INTERNATIONAL TAX CHALLENGES RAISED BY THE MOBILITY OF INDIVIDUALS / WORKERS

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Cross-border individual mobility is not a new phenomenon

- **Globalisation and international economic integration have led to higher capital and labour mobility**
- **Nevertheless, the focus has very largely been on capital mobility, with individual mobility being typically restricted to narrow segments of the population**
  - Labour viewed as a relatively immobile tax base, with exceptions
  - Preferential tax regimes targeting individuals focused on attracting more mobile groups e.g. retirees, high-skilled workers, high-net worth individuals
- **Studies have highlighted the existence of tax-induced individual mobility**
  - Anecdotal evidence of tax-induced HNWI mobility
  - Empirical evidence of mobility responses to taxation– e.g. Kleven *et al.* (2020)

Digitalisation and remote work are enabling increasing and different forms of mobility

- **Digitalisation has led to significant changes in labour markets**
  - Teleworking/new types of jobs, including via platforms (e.g. platform workers, influencers, bloggers)
- **Widespread adoption of remote work during the pandemic**
  - Updated OECD guidance on tax treaty issues arising from cross-border remote work, January 2021
- **Prevalence of remote work expected to persist and possibly grow post-pandemic**
  - **40% of managers** and **70% of workers** expect increasing teleworking; **3x increase** in advertised telework positions between January 2020 and September 2021 (OECD, 2021)
- **Recent introduction of tax incentives to attract so-called “digital nomads”**
- **Global mobility goes beyond employees**
  - e.g. High-Net Worth Individuals (HNWIs), independent contractors, pensioners

The tax implications of cross-border mobility are attracting increasing attention: *occasional and permanent*

- Businesses demanding **more tax certainty**, especially regarding **occasional cross-border remote work** post-pandemic:
  - avoiding unintended PE creation and income tax and SSC related issues due to occasional cross-border remote work (e.g. <120 working days or 183 days/p.a.)
- Studies highlighting potential increase in **personal tax competition** associated with **more permanent cross-border relocations**:
  - more permanent cross-border remote work, i.e. where the employee's tax residence is different from the employer's tax residence (De la Feria & Maffini, 2021)
  - mobility of highly skilled workers and high-net worth individuals (e.g. Kleven et al., 2020; Flamand, Godard & Richard, 2021)

Cross-border mobility scenarios vary widely

Type of individual	Scenario
Occasional cross-border remote work	Employee occasionally works from country B for an employer that resides in country A
Permanent cross-border remote work	Employee lives and works in country A for an employer that resides in country B
Self-employed, cross-border remote work	Self-employed worker lives and works in country A for clients in countries A, B and C
Highly mobile self-employed	Self-employed worker frequently moving from country to country throughout the year
Cross-border commuter	Employee lives in country A but commutes daily to work in country B
Highly-skilled worker	Highly-skilled worker moves to country B and starts working for an employer that resides in country B
High-net worth individuals	HNWI moves to country B

Increased cross-border mobility raises many tax issues

The physical presence of workers/individuals is a key determinant of:

- **CIT nexus/taxing rights**
  - PE creation
  - Company residence (place of effective management)
- **CIT transfer pricing rules**
  - Income allocation rules if key risk controlling/decision-making employees telework abroad
  - Attribution of profits to PEs if a PE is triggered
- **PIT nexus/taxing rights**
  - Individual tax residence, taxing rights over employment income
- **SSC liability and benefit entitlement**
- **Tax administration**
  - Availability and reporting of information

→ Increased individual mobility has wide-ranging tax consequences

It's not just about tax: *cross-border mobility will be influenced by a variety of factors*

- **Various factors may be affecting cross-border mobility including:**
  - Technology
  - Time zones
  - Tax rules (e.g. unintended PE creation; potential PIT/SSCs obligations)
  - Immigration laws
  - Labour laws
- **Opportunities and obstacles to mobility will likely vary across:**
  - Countries
  - Sectors
  - Companies
  - Types of workers or individual profiles

Potential implications of increased cross-border mobility

- **Potential economic, social and environmental benefits**
  - Increase flexibility and labour participation
  - Remote work can have environmental benefits (e.g. reduced travelling), but not always
- **Potential decrease in tax certainty and tax compliance**
- **Increased personal income tax competition**
  - The more mobile the factor, the more likely tax competition will intensify
- **Revenue impacts**
  - Potentially significant? PIT and SSCs account for close to 50% of tax revenues in OECD countries + other revenue bases could be impacted (CIT, consumption taxes and property taxes)
- **Distributional effects**
  - Not all individuals have the same opportunities to engage in remote work/global mobility
- **Impact on the structure of social welfare and protection systems**
  - Mismatch between public investments/benefits and contributions made by individuals