When internationally mobile workers retire, they look to Art 18 of the OECD Model tax treaty to determine their tax treatment. If they are private sector workers, government workers look to Art 19. What about employees of international organisations? Although international civil servants, they work for no government and are subject to Art 19.

Commonly, treaties that establish international organisations contain rules as to the tax treatment of their employees. Thus, for example, the World Bank Model Bank Articles of Agreement states that:

“No tax shall be levied on or in respect of salaries and emoluments paid by the Bank to executive directors, alternates, officials or employees of the Bank who are not local citizens, local subjects, or other local nationals.” (Article VI, Section 4(c))

Consequently, World Bank employees at its Washington DC headquarters pay no UK tax on such salaries unless they are UK citizens. Pensions are not expressly addressed in the IBRD Articles. The World Bank maintains a contributory, defined benefit pension scheme for its employees (the Staff Retirement Plan or “SRP”).

Courts in the United Kingdom and Australia have recently considered the locus of pensions received by overseas employees of the World Bank. In both cases the pensions were held to benefit from exemption after interpretation by relevant double tax treaty (in the UK) or by domestic legislation that was consistent in conformity with the World Bank Articles of Agreement (in Australia).

World Bank Group employees who retire to the UK were held to qualify for exemption from UK income tax on their pensions under Art 17(1)(a) of the 1976 UK-US tax treaty in, respectively, Macklin v HM Revenue and Customs [2015] UKUT 39, and Schwarz v HM Revenue and Customs (2015) 72 TCG 888, as qualifying for exemption under immunities from tax contained in the treaty establishing the World Bank as an international organisation (IMF Articles, Article VII, Section 9 (b)), rather than under US tax rules.

In the UK, the Upper Tribunal also rejected the HMRC contention that the SRP was not “generally exempt from income tax” in the US because it was exempt under immunities from tax contained in the treaty establishing the World Bank as an international organisation (IBRD Articles, Article VII, Section 9 (b)), rather than by reference to the World Bank Group pension scheme (as in the SRP, or as established in a Contracting State, which extended exemption to salaries and emoluments received from a prescribed organisation, which included the World Bank). There was no US law that would require a pension to be subject to US tax for the reasons given in Macklin, although the US Internal Revenue Service had not ruled on the matter.

In the Australian case, the Superior Court of Catalonia held that a World Bank employee’s contribution scheme was “a pension scheme established in the UK” within the meaning of Art 3(1)(o) of the 1999 UK-Spain tax treaty. The Superior Court held that a World Bank pension received by an Australian resident is exempt from income tax. There the Court also found that the SRP is a pension scheme established in the UK within the meaning of Art 3(1)(o) of the UK-Canada tax treaty.

The Tribunal considered that the pension benefits were clearly part of an overall remuneration package which extended exemption to salaries and emoluments received from a prescribed organisation, which included the World Bank.

The Tribunal also referred to the Superior Court of Catalonia, decision number 35/2007, dated March 28 2007 which held that pension paid to Canadian after retirement of an official and employment as a United Nations official were exempt from taxation as being “immunities” (Article 19 of the Tax Treaty, Article 3(1)(b) Chapter 2 para 2.175 on the exemption for UK employees).