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OECD Invites Comments on Cross-border Tax Issues Raised by Employee Stock-options

As part of its current work reviewing the cross-border tax issues raised by employee stock-options, the OECD has posted a draft discussion document on its web-site with an invitation for comments from stakeholders and other interested parties.

Employee stock-options pose a number of issues for governments in the administration of bilateral tax treaties, notably in relation to:

- possible timing mismatches between taxation in the country where the employee resides and the country where he has worked
- the determination of the period of employment to which an option relates
- possible differences between treaty provisions that deal with employment income and those that deal with capital gains
- cases where the employee's country of residence changes
- the alienation of stock-options in the context of mergers and acquisitions
- problems arising from differences in valuation of a stock-option between markets.

For each of these issues, the draft discussion document examines the application of the relevant provisions of the OECD Model Tax Convention, on which almost all bilateral tax treaties are based, and proposes possible interpretations and solutions.

Before carrying out further work on the basis of this draft, the OECD invites interested parties to send their comments on both the issues and the possible solutions and interpretations described in this note, as well as on any other tax treaty issue that may arise from employee stock-options. The OECD's Committee on Fiscal Affairs is also reviewing other tax issues related to employee stock-option plans, including domestic tax treatment and transfer pricing

(see <http://www.oecd.org/EN/document/0,,EN-document-99-3-no-27-26897-0,FF.html>).

The full text of the draft is available on the OECD's website at <http://www.oecd.org/pdf/M00026000/M00026818.pdf>. Comments should be sent before 31 July 2002 to: jeffrey.owens@oecd.org.

For further information, journalists are invited to contact Nicholas Bray, OECD's Media Relations Division (tel. [33] 1 45 24 80 90 or nicholas.bray@oecd.org).

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