European Union – EESC Weighs in on Taxation of Teleworkers

On 14 February 2024, the European Economic and Social Committee (EESC) published its opinion about taxation of cross-border teleworkers.[1]

Among other things, EESC suggests that cross-border teleworkers are taxed in the country of the employer. The tax authority in the country of the employer would then share the tax on income with the country of the teleworker's residence, in principle becoming a "one-stop shop" for the taxation of personal income.

"Cross-border teleworker" in this context refers to an employee who lives in one country while the employer is situated in another country. A cross-border teleworker works in the country of residence some of the (or the entire) working time by using online-related technology.

WHY THIS MATTERS

Although the question of taxation of personal income is a matter of national law and tax treaties concluded between countries, the interest of the EESC in this matter demonstrates a willingness of European institutions to have a say on the taxation of remote workers.

Stakeholders who are interested in changes to the taxation of remote workers may wish to engage in this debate with local authorities, interest groups, trade and labour associations, and international bodies and make their experiences and opinions known, and thereby contribute to moving developments in this area towards appropriate outcomes.

Context

The European Econonic and Social Committee (EESC) is a consultative body and its opinions are addressed to the European Parliament, the Council, and the European Commission. Through its opinions, the EESC plays a key role in the EU's decision-making process. The EESC's overall objective is to contribute to strengthening the democratic legitimacy and effectiveness of the EU.

The EESC consists of 329 members who are representing employers, employees, and civil society organisations. Members are nominated by national governments and appointed by the Council and the EU for a renewable five-year term of office. The latest renewal was in October 2020 for the 2020-2025 term of office.

Highlights from the EESC Opinion

- Current estimates suggest that 22 percent of the EU workforce is doing some form of telework.[2] Working outside the office premises for several days a week is now an established and fast-growing reality. Working remotely has proven to be an efficient work arrangement for employers and employees.

- Facilitating working remotely has improved the quality of life and the life-work balance for millions of workers, and it might contribute to reducing the environmental impact of millions of commuters.[3]

- Tax rules need to be updated and should consider current and future developments in the labour market. Taxation of cross-border teleworkers likely entails the need to revise bilateral and multinational agreements.

- Recently, France and Switzerland updated their agreement for frontier workers of the canton of Geneva. According to this agreement, cross-border teleworking up to 40 percent of the time (outside of the employer's location) will not impact the individual's tax position. The agreement contains a compensation mechanism under which Geneva will pay compensation of 3.5 percent of tax revenue to France.[4]

- A multilateral agreement currently under discussion in the Nordic Council outlines how the principal employer files one Nordic withholding form for a Nordic resident working in three Nordic countries. It also presents a revenue sharing mechanism among the Nordic countries.[5]

Summing Up

- With the present rules, the agreed principle of taxation rights is that the country in which the work is performed has the right to tax the employee's income. If the work can be performed remotely by the use of electronic/IT means, a possible solution may be that the employer's country of residence should have a right to tax. A teleworker should not suffer any discriminatory tax treatment compared to cross-border employees who perform their work in the country of the employer.

- Another possibility would be to tax the employee in his or her country of residence the same way as the self-employed are taxed. However, an argument against such a regime is that since the work is still performed for the employer situated in another country, the right to tax employee income should remain with the country of the employer. After all, the wage costs are deductible for the calculation of the corporate tax liability in the country of the employer.[6]

- **The EESC has indicated it believes that the taxation of employee income as wage income in the employer's country of residence is the preferred option. Such a regime would make things simpler for employees and could also be attractive for employers. In order to compensate for the loss of revenue in the employee's country of residence, a revenue mechanism would likely be required.**

- **The EESC proposes that the revenue authorities may divide the income between the countries by applying data on actual individual presence in the states concerned (reported by the employer to the tax authority in its country of residence) or using some micro-economic aggregate key.**

MEIJBURG & CO. INSIGHTS

It is hard to predict if any significant changes to the taxation of income for remote workers will be implemented any time soon. However, the interest of European institutions around this topic may lead to some changes in the longer term.

It is therefore important for companies, employees, and employers, as well as other stakeholders, that have an interest in changes to the taxation of remote workers, to engage in public discussions using different channels of communication to make their experiences and opinions known. This can make an important contribution that could help move the needle in terms of achieving appropriate solutions.

FOOTNOTES:

1 European Economic and Social Committee: "Taxation of cross-border teleworkers globally and impact on the EU," 14 February 2024.

2 Eurofound Study: "The Rise in Telework: Impact on Working Conditions and Regulations," p. 55, 8 December 2022.

3 Ibid.

4 See *GMS Flash Alert* 2023-138, 11 July 2023.

5 European Economic and Social Committee: "Taxation of cross-border teleworkers – possible solutions," 4 July 2023.

6 European Economic and Social Committee: "Taxation of cross-border teleworkers globally and impact on the EU," point 1.6, 14 February 2024.

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