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Dear Sirs

Exchequer implications for the UK of a sustained behavioural shift to remote working abroad - CIOT Budget representation

We write to:

- Suggest the government considers the implications for the UK Exchequer of the **trend towards UK employees working remotely abroad**
- Advocate **gathering data** to evaluate the extent to which remote working abroad is becoming an established trend; and
- Recommend an **early high-level consultation** to consider possible options for future reform.

Introduction

The pandemic has led to short term changes in the location from which work may be carried out with working from home being increasingly the norm throughout the pandemic. In some cases, where that home is abroad, workers have increasingly found it is possible to do their UK-based job from another country. It is not yet clear whether this shift will develop into a sustained model of remote working, nor whether such a shift would see an increase in remote-working being done from abroad.

The current state of flux provides an opportune time to assess whether the UK's tax base (income tax and national insurance) may be undermined by a long-term behavioural change to working remotely from abroad and if so, whether current tax legislation and the UK's network of tax treaties offer the right balance in protecting UK tax revenues.

There are clearly wider implications and factors influencing post pandemic working arrangements but our focus is on identifying, in high level terms, the possible income tax and national insurance contributions implications for businesses and individuals to inform a debate on the implications for the UK exchequer. There will be broader economic impacts that should be considered in due course, including the effect on other taxes such as VAT, corporation tax and SDLT.

This issue is of particular relevance at the moment given that national insurance contributions (which are particularly linked to residence) are to be increased to fund long term social care. The risk to the UK's net revenues would be increased if a pattern emerged of some people working abroad for lengthy periods of their career and so paid fewer contributions but still had access to the same level of social care on their return. If it were perceived that this was more generally a feature among the more wealthy, there could be unfortunate consequences for respect in the tax system.

A recent article in British Tax Review[1] postulated a potential exchequer loss of between £6.5 billion and £32.5 billion attributable to reduced personal income taxes and social security contributions as a result of UK jobs being carried out remotely. It is early days to arrive at meaningful estimates of potential revenue loss, and the net effect could work both directions - employees leaving to work remotely abroad and offshore employees arriving to work remotely in the UK. Behavioural trends may therefore present opportunities to the UK as well as challenges, but these estimates are nonetheless worthy of note.

Risks to the UK tax base

Anecdotally our members point to early indications of pressure from high earning employees, particularly those employed by multinational companies, to work remotely from abroad. It seems likely that employers/business will find ways to accede to these requests particularly where such mobile employees are highly valued and marketable.

A second trend that our members are starting to see is jobs that are currently carried out in the UK which may now move abroad as digitisation allows for roles previously located in the UK to be transferred abroad to locations with lower costs. This has the potential for increased competition among jurisdictions keen to promote the benefits of lower tax rates.

The first of these trends (individuals moving abroad and working remotely) looks more likely to apply to higher earners. The second trend (job moving abroad and being done remotely) looks more likely to apply at the other end of the job spectrum.

Many high earning and UK taxpaying professionals, financial services workers and others (many of whom are from overseas, attracted by the London-based scale and variety of such jobs), may now find working remotely from abroad attractive for a range of personal reasons. These may include lightening their tax burden but it is not necessary for this to be the case for there to be a clear threat to UK tax revenues. If, for example, an employee becomes liable to tax in two countries (UK and abroad) on the same employment income the employee may be due a tax credit in the UK to avoid double taxation, or the UK may lose its taxing rights altogether. The UK has in fact potentially more to lose from people moving for lifestyle reasons to high tax countries (who would exercise primary taxing rights and leave no scope for UK revenues after double taxation relief) than from those seeking lower tax environments.

Countervailing factors

While the pandemic and accelerated digitalisation may generate increased interest in remote working other factors may weigh against such a development meaning the effect is less significant because of factors such as

- the complexities of managing employees in another jurisdiction including, from a tax perspective, possible social security and withholding / reporting obligations in the remote jurisdiction

- the potential effect on the employer's corporation tax liability: an employee working abroad may create a 'permanent establishment' (PE) in the country in which they are working. The creation of a PE could result in the company having a corporate tax liability on the chargeable profits made by the PE in that country. Additional reporting obligations would also follow as a result. In circumstances where there are several employees abroad who are senior employees or executive directors (ie individuals who exerts management or control), corporate residence may also need to be considered.

[1] The impact of digitalisation on personal income taxes Rita de la Feria and Giorgia Maffini
British Tax Review B.T.R. 2021, 2, 154-168

- Regulatory constraints in working from another country for some, particularly for employees in regulated professional partnerships or those working in financial services.

To the extent there is increased interest in remote working , the effects may work to the UK's advantage as:

- Many people like being in London, as well as other parts of the UK, notwithstanding that others favour warmer climates.

- The UK has some fiscal attractions, for example in the non-domiciled tax regime, which to the extent it attracts non-UK domiciliaries to work in the UK may bring in UK tax revenue on UK earnings as they arise and , could generate revenues on UK expenditure from VAT and other taxes generated by economic activity in the UK.

Possible routes to addressing emerging risks to the tax base

While it is, as yet, unclear how these trends will develop it seems – in our view – a significant possibility that things will not revert to their pre-pandemic norm. We suggest an ongoing exercise is undertaken to gather statistics or survey larger employers/partnerships to evaluate the extent to which remote working abroad is becoming an established trend for UK employers and similarly engaging with international bodies such as the OECD to consider worldwide behavioural patterns.

We think that it is important that the government gets ahead of such these trends and plans for how they might develop. Not to do so is likely to have a significant effect on tax take. We believe the government may wish to consider short and medium or long-term approaches – domestically and through international cooperation and negotiation.

In the short-term, changes might be considered to the UK's domestic tax legislation and/or taking an early initiative to renegotiate tax treaties in relevant jurisdictions could offer advantages to the UK.

Tax competition between countries offering tax advantaged regimes to mobile high earners has parallels with the global tax discussion on corporate taxes and the G7/OECD 'two pillars' of corporation tax reform. The context of that reform may also be favourable to an initiative to forestall the type of 'tax competition' in the personal earned income tax market that has, it is perceived, recently been curtailed by international agreement in the corporate market.

Any outcome of this set of social and economic changes triggered by the pandemic will be a net effect of a wide range of complex and to some extent contradictory factors. (Though even a net effect could be very large.) Equally, there is unlikely to be a simple solution, or even a single direction of solutions – 'carrots' as well as 'sticks', implications for, for example, the non-domiciled tax regime and features that a mobile workforce might find attractive as well as rules to protect or extend taxing rights from threats that had not previously been contemplated.

The CIOT recommends the government should consider an early high-level consultation on this subject with a view to producing a roadmap of possible options for future reform. We would be very pleased to work with the government on such a consultation.

Yours sincerely

John Barnett Chair, Technical Committee

The Chartered Institute of Taxation

The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.

Our stated objectives for the tax system include:

- A legislative process that translates policy intentions into statute accurately and effectively, without unintended consequences.
- Greater simplicity and clarity, so people can understand how much tax they should be paying and why.
- Greater certainty, so businesses and individuals can plan ahead with confidence.
- A fair balance between the powers of tax collectors and the rights of taxpayers (both represented and unrepresented).
- Responsive and competent tax administration, with a minimum of bureaucracy.

The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries.

Our members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.