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# Opinion Statement CFE 5/2025 on the OECD Consultation on the Global Mobility of Individuals

**Issued by CFE Tax Advisers Europe**  
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CFE Tax Advisers Europe is the European association of tax institutes and associations of tax advisers. Founded in 1959, CFE brings together 33 national tax institutes, associations and tax advisers' chambers from 24 European countries. CFE was the initiator of the Global Tax Advisers Platform through which it is associated with more than 600,000 tax advisers worldwide. CFE is part of the EU Transparency Register no. 3543183647-05.

We would be pleased to answer any questions you may have regarding our Opinion Statement. For further information, please contact Jeremy Woolf, Chairman of the Fiscal Committee of CFE Tax Advisers Europe or Dr. Aleksandar Ivanovski, Director of Tax Policy at [info@taxadviserseurope.org](mailto:info@taxadviserseurope.org). For further information regarding CFE Tax Advisers Europe please visit our web page <http://www.taxadviserseurope.org/>

# 1. Executive Summary

CFE Tax Advisers Europe (CFE), the European association of tax institutes and associations of tax advisers, welcomes the OECD public consultation on the global mobility of individuals, exploring how changed ways of working may interact with existing tax rules. CFE also welcomes the OECD's focus on this topic, given that global mobility issues and changing working patterns continue to pose relevant questions across personal income taxation, compliance and administration issues, corporate income tax, including permanent establishment issues (PE), profit attribution, residence issues, as well as transfer pricing aspects. These issues are often not driven by problems with current international tax principles, but by uncertainty and often administrative complexity in their application to new mobility patterns.

In this context, CFE notes that recent OECD work, including the 2025 revisions to the OECD Model Tax Convention, provides relevant background by illustrating how further guidance can enhance certainty for common mobility-related scenarios. CFE's contribution to this consultation therefore focuses on practitioners' experience with how current rules operate in practice for mobile individuals and their employers, and on identifying areas where further clarification, simplification, or coordinated application could improve.

CFE supports the OECD work where certainty, proportionality, and administrability are put front and centre, while maintaining a clear distinction between routine global mobility patterns and exceptional cases that may merit targeted policy responses.

## 2. General Observations on Global Mobility

CFE concurs that technological developments and changing work practices have increased the global mobility of individuals, which include:

- employees combining physical presence in one jurisdiction with remote work performed from another;
- frontier workers engaging in regular or partial teleworking;
- temporary remote work abroad arrangements;

- management and key staff working across geography; and
- especially for young people, frequent change of tax residence from one country to another.

These developments can create tax challenges not because the international tax framework lacks coherence, but because administrative systems and compliance obligations are often not well adapted to such patterns. In practice, uncertainty and the compliance burden may discourage mobility even where economic reality would fully support it.

### 3. Relevance of the OECD Model Tax Convention 2025 Update

CFE considers the 2025 update to the OECD Model Tax Convention of high relevance in the area under scrutiny, as it illustrates how existing international tax rules are already being interpreted and clarified in response to global mobility driven scenarios.

In particular, CFE notes:

- the expanded Commentary on cross-border working from a home or other relevant place under Article 5, aimed at reducing unintended PE outcomes in routine telework scenarios;
- the inclusion of an optional, sector-specific PE provision for extractive industries, recognising that general PE thresholds may be inappropriate for certain high-value, location-specific activities; and
- updates to the Article 25 Commentary, reinforcing the role of competent authorities in managing cross-border disputes that may arise with increasing mobility.

From CFE's perspective these changes demonstrate that better administrability and proportionality are key in the new mobility scenarios, as opposed to fundamental changes to treaty concepts.

CFE further notes that, while the OECD Model Tax Convention and its Commentary are used as interpretative/persuasive authority, they do not have binding legal effect in treaty/ domestic law<sup>1</sup>. This is particularly relevant in the EU legal order, where the CJEU has treated OECD concepts as contextual and persuasive, but has consistently relied on primary EU law principles, such as legal certainty and legitimate expectation as limits of interpretation. Therefore, OECD guidance can only enhance legal certainty if it is applied consistently by tax administrations and courts or clearly reflected in treaty/ domestic law.

## 4. Responses to the Consultation (Select Issues)

CFE observes that employer/employee behaviour is significantly influenced by perceived tax risk and administrative complexity. In practice, uncertainty regarding tax residence, withholding obligations, PE risks, or dispute resolution may lead employers to adopt conservative internal policies that restrict cross-border working arrangements. Such behaviour may occur even where treaty outcomes would likely be insignificant. CFE considers this behavioural effect to be a relevant factor for policy analysis, as uncertainty itself can constrain labour mobility and economic efficiency.

### Data and Trends

CFE does not submit new quantitative research as part of this response. However, based on practitioners' experience, CFE confirms a sustained increase in cross-border remote working, frontier working with telework components, and other hybrid mobility arrangements. CFE supports the OECD's intention to further analyse the economic and social impacts of these trends. In future phases, practitioner-based case studies may usefully complement macro-level data, particularly in understanding how uncertainty and compliance burden affect decision-making.

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<sup>1</sup> Philip Baker KC, "Double Taxation Conventions"; 5th edn, Sweet & Maxwell 2018; Chapter III.

## Personal Income Tax

CFE observes increasing instances of individuals having meaningful personal and economic connections to more than one jurisdiction. Hybrid working patterns can exacerbate dual residence outcomes under domestic law, requiring reliance on treaty tie-breaker provisions.

Conversely, certain highly mobile individuals may fail to meet domestic residence thresholds in any single jurisdiction. CFE encourages the OECD to continue monitoring whether existing residence guidance remains administrable for modern mobility patterns, and whether access to dispute resolution mechanisms is sufficient in practice.

CFE believes that the most significant challenges arise from withholding and reporting obligations triggered by relatively limited cross-border presence. Tracking workdays, managing multi-jurisdiction payroll obligations, and ensuring timely relief from double taxation can impose a disproportionate burden, particularly on SMEs and individual taxpayers. As a result, administrative simplification for low risk telework scenarios could materially improve the situations, while remaining consistent with treaty principles.

The structured approach reflected in the 2025 Commentary related to the Article 5 illustrates how clear analytical filters can reduce uncertainty in common cases, notably the use of objective filters to distinguish routine cross-border working patterns from higher-risk cases. As such, clear guidance illustrates how legal certainty can be enhanced in common scenarios through clarification rather than conceptual treaty changes<sup>2</sup> (see Article 5 Commentary, paras 44.1–44.21, in particular para 44.10).

CFE recognises that certain bilateral or regional arrangements, such as frontier worker agreements, can reduce double taxation and compliance burdens. However, many such arrangements were not designed with widespread telework in mind. CFE considers it useful for the OECD to identify which elements of these arrangements have proven effective in practice.

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<sup>2</sup> OECD, *Model Tax Convention on Income and on Capital*: Commentary on Article 5, paras 44.1–44.21; OECD Publishing 2025

It is likely that mobility-related disputes will increase unless effective prevention tools are available. Emphasis on competent authority mechanisms, including the Mutual Agreement Procedure, is therefore welcome. CFE encourages exploration of dispute prevention tools that are proportionate and accessible for individuals and SMEs.

## Corporate Income Tax

CFE welcomes the expanded guidance in the Article 5 Commentary on cross-border working from home or other relevant places. The structured approach, combining a time-based indicator with a factual analysis, reflects long-standing principles applied by courts and advisers. A home office should generally not constitute a permanent establishment where home working is employee-driven, and the enterprise does not rely on that location as an operational base. CFE encourages tax administrations to apply the updated guidance in a manner consistent with its stated objectives of enhancing certainty and avoiding unintended outcomes.

The 2025 OECD Commentary clarifies that the reference to “any twelve-month period commencing or ending in the fiscal year concerned” reflects established treaty practice and is designed to accommodate differing fiscal calendars across jurisdictions. CFE considers it important that this formulation continues to be applied proportionately by tax administrations, particularly in the context of hybrid working arrangements.

Where employee mobility gives rise to PE considerations, CFE observes that profit attribution can become complex, particularly where functions are scattered across geography. Applying the Authorised OECD Approach and identifying significant people functions may be challenging in such contexts. CFE encourages further practical guidance and examples that emphasise materiality and avoid disproportionate fragmentation of profits, while remaining consistent with established TP principles.

## 5. Closing Remarks

CFE appreciates the opportunity to contribute to this consultation and welcomes the continued engagement with the OECD. CFE's submission highlights that predictable and proportionate application of existing rules is essential to support global mobility while safeguarding the tax base.

For individuals, the main issues arise in practice from residence outcomes, payroll withholding obligations, and multi-country reporting requirements, which can create uncertainty and disproportionate compliance burden in hybrid and cross-border working scenarios. For corporate taxpayers, concerns focus primarily on unintended permanent establishment risk and the potential for disproportionate profit attribution where remote working arrangements are present without corresponding economic substance.

CFE supports the OECD's direction toward clarity and better administrability, as reflected in recent interpretative guidance, and stresses the importance of maintaining a clear distinction between routine global mobility cases and exceptional situations that may justify targeted, sector-specific policy responses.