

TAXATION

Reimbursement

**Agreement Between the
UNITED STATES OF AMERICA
and the UNITED NATIONS EDUCATIONAL,
SCIENTIFIC AND CULTURAL
ORGANIZATION**

Signed at Paris December 14, 2010

with

Annex



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“ . . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

**UNITED NATIONS EDUCATIONAL, SCIENTIFIC
AND CULTURAL ORGANIZATION**

Taxation: Reimbursement

*Agreement signed at Paris December 14, 2010;
Entered into force December 14, 2010.
With annex.*

TAX REIMBURSEMENT AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND
THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL
ORGANIZATION

This Agreement is made between the Government of the United States of America (hereinafter "United States") and the United Nations Educational, Scientific and Cultural Organization (hereinafter "UNESCO"), "the Parties."

It is the intent of the United States to assume sole responsibility pursuant to this Agreement for funding the reimbursement of taxes to staff members of UNESCO who are subject to United States tax law as United States citizens or permanent resident aliens;

It is the intent of UNESCO to place the reimbursement of United States income tax to its staff members on a sound basis; and,

The Parties are desirous of concluding an agreement on reimbursement to UNESCO staff members of United States Federal, state, and local income tax and self-employment tax levied under United States law on the income they receive as compensation for official services rendered to UNESCO (hereinafter "institutional income");

THE PARTIES AGREE AS FOLLOWS:

1. UNESCO shall reimburse UNESCO staff members paid from the regular budget who are liable for and pay United States Federal self-employment tax and United States Federal, state, and local income taxes on their UNESCO institutional income, as defined in the Annex to this Agreement, the amount of those taxes, under the terms and conditions set forth below. This agreement does not apply to any reimbursement of taxes by UNESCO on income not included in the Annex. This Agreement does not cover staff members paid from voluntary funds. An advance payment made by UNESCO relating to the estimated tax liability of a staff member during a current year will be treated as reimbursement, provided that such payment is effected by an instrument payable to the Internal Revenue Service or counterpart body of the taxing state or local government.
2. Subject to the availability of appropriated funds, the United States shall reimburse UNESCO for each taxpayer an amount not to exceed the tax that would be due if the specified categories of UNESCO income were the taxpayer's only income, taking into account any special tax benefits available to United States taxpayers employed abroad, as well as the deductions and personal exemptions otherwise allowed.
3. UNESCO shall inform the staff members who seek reimbursement of taxes under this Agreement that they are obligated to claim all deductions, exemptions, or exclusions to which they are entitled under applicable tax legislation and regulations.
4. For purposes of United States Federal income tax, deductions, exemptions, and adjustments to income shall be apportioned on a pro rata basis between taxable UNESCO institutional income and private income for the purposes of calculating tax reimbursement, except where deductions and exemptions relate to a specific category of income. "Taxable UNESCO institutional income" means the amount of UNESCO income subject to tax after the application of the foreign earned income exclusion.
5. Both parties shall take all possible measures to reduce or eliminate the burden resulting from the cumulative effect of tax reimbursements being treated as taxable income.

6. UNESCO staff members who seek reimbursement of taxes under this Agreement are themselves responsible for complying with any income tax laws applicable to them. Penalties, interest, or other charges resulting from noncompliance with such laws shall not be reimbursed by UNESCO to UNESCO staff members and shall not be reimbursed by the United States to UNESCO.
7. UNESCO shall require each UNESCO staff member claiming tax reimbursement to determine the status defined by United States tax law under which that staff member files an income tax return, reimbursement being made on the basis of the status under which taxes are in fact being paid.
8. UNESCO shall maintain separate accounting of the tax reimbursements covered by this Agreement. UNESCO shall require each staff member receiving tax reimbursement to authorize UNESCO to obtain confirmation from the United States Internal Revenue Service and state and local government counterpart bodies, as appropriate, of the tax liability of that staff member and the payment of the tax due. UNESCO shall require each staff member to provide it with all the materials necessary to verify that the amounts claimed under this Agreement from UNESCO are the same as the tax liability the staff member reports and the tax payments the staff member in fact makes.
9. Checks by UNESCO for payment of estimated taxes shall be made payable to the Internal Revenue Service, or counterpart body of the taxing state or local government, and checks for reimbursement of taxes already paid by a staff member shall be made payable to the staff member concerned.
10. Reimbursement of the United States Federal self-employment taxes shall equal the difference between the amount the staff member pays as a result of the staff member's classification as a self-employed person, less any applicable tax credit arising from the same qualification, and the amount the staff member would have to pay in social security (Old Age, Survivors and Disability Insurance) taxes and health insurance (Medicare) taxes were the staff member classified as an employee.
11. The principles embodied in the present Agreement on reimbursement of Federal taxes equally constitute the basis for the reimbursement of state and local taxes.

12. The United States shall reimburse UNESCO on the basis of a certification that reimbursements have been made by UNESCO to United States citizens, or others who are liable to pay United States income taxes. The certification shall set forth the names and United States social security numbers of the UNESCO staff members reimbursed, the total of UNESCO income against which the United States tax has been paid (that is, institutional income as defined in the Annex), the amounts reimbursed to UNESCO staff members, the tax year for which reimbursement is made, the year in which reimbursement is made for each category of tax specified in Article 1, and affirm that their salaries and benefits are paid from the regular budget as required by Article 1. This information shall be provided yearly to the United States by October 1 following the tax year for which the claim is made. Without prejudice to the foregoing, UNESCO shall submit to the U.S. government all tax reimbursement claims for a particular tax year, no later than 24 months from October 1 following the tax year for which the claim is made.

13. The United States shall reimburse UNESCO at the earliest possible date following receipt of the certification specified in Article 12 a sum sufficient to cover all tax reimbursements paid by UNESCO with respect to preceding tax years, in accordance with this Agreement.

14. In the interest of maintaining the availability of tax benefits granted by United States law to members of qualified pension plans, the United States and UNESCO together with the United Nations Secretariat will make every effort to maintain the qualified status of the United Nations Joint Staff Pension Fund in respect of the UNESCO participants.

15. Subject to the availability of funds, the United States and UNESCO may agree to a reimbursement for such reasonable and necessary expenses as UNESCO may incur in connection with the implementation of the administrative procedures required to carry out the provisions of this Agreement.

16. This Agreement shall apply with regard to tax reimbursements for institutional income earned on or after January 1, 2009.

17. This Agreement shall enter into force upon signature by the Parties and may thereafter be terminated by either Party on December 31 of the year following the year in which notice is given in writing to the other Party.

18. Should the United States conclude a tax reimbursement agreement with any other United Nations system organization substantially more favorable to that organization or its staff members than the present Agreement, the latter shall be modified to extend to UNESCO the benefit of the former, subject to the agreement of the United States, which shall not unreasonably be refused.

19. Any difficulties arising from the implementation of this Agreement shall be resolved by consultations between the Parties.

Done at Paris, in duplicate, this 14th day of December 2010, in the English language.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

FOR THE UNITED NATIONS
EDUCATIONAL, SCIENTIFIC AND
CULTURAL ORGANIZATION:



David T. Killion
Ambassador
United States Mission to UNESCO

Getachew Engida
Deputy Director-General
UNESCO

ANNEX

Particulars of Institutional Income

"Institutional income," as used in this Tax Reimbursement Agreement, includes only the following particulars of compensation:

- Basic salary
- Post Adjustment
- Salary increments
- Special post allowance
- Overtime
- Night differential
- Language allowance
- Assignment grant and supplemental lump sum
- Education grant and related travel
- Family allowances
- Family visit travel
- Home leave travel
- Lump-sum payment for unused annual leave
- Mobility and hardship allowance
- Non-resident's allowance
- Removal expenses
- Rental subsidy
- Repatriation grant
- Termination indemnity
- Reimbursement as stipulated in this agreement of United States Federal, state, or local income tax payments and United States self-employment tax payments on institutional income.

Should UNESCO approve the addition, modification, or deletion of any elements of institutional income, this Annex may be modified by an exchange of letters, subject to the agreement of the United States, which shall not unreasonably be refused.