



Subcommittee on Taxation of the Digitalized and Globalized Economy – *Final Report*

Paper [CRP.1](#)
30th Session
UN Tax Committee
24-27 March 2025

FINAL PROGRESS REPORT

- Paper is [CRP.1](#).
- Several Virtual Meetings of the Subcommittee since the 29th Session.
- Particular thanks to Subcommittee Members and to the consultants for greatly assisting the Subcommittee's work.
- Close liaison with the Subcommittee on the Update of the Model

Workstream B – Function and Relevance of Physical Presence Tests

- **Workstream B** is the main focus of the paper.
- Mandate is to: Consider the function and relevance or otherwise of physical presence tests in the context of an increasingly digitalized and globalized economy.
- A new Article combining Articles 12A and 14 into a new provision (then provisionally referred to as Article xx) dealing with cross-border business services was agreed at the 29th Session.
- Article xx was previously considered at 27th and 28th Sessions (at that stage the proposal included Article 5(3)(b) also).
- Commentary was considered at the 28th and 29th Sessions.

Workstream B – Function and Relevance of Physical Presence Tests

- **Allows taxation of payments by a Contracting state for cross-border services where the payments are made by a resident of that State or a nonresident with a permanent establishment in that State.**
- **Allows taxation of such payments for services irrespective of where the services are performed and without any minimum threshold requirement such as a permanent establishment in that State or the physical presence of the service provider in that State for a minimum number of days.**
- **Allows a Contracting State to tax fees for services paid to a resident of the other Contracting State on a gross basis up to a rate to be negotiated by the Contracting States.**

Workstream B – Function and Relevance of Physical Presence Tests

- **Intended to remove some of the limitations on a country's right to tax income from cross-border services under the provisions of the Model Tax Convention as it currently stands.**
- **Those limitations are seen as unjustified by the Committee as a whole.**
- **Also intended to make the taxation of fees for cross-border services by source countries more consistent in the Model.**
- **Commentary recognizes and outlines contrary views of some Committee Members, as is usual in the Model.**

Workstream B – Function and Relevance of Physical Presence Tests

- The Subcommittee *submits*:
 - for approval, the *designation* of the previously approved article designated provisionally as Article xx *as Article 12A* (Annex A to CRP.1, at page 7 of the report), with the existing versions of Article 12A and 14 *deleted from the Articles of the Model*, but *preserved for reference purposes as an Annex* to the Model.
 - for approval, the revised draft Commentary to new Article 12A as provided at Annex B to CRP.1 (pages 8-43).

Workstream B – Function and Relevance of Physical Presence Tests

Treatment of services

- The Subcommittee *submits*:
 - for approval, the proposed consequential changes to the Model at Annex C to CRP.1 (pages 44-53) as a result of the addition of the new Article 12A and the proposed deletion of the 2021 versions of Articles 12A and 14;

Workstream C – Cross-border taxation issues relating to remote workers

- **Workstream C** - Annex D of CRP.1 (at pages 54-60) relates to Workstream C on Cross-border taxation issues relating to remote workers, although it also relates to the Workstream B Work.
- The Subcommittee *seeks approval* of the proposed Commentary change to Article 15 (Dependent Personal Services) providing for an optional Article 15(4).
- It was first discussed at the 27th Session, where it was decided to include a provision of this type in the Commentary to Article 15.
- Annex D provides the text of additional Commentary to Article 15 addressing a possible alternative provision, the new paragraph 4, dealing with the taxation of income from employment derived by an employee resident in one contracting state and paid by an employer resident in the other contracting state.

Workstream A – A more Multilateralized Implementation of specific UN Model provisions

- **Workstream A** - options for a more multilateralized form of implementing specific UN Model Tax Convention provisions.
- Draft FTI text – including potential schedules – was *finalized at the 28th Session*.
- FTI was supported by the Committee as a whole, but not all Members supported the instrument.
- Has been translated into 5 other official UN languages as an official document for consideration by ECOSOC.
- The Committee has requested ECOSOC to note the FTI and invite further action by interested Member States.
- Up to such Member States what sort of action is proposed.
- There will be an information event on the FTI at lunchtime on Wednesday the 26th.

Thank You!