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Manal Corwin
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Organisation for Economic Co-operation and Development

Sent via email: taxpublicconsultation@oecd.org

Subject: Comments on OECD Public Consultation Document – Global Mobility of Individuals

Dear Ms. Corwin:

We appreciate the opportunity to submit these comments on behalf of EY on the OECD's public consultation document, *Global Mobility of Individuals*, and to engage with the OECD on this important topic.

In this submission, we begin with some overarching considerations with respect to global mobility and then provide a description of the current global mobility landscape before turning to a detailed discussion of key issues affecting individuals and businesses operating in this landscape.

Overarching considerations

We welcome the recent work by the OECD on global mobility issues reflected in the 2025 update to the Commentary to Article 5 (Permanent Establishment) of the OECD Model Tax Convention (OECD MTC). This guidance, and the practical rules it provides, will be valuable to both employees and employers in facilitating cross-border work arrangements that can be necessary for personal or family reasons. Given the significance of this guidance and in light of the differing approaches that countries historically have taken in how and when they apply new Commentary to treaties that pre-date the new guidance, we encourage the OECD to collect and publish information from countries on the extent to which they intend to apply the new Article 5 Commentary to their existing treaties.

Because the tax issues associated with global mobility go well beyond the matters addressed in the new Article 5 Commentary, we commend the OECD for exploring further work in this area,

building on what has been done to date. In our view, this next phase of work should include additional work on permanent establishment (PE) matters. The implications of global mobility for profit attribution and transfer pricing determinations also should be addressed. In addition, administrative and compliance requirements should be part of the work going forward, as overly burdensome requirements can create a barrier to global mobility.

It is important to recognize that the various individual and corporate income tax matters associated with global mobility are all interconnected and that these income tax matters also are interconnected with other tax and legal matters, including employment tax, social security and pension matters, and labor and immigration matters. Even if the future work of the OECD on global mobility does not directly address all these areas, giving due consideration to the interconnections and potential knock-on effects beyond income tax matters would contribute to the development of practical, stable and robust cross-border solutions.

More broadly, a focus on the issues related to global mobility highlights a wider tension between the way multinational businesses now operate and the way many tax and labor rules are drafted. Global businesses may organize their people, functions and risks across borders as part of a single business, with employees and contractors contributing to entrepreneurial activities from multiple jurisdictions. By contrast, in many cases, labor laws generally recognize a formal employment relationship with a single legal employer, domestic tax rules often start from an entity-by-entity perspective and tax treaties are bilateral instruments that focus on separate legal persons resident in each treaty jurisdiction.

This existing domestic and international architecture may not accommodate modern patterns of global mobility, especially in a multinational business context. We recognize that addressing any structural mismatches would require more fundamental, multilateral changes and may be possible only in regional settings where there is significant economic integration. Within the existing architecture, it is important that the global tax framework does not inadvertently exacerbate the tension, such as by encouraging granular, entity-level assertions of PE in cases where the underlying economic presence in the host jurisdiction is modest.

As the further work on global mobility advances, we urge the OECD to continue to seek input on the practical issues that are faced by individuals and businesses, including holding public consultations as proposed solutions are developed to provide the opportunity for stakeholders to provide specific comments on technical drafts.

Current global mobility landscape

Data and trends

The significance of global mobility for employees and employers alike, and the need for guidance providing certainty, is underscored in the results from the annual surveys that EY conducts. Highlights from the findings of the [2024 EY Mobility Reimagined Survey](#) (2024 survey) and the [2025 EY Mobility Reimagined Survey](#) (2025 survey) provide a line of sight into the current global mobility landscape.

Companies have difficulty finding talent in the markets where they need it:

- 48% of employers are struggling to find global talent and 74% face delays of more than a year in filling senior roles (2025 survey)
- Workforce mobility is one of the top three ways for companies to address global talent shortages, and employers agree that moving talent around the world to solve talent gaps is the top way global mobility adds value (2025 survey)

Mobility continues to be very relevant to employee retention:

- 48% of employees say that their most recent mobility experience increased their likelihood of staying with their current employer (2025 survey)

Most companies (74% in the 2025 survey) have developed a policy or approach to hybrid mobility. Generally, companies want employees back in the office, but they see a need to offer employees a balance with days spent working from home:

- Many employees want more flexible careers, with 86% of knowledge workers wanting to work remotely at least two days a week and 28% of knowledge workers wanting fully remote positions (2024 survey)
- In contrast, 38% of employers say three or more days in the office is appropriate (2024 survey)

This means that employees and employers agree that a good amount of each week can be spent working from home. Many companies are also feeling the pressure to offer case by case exceptions that allow cross-border remote work when it otherwise would not be permitted, such as for employees who must care for ill relatives or when it relates to candidates for key positions that could otherwise go unfilled.

As a result of talent shortages and the expectations of employees and candidates, companies often find themselves in a place where they feel they must offer flexibility and exceptions to their normal policies to retain and attract key talent. Further, some companies are capitalizing on available talent by having employees serve operations in more than one location. All of this gives rise to heightened risk and compliance concerns for organizations, which further complicates the balancing of employee and employer needs in the global mobility area.

Key cross-border worker populations

Cross-border working can take various forms. Traditionally, cross-border work arrangements took the form of a formal assignment, secondment or rotation. Post COVID, there is a greater variety of arrangements in which individuals may not physically perform their employment duties in the same jurisdiction as their employer or the entity receiving benefit from their work.

As a starting point for consideration of the issues associated with global mobility, it is useful to describe the common cross-border worker populations with a broad indication of the degree of prevalence of each population. The populations we describe largely reflect the categories identified in the Consultation Document. We bifurcate the remote worker persona into temporary remote worker and indefinite remote worker given the differences in the tax and other relevant

considerations for each. We also include categories for the business traveler profile and for the situation of a dispersed team or individual.

Population type	Description	Degree of prevalence	Examples
Frontier worker	<p>Employees who reside in a jurisdiction other than that of their employer and travel across a country border to work in the jurisdiction of their employer on a full-time or part-time basis.</p> <p>In some cases, frontier workers may be permitted to perform a portion of their duties from their home jurisdiction (e.g., working from a home office). Where companies have a policy allowing individuals to work remotely, the same policy may be available to frontier workers who are resident in another jurisdiction, although there may be restrictions if this would increase the obligations of the employer in the residence jurisdiction of the frontier worker.</p> <p>In other cases, frontier workers may be required to perform work strictly in the jurisdiction of their employer.</p>	High	<p>Cross-border commuters</p> <p>Hybrid work arrangements</p>
Business traveler	<p>Employees who temporarily travel outside the jurisdiction of their employer to perform work duties. Travel is typically for a short period or periods of time and may involve one or more other jurisdictions.</p> <p>This arrangement is typically initiated as a result of a business need to have the employee present in another jurisdiction. Many</p>	High	<p>Regional leadership</p> <p>Sales, business development, client relationship and procurement personnel</p> <p>Project and service delivery teams travelling to client sites</p>

Population type	Description	Degree of prevalence	Examples
	<p>organizations limit the total time an employee can operate as a business traveler.</p>		
Dispersed team or individual	<p>Employees who are based (and typically resident) in their employer's jurisdiction, but who service affiliated entities or related parties located in another jurisdiction.</p> <p>These employees may or may not also travel cross-border to perform services (for those who travel, see "business traveler" above).</p> <p>This arrangement is typically established for an indefinite period.</p>	Moderate to high	<p>Management teams steering strategic decisions globally but also involved in management of local operations</p> <p>Dispersed teams for delivery of specific projects</p>
Temporary remote worker	<p>Employees who perform their duties from a jurisdiction different from their employer's jurisdiction for a limited/defined period of time.</p> <p>This arrangement is mainly initiated by the employee and is not primarily based on commercial or business needs.</p> <p>However, in other cases the arrangement may be business driven (e.g., new work authorization, new market exploration, etc.).</p> <p>Temporary remote work may be one-time or recurring, and the remote work may be performed in one or varied jurisdictions.</p>	Moderate	<p>Employees working in another jurisdiction due to:</p> <ul style="list-style-type: none"> - work from a holiday location - caring for a loved one - immigration renewal procedures - other personal reasons - market exploration - project and service delivery teams - temporary virtual assignments

Population type	Description	Degree of prevalence	Examples
Indefinite remote worker	<p>Employees who perform their duties from a specific jurisdiction different from that of their employer permanently or for an indefinite period.</p> <p>These arrangements are typically driven by employee request or enterprise talent demands (e.g., limited availability in employer jurisdiction of candidates with the required skills).</p>	Generally low overall	<p>Employees who do not need to be in the office at all</p> <p>Employees who have requested remote work arrangements</p> <p>Virtual teams: teams that include employees located in various countries with the employer in a different jurisdiction</p> <p>Local in-country (small) market representatives</p>
Digital nomad	<p>Employees who work from varied jurisdictions over time without a prescribed duration in any particular location. These employees may sometimes be present in the jurisdiction of their employer.</p> <p>This arrangement is almost always initiated by the employee.</p>	Low	<p>Employees who do not need to be in the office at all</p> <p>Employees who have requested this arrangement</p>

While the above categories often align to policies that companies have in place to manage employee movements, it should be noted that individuals may not neatly fit into one category, which creates further administrative complexity for employers.

Individual tax matters

Personal income tax

In general, a jurisdiction's domestic legislation may tax an individual based on their being physically present in the jurisdiction for longer than a minimum period of time (longer-term remote work or substantial business travel in the jurisdiction), performing gainful activities in the jurisdiction (frontier workers), or having substantial ties to the jurisdiction (family, assets, etc.). This means that individuals who are mobile may be taxable in the location to which they have travelled unless an exemption under the dependent personal services article of an applicable tax treaty would apply. They also may continue to have tax obligations in their home country, for

example if that country taxes employment income based upon citizenship or long-term intentions or if the individual has sufficient presence in that country to remain tax resident there (such as with business travel and temporary remote work). While the relief for double taxation mechanism and the income sourcing rules in tax treaties aim to mitigate double taxation, determining the income taxable in each jurisdiction and preparing two sets of tax returns can be burdensome for these individuals. Moreover, the differing thresholds and rules specified in tax treaties that otherwise mostly align to the OECD MTC can create some challenges for multinational organizations that seek to have a consistent global policy with respect to remote working arrangements.

The bilateral agreements that have been executed by some neighboring countries (including, for example, Belgium, France, Germany, Luxembourg and the Netherlands) to facilitate working from home have been very helpful in simplifying the administration and compliance efforts needed relative to personal income tax and employer withholding. We encourage the OECD to leverage these examples in developing approaches for reducing administrative complexity for employees and employers.

Employer tax compliance and reporting

Generally speaking, the procedures associated with employer reporting and withholding are intended to ensure timely remittance of employee individual income tax (on employment remuneration), employer unemployment tax or insurance, social security contributions and/or other employment-related payments to the requisite authorities. While triggers for these employer obligations vary across countries, most jurisdictions apply a low threshold for compliance (e.g., as of day one of employee presence).

The presence of globally mobile employees in jurisdictions where the employer does not have an existing local tax or legal presence can create obligations with respect to employer tax compliance and reporting both in the scenario where a PE is triggered and where there is no PE. This can be particularly cumbersome where employee presence in the jurisdiction is temporary. Companies must have jurisdiction-specific knowhow to properly comply with local tax obligations, including being aware of differences in income recognition, timing of taxation and reporting and the relevant tax year. Companies must also have the proper system functionalities to report, the treasury mechanisms to remit payment, and a process for the internal charges to the business benefiting from the employment activities of remote workers.

Even before compliance requirements are triggered - or are known to be triggered - organizations must dedicate resources to proper tracking, governance and oversight of globally mobile employees. According to the 2024 survey, 39% of organizations use travel data, 37% use global expense reports, and 34% use IP address tracking to monitor employee locations to understand where their employees are. The interplay with data privacy rules can make leveraging internal data such as IP addresses impossible, so companies may need to rely on self-reporting by employees.

Where a company triggers a PE, it typically will need to register and comply with employer tax and social security obligations, as well as labor and corporate law requirements and broader tax obligations (e.g., indirect tax). The organization may need to secure local vendors and

representatives (due to language and system limitations), open a local bank account and/or secure local office space or a registered address.

Employer tax reporting and withholding obligations and/or social security compliance obligations also may apply where the employee presence does not give rise to a PE. This can create particular challenges in those jurisdictions where local presence is required for the employer to comply with these obligations under domestic law.

As discussed further below, the definition of employer under domestic tax laws may be different from the concept in tax treaties. Although many tax authorities have been willing to accept payment on behalf of employees regardless of whether the paying entity is the legal employer or the de facto employer, this incongruence can create some uncertainties for companies regarding the satisfaction of applicable employer obligations.

The 2024 survey shows 81% of employers are concerned about payroll and employment tax liabilities, 80% are concerned about individual income tax liabilities and 81% are concerned about corporate tax liabilities for cross-border assignments. In addition, 71% of employers say risks associated with cross-border assignments have increased over the last two years, with tax and regulatory uncertainty specifically called out. While most companies have established rules and parameters for cross-border work, this remains an area of complexity and uncertainty.

We encourage the OECD to consider development of advanced compliance programs that allow companies to proactively engage with the tax authorities without the need for full registration and local infrastructure. It also would be timely for the OECD to review the existing de minimis thresholds for individual taxation and/or employer compliance obligations in light of the manner in which employees work cross-border today.

Social security matters

We include these brief comments on the social security implications of global mobility because of the significant interconnections between tax and social security. In cross-border work scenarios, it is common for employees (and/or their employer) to be required to participate in more than one social security scheme, including in a scheme that yields limited or no individual benefit, or to be precluded from participating in any social security scheme. Individuals who are mobile employees throughout their career may have contributed to numerous social security schemes without contributing sufficiently to any one scheme to receive vested benefits. From an employer perspective, the administration associated with managing international social security matters can be burdensome.

While employees and employers may find relief through bilateral totalization agreements (where available) or other multilateral instruments (such as the multilateral framework agreement in the case of intra-EU working), there are complexities and challenges that remain.

Corporate income tax matters

PE determination

Fixed place of business and the update to the OECD MTC

We regard the 2025 update to the Commentary on Article 5 of the OECD MTC as a significant step forward in providing clearer parameters for when a home or other relevant place used by an employee may constitute a fixed place of business. The introduction of a 50% working-time threshold, the assessment of the existence of commercial reasons for activities and the examples illustrating some remote-working scenarios all provide welcome structure for analysis to determine whether a PE exists. Given the range of fact patterns that global mobility now creates, there are areas where further clarification could help avoid the proliferation of low-value PEs and associated disputes.

The explicit statement that a home or other relevant place will generally not be a place of business if the individual works there for less than 50% of their total working time in any twelve-month period provides a valuable quantitative criterion. This practical threshold should reduce controversy with respect to incidental or occasional remote work. Further controversy could be avoided by specifying that in all cases, and not just generally, less than 50% working time spent in the jurisdiction should not lead to the determination of a PE under Article 5, paragraph 1 of the OECD MTC. Additional practical guidance on how to administer and verify the work-time threshold in real-world scenarios would help support consistent and effective implementation of the threshold. Similar guidance could also be provided in relation to other PEs, such as project PEs (Article 5, paragraph 3) and the optional PEs referenced in the Commentary (services PEs and exploration/exploitation PEs).

Another welcome development in the 2025 update is the shift to a two-step analysis in which, once the 50% threshold is met, the existence of a place of business is assessed by reference to a commercial reason for the individual's presence and activities in the jurisdiction where the home or relevant place is located. Paragraphs 44.11 to 44.19 of the Commentary to Article 5 of the OECD MTC provide a broad range of situations in which a commercial reason may be present, including customer meetings, cultivation of a new customer base, supplier management, time-zone driven interaction and collaboration with other businesses. We are concerned that, taken in isolation, the illustrative list in paragraph 44.17 could be interpreted as suggesting that the identification of any single commercial reason is sufficient to conclude that the home office is a place of business of the enterprise. While Examples D and E provide appropriately nuanced analysis, there is a risk that the examples could receive less attention in practice than the list.

To mitigate this, we suggest adding explicit confirmation that the existence of any one of the listed commercial factors is not determinative on its own and that tax administrations should consider the overall business context, materiality and regularity of the activity. A short additional sentence to this effect, cross-referencing Examples D and E, could reduce the risk of a proliferation of low-threshold PEs based solely on isolated contacts with local customers or suppliers.

Finally, we note that remote-worker PEs, when they arise, are often associated with very limited profits in the host jurisdiction, but nonetheless trigger significant compliance, systems and controversy costs for both taxpayers and tax administrations. We encourage the OECD to consider whether there is scope, in future work, for developing de minimis or safe harbor thresholds. For example, jurisdictions could agree not to determine a PE where the scale of the employee's activities in the particular jurisdiction, measured by reference to appropriate criteria falls below a specified materiality threshold.

Frontier workers

The new 50% threshold is particularly helpful in frontier-worker situations where employees spend less than half of their working time in their jurisdiction of residence even if they regularly work from home on some days. In more integrated border regions, however, there may be a significant number of frontier workers who spend more than 50% of their working time in their country of residence while being employed by an enterprise in the neighboring country. For these cases, paragraph 44.10 points to a facts-and-circumstances assessment.

We would encourage the OECD to develop more detailed frontier-specific criteria, evidentiary expectations and simplified administrative procedures, ideally through coordinated or model guidance that treaty partners could apply consistently. This is warranted because cross-border situations involving frontier workers are frequent, especially in regions with high economic integration between neighboring countries. The close proximity and strong economic ties in these areas mean that such issues are not only common but also call for practical and harmonized solutions. Given that these countries are often neighbors with shared interests, it would be reasonable for them to be interested in more closely integrated practical and administrative procedures.

Such solutions could, for example, take the form of one-stop-shop approaches or home-state-taxation concepts, allowing relevant taxpayers to interact with only one tax administration. Under these models, the settlement of tax matters would occur directly between the two jurisdictions, thereby reducing administrative burdens and complexity for both taxpayers and tax authorities.

Indefinite remote workers

Paragraph 44.15 usefully clarifies that there is no commercial reason where an enterprise allows an individual to work from a particular jurisdiction solely to obtain or retain that person's services or solely to reduce office costs. This is particularly important for talent retention situations, where an employee relocates for personal reasons and the employer agrees to a permanent remote-work arrangement.

We encourage the OECD to underscore, perhaps through an additional example, that these talent-driven or cost-driven decisions (referred to in paragraph 44.16), taken in isolation, should not give rise to a fixed place of business.

Transfer pricing

In the transfer pricing area, developments in remote working have had implications for business models and practices and therefore for the underlying facts and circumstances of transactions to be priced. This, in combination with the implementation of BEPS Action 8-10, has created challenges around delineation of the actual transaction including the contractual terms to be used, how to identify risks with specificity, control over risk and DEMPE functions; whether services are provided; whether there is reason not to recognize the transaction as accurately delineated; and the pricing of the transaction. These challenges arise in particular in case of a business operation that is conducted or managed from different locations through a dispersed team.

Under the OECD Transfer Pricing Guidelines, contractual terms are the starting point of the delineation of the actual transaction. If conduct is not fully consistent with economically significant contractual terms, further analysis is required to identify the actual transaction. In our view this is an important notion that should be maintained and respected. In the context of global mobility, we have seen instances of assertions regarding delineation of the actual transaction that go beyond assessing the contractual terms and the conduct.

We recommend that the OECD clarify the transfer pricing consequences of a change in the control over risk or in the contribution to the control over risk. This could take the form of a safe harbor (for example in relation to paragraph 1.105 of the OECD Transfer Pricing Guidelines, which describes how to remunerate contribution to the control over risk) addressing the level of activity that can be performed in a location without its contribution to control leading to sharing in the potential upside and downside.

In addition, the introduction of the DEMPE concept has been interpreted in different ways in various jurisdictions. Similar to the control over risk and the contribution to the control, the distribution of functions across countries as a result of global mobility increases the need for clarity on the concept of DEMPE and the interaction with the control over risk.

Determination of the employer

According to the Commentary on Article 15, paragraph 8.4, various jurisdictions have specified criteria “for the purpose of distinguishing cases where services rendered by an individual to an enterprise should be considered to be rendered in an employment relationship (contract of service) from cases where such services should be considered to be rendered under a contract for the provision of services between two separate enterprises (contract for services).”

Furthermore, tax authorities will turn to paragraph 8.14 (which takes a secondment specific lens) or their domestic law definition of employer as it pertains to tax matters to understand who the employer is. However, there is no consistent tax-based definition of employer globally. In addition, the manner in which employees move, work and support an enterprise cross-border has taken notably varied forms over recent years (as highlighted throughout this response), which adds uncertainty and complexity when analyzing these fact patterns under the applicable law and the OECD MTC. Nonetheless, identifying the employing entity will inform whether and

in what nature local taxation and/or compliance requirements may be triggered (i.e., in the context of Article 15 of the OECD MTC).

It has been asserted that the economic employer differs from the formal employer in fact patterns in which employees of service companies (e.g., service hubs) perform services for the benefit of a related company in a different jurisdiction, where the employees have a functional relationship with a person employed by the related company. Although the services are remunerated at arm's length, an economic employment relationship is considered, and as a result a PE of the foreign company is claimed to exist. If these relationships were to result in the finding of an economic employer and the recognition of a PE, this would create significant administrative burdens for the company even though there would be little or no additional profit to be taxed in the country.

We encourage the OECD to consider providing guidance on the definition of employer and including updated criteria (together with illustrative examples) for the determination of the employer that reflect today's varied ways of cross-border working, with the objective of providing clarity and fostering consistency in application. This would especially be welcome in the context of individuals working in global teams, dispersed teams/individuals and employees for whom the employment is facilitated in the country of residence and physical employment of the employee but their services are effectively performed for the benefit of another part of the organization in a different jurisdiction.

Controversy

To date, the Mutual Agreement Procedure (MAP) cases related to global mobility seem to mainly be individual cases involving frontier workers. Typical issues at stake have been the calculation of days spent in a country and whether the conditions for an available incentive regime are met. The growth of global mobility arrangements could lead to an increase in disputes over a broader range of issues, including PE and profit attribution matters. Currently, many MAP cases involve questions of PE and profit attribution in other contexts, and any growth in global mobility related assertions of PE would add to the MAP resources that need to be devoted to this very complex area. As noted above, further work by the OECD on practical guidance such as de minimis thresholds and safe harbors would reduce the risk of a proliferation of micro-PEs and the associated controversy.

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The global EY team that prepared this submission welcomes the opportunity to discuss these comments in greater detail and to continue to participate in the dialogue as the Inclusive Framework advances the work on this important project.

If there are questions regarding this submission or for further information, please contact Barbara Angus (barbara.angus@ey.com), Jano Bustos (JoseAntonio.Bustos@ey.com), Rachel D'Argenio (rachel.dargenio@ey.com), Maikel Evers (maikel.evers@nl.ey.com), Arlene Fitzpatrick (arlene.fitzpatrick@ey.com), Sandra Knaepen (sandra.knaepen@be.ey.com). Chris

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Yours sincerely, on behalf of EY,



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