

TAXATION

Reimbursement

Agreement Between the
UNITED STATES OF AMERICA
and the INTERNATIONAL ORGANIZATION
FOR MIGRATION

Signed at Washington September 17, 1997



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.”

**INTERNATIONAL ORGANIZATION FOR
MIGRATION**

Taxation: Reimbursement

*Agreement signed at Washington September 17, 1997;
Entered into force September 17, 1997.*

TAX REIMBURSEMENT AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND
THE INTERNATIONAL ORGANIZATION FOR MIGRATION

This Agreement is made between the Government of the United States of America (hereinafter "United States") and the International Organization for Migration (hereinafter "IOM") ("the Parties").

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

It is the intent of IOM to place the reimbursement of United States income tax to its officials on a sound basis; and

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

THE PARTIES AGREE AS FOLLOWS:

1. IOM shall reimburse officials paid from the Administrative part of the Budget who are liable for and pay the United States Federal self-employment tax and United States Federal, state, and local income taxes on their IOM 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 cover officials paid from voluntary funds. An advance payment made by IOM relating to the estimated tax liability of a staff member during a current year will be treated as reimbursement, provided that such a 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 IOM for each taxpayer an amount not to exceed the tax that would be due if (a) the specified categories of IOM 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; and (b) each taxpayer who seeks reimbursement of taxes under this Agreement has claimed all deductions, exemptions, or exclusions to which he or she is entitled under applicable tax legislation and regulations.

3. For purposes of United States Federal income tax, deductions, exemptions, and adjustments to income shall be apportioned on a pro rata basis between taxable IOM 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 institutional income" means the amount of IOM income subject to tax after the application of the foreign earned income exclusion.

4. 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.

5. IOM officials 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 any such income tax laws shall not be reimbursed by IOM to IOM officials and shall not be reimbursed by the United States to IOM.

6. Each official claiming tax reimbursement shall determine the status defined by United States tax law under which the official files his or her income tax return, reimbursement being made on the basis of the status under which taxes are in fact being paid.

7. IOM shall maintain separate accounting of the tax reimbursements covered by this Agreement. IOM shall require each official receiving tax reimbursement to authorize IOM 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 official and the payment of the tax due. IOM shall require each official to provide it with all the materials necessary to verify that the amounts claimed under this Agreement from IOM are the same as the tax liability the official reports and the tax payments the official in fact makes.

8. Checks by IOM 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 an official shall be made payable to the official concerned.

9. Reimbursement of the United States Federal self-employment taxes shall equal the difference between the amount the official pays as a result of the official's classification as a self-employed person, less any applicable tax credit arising from the same qualification, and the amount the official would have to pay in social security taxes and health insurance taxes were he or she classified as an employee.

10. The principles embodied in the present Agreement on reimbursement of Federal taxes equally constitute the basis for the reimbursement of state and local taxes.

11. The United States Government shall reimburse IOM on the basis of a certification that reimbursements have been made by IOM 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 IOM officials reimbursed with documentation that their salaries and benefits are paid from the Administrative part of the Budget as required by Article 1, the total of IOM income against which the United States tax has been paid, the amounts reimbursed to IOM officials, the tax year for which reimbursement is made, and the year in which reimbursement is made for each category of tax specified in Article 1. This information will be provided yearly to the United States before October first of each year.

12. The United States shall deposit with IOM at the earliest possible date each year a sum sufficient to cover all tax reimbursements paid by IOM in respect of the preceding tax year in accordance with this Agreement.

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

14. This Agreement shall apply with regard to tax reimbursements for institutional income earned on or after 1 January 1996.

15. 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. Should the United States conclude a tax reimbursement agreement with any other international organization substantially more favorable to that organization or its officials than the present Agreement, the latter shall be modified to extend to IOM the benefit of the former, subject to the agreement of the United States, which shall not unreasonably be refused.

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

DONE in duplicate, in the English language, at Washington, D.C., this 17 day of September 1997.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

FOR THE INTERNATIONAL
ORGANIZATION FOR MIGRATION:

Princeton N. Lyman
PRINCETON N. LYMAN
ASSISTANT SECRETARY
BUREAU OF INTERNATIONAL
ORGANIZATION AFFAIRS

Hans-Petter W. Boe
HANS-PETTER W. BOE
CHIEF OF MISSION

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 increases, including merit increments
- Repatriation grant
- Language allowance
- Interim allowance for special duties
- Overtime
- Night differential
- Installation Allowance
- Education grant and related travel
- Dependency allowances
- Nonresident's allowance
- Termination indemnity
- Cash payments in lieu of unused annual leave
- Severance pay
- Assignment allowance
- Mobility and hardship allowance
- Home leave travel
- Moving expenses
- Reimbursement of United States Federal, state, or local
income tax payments and United States self-employment tax
payments on institutional income.

Should IOM 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 be unreasonably refused.