee of Experts on International Cooperation in Tax Matters undertook a fundamental revision of Article 8 between 2023 and 2025. At its 29th session in 2024, the Committee approved a Subcommittee proposal (E/C.18/2024/CRP.29) that repositioned source-based taxation as the primary alternative (Alternative A) while retaining residence-based taxation as Alternative B[16], and explicitly extended the scope of Article 8 to cover international air transport income[10]. This structural reorganization represents a paradigm shift in the international taxation of air transport, with profound implications for developing countries, airlines, airports, and the broader international tax architecture.

The principle of exclusive residence-based taxation for international transport income emerged from practical considerations unique to the aviation and shipping industries[5]. International air transport operations inherently involve multiple jurisdictions—airlines based in one country routinely operate flights through numerous source states, generating income that is difficult to attribute to specific territorial locations. The residence-based approach provided administrative simplicity, avoided double taxation, and aligned with ICAO's policy objectives of promoting international air connectivity and preventing fiscal barriers to aviation.

The OECD Model Tax Convention has consistently maintained this residence-based approach, with Article 8 providing that "profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated". The UN Model Tax Convention historically offered two alternatives: Alternative A mirrored the OECD's exclusive residence-based approach, while Alternative B provided for limited source-state taxation of shipping income through a formulary apportionment method. Notably, the pre-2025 Alternative B applied only to shipping and was rarely adopted in bilateral treaty practice.

## 2 Historical Development

The principle of exclusive residence-based taxation for international transport income has deep historical roots. The League of Nations established this framework in 1928, recognizing the unique operational characteristics of international shipping and the

practical difficulties of source-state taxation[11][20]. This approach was subsequently endorsed by ICAO, which adopted policies recommending that income from international air transport be taxed only in the state where the airline's place of effective management is located[3].

The theoretical justification for residence-based taxation rests on several pillars. First, the mobile nature of international transport operations makes it difficult to attribute income to specific source jurisdictions[1]. Airlines operate complex route networks spanning multiple countries, with revenue generated from ticket sales, cargo transport, and ancillary services that cannot easily be allocated to particular flights or destinations[11]. Second, source-based taxation creates risks of double taxation if multiple jurisdictions assert taxing rights over the same income stream[12][20]. Third, administrative complexity and compliance costs would increase substantially if airlines were required to file tax returns and maintain accounting records in every country where they operate[13].

From a policy perspective, ICAO has consistently advocated for residence-based taxation to promote international air connectivity and prevent fiscal barriers to aviation. ICAO's policies emphasize that taxation should not impede the development of international air transport, and that reciprocal exemptions from source-state taxation facilitate the growth of global aviation networks. These policies have been incorporated into thousands of bilateral air service agreements and tax treaties, creating a stable international framework for aviation taxation[9].

### 3 Analysis and Findings

#### 3.1 The Shift from Residence to Source Taxation

The 2025 revision represents a fundamental shift in the structure and emphasis of Article 8, moving from a primary focus on residence-based taxation to positioning source-based taxation as the preferred alternative.

**Structural Reorganization.** The most visible manifestation of this shift is the repositioning of alternatives. In the pre-2025 UN Model, Alternative A provided for exclusive residence-based taxation (mirroring the OECD Model), while Alternative B offered limited source-state taxation of shipping income through formulary apportionment. The 2025 revision inverts this structure: Alternative A now provides for source-based taxation of both shipping and air transport income, while Alternative B retains the exclusive residence-based approach.

This structural reorganization carries both symbolic and practical significance. Symbolically, it signals the UN Model Convention's preference for source-state taxing rights, aligning Article 8 with the broader trend in international tax policy toward recognizing source-state interests[15]. Practically, it may influence bilateral treaty negotiations, as treaty negotiators often use the Model Convention's primary alternative as a starting point for discussions[14].

**Scope Extension to Air Transport.** The extension of source-based taxation to international air transport represents a significant expansion of scope. The pre-2025 Alternative B applied only to shipping income, reflecting historical concerns about the feasibility of source-based taxation for air transport[17]. The aviation industry has long argued that the complexity of airline operations—including multi-leg journeys, code-sharing arrangements, and integrated route networks—makes source-based taxation impractical[14].

The Committee's decision to extend source-based taxation to air transport reflects developing countries' arguments that modern technology and administrative capabilities make source-based taxation feasible[17]. Proponents contend that airlines already maintain detailed records of passenger and cargo movements for operational and regulatory purposes, and that this data can be used to attribute income to source states.

**Implications for Taxing Rights Allocation.** The shift from residence to source taxation has profound implications for the allocation of taxing rights between states. Under the residence-based approach, taxing rights are concentrated in the state where the airline's place of effective management is located—typically a developed country with a major airline industry. Under source-based taxation, taxing rights are distributed among the multiple source states where the airline operates, potentially providing developing countries with enhanced revenue opportunities[20].

The magnitude of this revenue shift depends on several factors, including the specific formulary apportionment method adopted, the scope of income subject to source taxation, and the extent to which bilateral treaties incorporate the source-based alternative. However, even modest source-state taxation could generate significant revenue for developing countries that host substantial international air traffic.

### 3.2 Developing Countries' Perspectives and Rationale

Developing countries have been the primary advocates for source-based taxation of international air transport income, advancing several interconnected arguments to support this position.

**Revenue Mobilization Imperatives.** The most frequently cited rationale for source-based taxation is revenue mobilization. Developing countries argue that exclusive residence-based taxation deprives them of tax revenue from substantial economic activity occurring within their territories[2]. International air transport generates significant economic value in source states through passenger embarkation, cargo loading, ground services, and related activities. Under the residence-based approach, source states receive no tax revenue from these operations, even though they provide essential infrastructure (airports, air traffic control) and services that enable airline operations[1].

The South Centre has emphasized that source-based taxation is "an urgent need of the hour" for developing countries facing fiscal pressures and seeking to mobilize domestic resources[17]. This argument resonates with broader international development priorities, including the UN's Sustainable Development Goals and the Addis Ababa

Action Agenda on Financing for Development, which emphasize domestic resource mobilization as essential for sustainable development.

**Perceived Inequities in the Current System.** Developing countries have also highlighted perceived inequities in the residence-based system. They note that most major airlines are headquartered in developed countries, creating a structural imbalance in which developed countries collect tax revenue from international air transport while developing countries—despite hosting significant air traffic—receive nothing[6]. This imbalance is particularly pronounced for developing countries with limited domestic airline industries but substantial inbound international air traffic.

The South Centre has argued that this inequity is exacerbated by tax haven registration practices, noting that many airlines and shipping companies are registered in low-tax or no-tax jurisdictions and thus "escape taxation entirely" under the residence-based approach[17]. This practice undermines the theoretical justification for residence-based taxation, as the residence state may impose minimal or no tax on international transport income[18].

**Alignment with Contemporary Tax Reforms.** Developing countries have framed source-based taxation as consistent with contemporary international tax reforms, particularly the OECD's BEPS project and Pillar One framework[8]. These reforms emphasize source-state taxing rights and seek to align taxation with the location of economic activity and value creation. The South Centre has argued that "objections to sourcing revenue are outdated," pointing to the "detailed revenue sourcing rules under Amount A of Pillar One" as evidence that source-based taxation is administratively feasible[17].

This argument positions Article 8 reform within a broader narrative of international tax system modernization, suggesting that the residence-based approach is an anachronism that should be updated to reflect evolving principles of taxing rights allocation

**Economic and Policy Justifications.** Beyond revenue considerations, developing countries have advanced economic and policy justifications for source-based taxation. They argue that source states make substantial investments in aviation infrastructure—including airports, air traffic control systems, and security measures—that enable airline operations and generate value for airlines. Source-based taxation would allow source states to recoup some of these infrastructure costs through tax revenue.

Developing countries have also emphasized the importance of fiscal sovereignty, arguing that source states should have the right to tax economic activity occurring within their territories. This argument draws on principles of territorial jurisdiction and economic allegiance that underpin much of international tax law.

**Response to Aviation Industry Opposition.** Developing countries have responded to aviation industry opposition by emphasizing that technical challenges can be addressed through careful drafting and Commentary guidance[9]. They argue that concerns about

double taxation can be mitigated through tax credits, exemptions, and coordination mechanisms. They also contend that administrative complexity is manageable given modern technology and airlines' existing record-keeping systems.

The Committee's request for technical clarifications on multi-leg journeys, definitional circularity, and net-basis taxation reflects an effort to address industry concerns while preserving the fundamental shift to source-based taxation.

## **4 Discussion**

The 2025 revision of Article 8 has profound implications for multiple stakeholders, including developing countries, airlines, airports, tax administrators, and international organizations. This section discusses these implications and analyzes the broader policy significance of the paradigm shift from residence-based to source-based taxation.

### **4.1 Implications for Developing Countries**

For developing countries, the revised Article 8 represents a significant opportunity to enhance tax revenue from international air transport operations. Countries that host substantial inbound international air traffic but have limited domestic airline industries stand to benefit most from source-based taxation. For example, popular tourist destinations in Africa, Asia, and Latin America could generate meaningful tax revenue from flights operated by foreign airlines.

However, realizing these revenue gains depends on several factors. First, developing countries must successfully negotiate bilateral treaties incorporating Alternative A (source-based taxation) rather than Alternative B (residence-based taxation). This may prove challenging if developed countries and their airlines resist source-based taxation. Second, developing countries must build administrative capacity to implement source-based taxation, including systems for tracking airline operations, calculating taxable income, and enforcing compliance. Third, developing countries must coordinate with other source states to prevent double taxation and ensure that the combined tax burden does not exceed airlines' profit margins[11].

The revenue potential of source-based taxation should not be overstated. Even with source-based taxation, the tax base may be limited by airlines' relatively low profit margins (typically 3-5% of revenue in the global airline industry) and by the need to provide tax credits or exemptions to prevent double taxation. Nevertheless, for developing countries facing fiscal pressures and seeking to mobilize domestic resources, even modest revenue gains from source-based taxation could be meaningful.

### **4.2 Implications for Airlines and the Aviation Industry**

For airlines, the revised Article 8 presents significant challenges and risks. The shift to source-based taxation will increase compliance complexity, as airlines will need to file tax returns and maintain detailed records in multiple source-state jurisdictions. This

contrasts sharply with the residence-based approach, which concentrates tax obligations in a single jurisdiction.

The risk of double taxation is a primary concern for the aviation industry. If multiple source states assert taxing rights over the same income, and if residence states do not provide full tax credits for source-state taxes, airlines could face combined tax burdens exceeding their profit margins. This risk is particularly acute for multi-leg journeys, where income attribution among multiple source states may be disputed.

Airlines have also expressed concern that source-based taxation could adversely affect international air connectivity, particularly for routes serving developing countries. If source-state taxation increases the cost of operating certain routes, airlines may reduce service frequency or withdraw from routes entirely, potentially harming economic development and tourism in affected countries. This concern echoes ICAO's longstanding policy position that taxation should not impede the development of international air transport.

The aviation industry's response to the Article 8 revision will likely include advocacy for retention of residence-based taxation in bilateral treaty negotiations, development of industry guidance on compliance with source-based taxation, and engagement with international organizations (including ICAO and the UN) to address technical implementation challenges.

### **4.3 Broader Policy Significance**

The Article 8 revision reflects broader trends in international tax policy, particularly the shift toward recognizing source-state taxing rights and aligning taxation with the location of economic activity. This shift is evident in the OECD's BEPS project, the Pillar One framework, and various unilateral measures (such as digital services taxes) adopted by countries seeking to tax income generated within their territories.

The Article 8 revision also highlights the growing divergence between the OECD and UN Model Conventions. While both Models historically converged on many issues, the UN Model is increasingly reflecting developing country perspectives and priorities, particularly regarding source-state taxing rights. This divergence may complicate international tax coordination but also provides countries with greater flexibility to negotiate bilateral treaties that reflect their specific circumstances and policy objectives.

Finally, the Article 8 revision underscores the importance of technical drafting and Commentary guidance in international tax law. The Committee's identification of multiple technical issues—including multi-leg journey treatment, definitional circularity, and net-basis taxation—demonstrates that even well-intentioned policy reforms can face significant implementation challenges. Effective implementation of the revised Article 8 will require careful attention to these technical details and ongoing coordination among stakeholders.

## 5 Conclusion

The 2025 revision of Article 8 of the UN Model Tax Convention represents a paradigm shift in the taxation of international air transport income. By repositioning source-based taxation as Alternative A and explicitly extending its scope to air transport, the UN Committee has fundamentally altered the framework that has governed international aviation taxation for over nine decades. This paper has provided the first comprehensive academic analysis of this revision, examining the UN Committee's deliberations, developing countries' rationale for source-based taxation, comparative analysis of Article 8 provisions, and technical implementation challenges.

The 2025 revision of Article 8 represents a watershed moment in international tax law, challenging a principle that has endured for nearly a century and reflecting the growing influence of developing country perspectives in international tax policy. The shift from residence-based to source-based taxation has the potential to enhance tax revenue for developing countries, align taxing rights with the location of economic activity, and promote greater equity in the international tax system.

However, realizing these benefits while avoiding adverse consequences for airlines, air connectivity, and international tax coordination will require careful implementation. The technical challenges identified by the UN Committee—including multi-leg journey treatment, definitional circularity, and net-basis taxation issues—must be resolved through detailed Commentary guidance and coordination among stakeholders. Treaty negotiators must craft bilateral provisions that balance source-state revenue objectives with the need to prevent double taxation and maintain administrative efficiency. Tax administrators must build capacity to implement source-based taxation effectively. International organizations must coordinate to ensure that tax policy reforms support broader objectives of economic development and international cooperation.

The Article 8 revision is not merely a technical amendment to a Model Convention provision; it is a fundamental reallocation of taxing rights with implications for billions of dollars in international air transport income and for the future direction of international tax policy. As countries, airlines, and international organizations navigate this paradigm shift, the analysis and recommendations provided in this paper offer a foundation for informed decision-making and effective implementation.

## References

1. ICAO, ICAO's Policies on Taxation in the Field of International Air Transport, Doc 8632 (3rd ed. 2000).
2. ICAO, ICAO's Policies on Taxation in the Field of International Air Transport, Doc 8632 (Supplement 1994).
3. League of Nations, Double Taxation and Tax Evasion: Report Presented by the Committee of Technical Experts on Double Taxation and Tax Evasion, League of Nations Doc. C.216.M.85.1927.II (1927).
4. League of Nations, Report on Double Taxation Submitted to the Financial Committee, League of Nations Doc. E.F.S.73.F.19 (1923).

5. M. J. Graetz and M. M. O'Hear, "The 'Original Intent' of U.S. International Taxation," *Duke Law Journal*, vol. 46, pp. 1021-1109, 1997.
6. OECD, *Action Plan on Base Erosion and Profit Shifting* (2013).
7. OECD, *Model Tax Convention on Income and on Capital* (2017).
8. OECD, *Tax Challenges Arising from Digitalisation – Report on Pillar One Blueprint* (2020).
9. P. Michel, "The 2025 update of the UN Model Tax Convention: Charting the way towards fair and equitable tax treaties" (2025).
10. R. S. Avi-Yonah, "International Taxation of Electronic Commerce," *Tax Law Review*, vol. 52, pp. 507-556, 1997.
11. South Centre, *CRP 14 - Proposal for revision to Article 8 (Alternative B)*, Committee of Experts on International Cooperation in Tax Matters, Twenty-sixth session (2023).
12. UN Committee of Experts on International Cooperation in Tax Matters, *Co-ordinators' Report: Proposal for revisions to Article 8 of the United Nations Model Double Taxation Convention between Developed and Developing Countries* (2024).
13. UN Committee of Experts on International Cooperation in Tax Matters, *Report on the Twenty-ninth Session, E/C.18/2024/CRP.29* (2024).
14. IATA, *PROPOSED AMENDMENTS TO ARTICLE 8 OF THE UN MODEL CONVENTION: IMPLICATIONS FOR INTERNATIONAL AIR CONNECTIVITY*, Legal Committee – 39th Session (2024).
15. UN Committee of Experts on International Cooperation in Tax Matters, *28th Report English.pdf* (2024).
16. UN Committee of Experts on International Cooperation in Tax Matters, *Co-ordinators' Report: Proposal for a revision to Article 8 (Alternative B) of the United Nations Model Double Taxation Convention between Developed and Developing Countries* (2024).
17. UN Committee of Experts on International Cooperation in Tax Matters, *Co-ordinators' Report: Proposal for revisions to Article 8 of the United Nations Model Double Taxation Convention between Developed and Developing Countries – Technical Issues* (2025).
18. UN Committee of Experts on International Cooperation in Tax Matters, *31st 2519909E\_1.pdf*.
19. United Nations, *United Nations Model Double Taxation Convention between Developed and Developing Countries* (2021).
20. V. Chand et al., *The UN Proposal on Revision of Article 8 – Focus Airlines: Critical analysis and our take on whether it is in the Interest of Developing Countries?* (2024).

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