REMOTE WORKING WITHIN THE EU: FISCAL CHALLENGES

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Digitalisation, remote work and individual cross-border 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)
  – In a 2022 UK survey, 75% of respondent businesses said teleworking was a priority to attract and retain talent; and 1 in 16 workers was intending to work from abroad in 2022 (EY-City of London poll, 2022)

• 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 fiscal 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

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

→ Increased individual mobility would have 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**
  – Improve allocative efficiency (e.g. by helping to address labour and skills shortages)
  – Increase flexibility and labour participation
  – Remote work can have environmental benefits (e.g. reduced travelling), but not always

• **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

• **Impact on the structure of social welfare and protection systems**
  – Mismatch between public investments/benefits and contributions made by individuals
THANK YOU

For more information:

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