1 ACADEMIC TAX CONFERENCE SERIES

Blueprint for Individual Income Taxation Reform in a Globalized World

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IBFD

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Why this book?
This book presents the proceedings from the inaugural Academic Tax Conference (ATC), held in Amsterdam on 16-17 May 2024. The conference, centred on the theme "Blueprint for Individual Taxation Reform in a Globalized World," brings together leading scholars and practitioners to explore critical issues in personal income taxation.

While corporate income taxation has long dominated international tax discussions, individual taxation remains underexplored in the global policy arena. Recent developments, including the United Nations' focus on high-net-worth individuals, signal a shift towards prioritizing personal income taxation on the international stage. However, comprehensive reform addressing the fundamental aspects of individual taxation is still absent. This book seeks to address this gap by examining the pressing need to include personal income taxation in global tax discussions, particularly in light of increased labour mobility, digital work models and growing tax competition between jurisdictions.

The book is structured into six parts, grouping chapters by related themes, while offering diverse perspectives and conclusions. Part I examines tax nexus criteria, exploring how globalization and digitization challenge traditional principles of residence, source and citizenship, while considering redistributive tax policies. Part II focuses on differentiated tax liabilities for mobile individuals, using game theory to analyse jurisdictional competition and proposing a framework for assessing harmful tax regimes, similar to corporate tax standards. Part III delves into tax treaties, addressing the complexities of determining tax residence and proposing new taxing rights for employment and service income through withholding taxes. Part IV discusses the potential justification and design of an EU personal income tax based on citizenship, exploring possible models and their challenges. Part V tackles cross-border philanthropic giving, suggesting reforms to overcome its national limitations. Finally, part VI investigates the taxation of pension income in cross-border situations, including EU efforts to harmonize pension tax policies.

This book not only provides a theoretical foundation for understanding the current landscape but also serves as a practical guide for shaping future reforms in personal income taxation in an increasingly interconnected world.

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Table of Contents

Part III
Tax Treaties and Attribution of Taxing Rights

Preface

This edited book contains the written output of the inaugural Academic Tax Conference (ATC), held in Amsterdam on 16-17 May 2024 and centred on the topic of this book: "Blueprint for Individual Taxation Reform in a Globalized World."

Corporate income taxation has taken centre stage in the international tax debate since the advent of the international discussion in 1923, a tendency that continues to this date with the recent OECD Two-Pillar initiative. Even the seismic shock of the 2008 financial crisis did not move the cross hairs of international tax policymakers toward the taxation of individuals. However, while issues on the taxation of individuals have remained relatively remote from the international policy agenda, a certain shift of the trend has been observed, most recently with the United Nations prioritizing the issues related to the taxation of high-net-worth individuals. That being said, a comprehensive package looking at the fundamental international aspects of personal income taxation reform is yet to come. At the same time, there are numerous reasons to prioritize the taxation of individuals in upcoming discussions on international tax law.

The consequence of the asymmetrical discussion of the taxation of corporations and the taxation of individuals is that the latter has largely been left as a domestic concern even though similar tendencies, such as abuse of law and tax competition, apply mutatis mutandis to the realm of the taxation of individuals. This is especially true in light of the increased mobility of labour as a factor of production, specifically in regional integration blocs such as the European Union. Additionally, the growing disconnect between the location of labour and the place where its proceeds are utilized challenges some fundamental assumptions of the existing international tax framework. While the traditional view of taxation as an obstacle or burden to cross-border mobility remains valid, new challenges are arising due to the very same mobility of individuals and evolving work patterns.

The main issues surrounding the topic of personal income taxation are currently two fold. First, it is the traditional problem of taxation as an obstacle and additional burden to cross-border mobility, a situation that is exacerbated explicitly by new work models that do not fit neatly in the international tax framework created decades ago. Second, the increased labour mobility is yielding new challenges related to competition between jurisdictions in attracting this more mobile labour and to taxpayers that aim to exploit more

favourable regimes by means of potentially abusive practices. This issue can be seen most tangibly in the broad adoption of special tax regimes for high and ultra-high-net-worth individuals, expatriates and digital nomads. The effects of such schemes are felt in the relationships between states and the tax systems within states, as taxpayers with a perceived similar ability to pay are subjected to different levels of taxation.

In addition, new forms of work and new business models challenge the traditional assumptions that underpin domestic tax legislation, for example, on the location of where work is performed, the way workers are contracted and the functions they perform, as well as the connections that are established with the territory where travelling workers are temporarily performing services. Coincidentally, civil society and politicians from certain countries also propelled discussions on the taxation of the ultrarich to the top of the public discussion, with the launch of a proposal to introduce an international minimum tax for billionaires, which was discussed at the G20 and backed by some nations there.

Despite all the novelties confronting this part of the tax system, one constant observation about the position of individual income taxation in a country's tax mix is that, historically and contemporaneously, individual income taxation is one of the most significant and constant revenue streams for governments, especially in developed countries. It is yet to be seen to what extent the newly created possibilities for mobility and remote working can also have a significant revenue impact.

These are just some of the many considerations that make it high time to elevate the discussion on the future of individual taxation reform in a globalized and interconnected world. The desire to look at these issues in more depth coincided with the launch of IBFD's ATC as a new platform to delve into the most pressing issues of international and comparative tax law.

This book combines the contributions of that conference in a systemic way to provide a theoretical background to (some of) the issues addressed in this brief introduction, and these contributions have been selected after a blind and competitive procedure on their fitness to shape the discussion on a blueprint for individual taxation in a globalized world.

The book consists of six parts that group the chapters based on their kinship; however, although the chapters might be considered part of the same overarching theme, it does not mean they reach the same conclusions or start from the same premises.

Part I deals with tax nexus, i.e. the qualifying links states use to assume jurisdiction. David Duff confronts the traditional paradigm of the nexus criteria of residence, source and citizenship with the changing circumstances that flow from the globalizing and digitizing economy while also considering the elements of redistributive policy pursued through the tax laws of many states. Jean-Philipe Van West, Eleni De Becker and Evelien Timbermont similarly assess the ties that link an individual to a state in the exercise of jurisdiction or subjectification to laws. However, they do so from three different perspectives, contextualizing the discussion on tax law and providing insights from labour and social security law.

Part II consists of three chapters dealing with differentiation in the tax liability of certain groups within society, most commonly those individuals who are granted a special tax status by virtue of their mobility. Giulia Mahlig makes the argument that individuals lose or acquire ties with jurisdiction in a gradual process rather than a cut-off, single moment in time and, therefore, short- and long-term residents are not necessarily in the same position from the perspective of comprehensive tax liability. Takayuki Nagato uses game theory to gain better insight into the choices that jurisdictions are faced with in an environment of competition for attracting individuals and demonstrates that different types of countries have a diverging interest in potential tax coordination in this area. Giorgio Beretta and Rosa Freitas Soares take a more holistic approach in their proposal for an assessment framework for the harmfulness of regimes for individuals from the perspective of tax competition, similar to the one already existing for corporate taxation.

Part III contains two chapters that deal with topics found in tax treaties. The determination of tax residence is all but clear, often to the detriment of the taxpayer, as demonstrated by Sonali Walpola, John Minas, Karen Stark and Savannah-Lee Correia Da Silva. Alison Futter focuses instead on the attribution of taxing rights when it comes to income from employment and independent services and develops a proposal for a new taxing right for source states that is to be effectuated by means of a withholding tax.

Part IV, called “Possibilities and Design of EU Personal Income Taxes”, first deals with the prospect of assuming a tax liability for individuals based on EU citizenship, as investigated by Ricardo García Antón. If the European Union were to move towards adopting a personal income tax for individuals, how could such a levy even be designed? Martha Caziero discusses three options in detail and shows their merits and pitfalls.

In part V, Giedre Lideikyte Huber discusses the field of philanthropic giving and its difficult reconciliation with cross-border situations. Next, she outlines the reforms that could liberate this field from its dominantly national focus.

The sixth and final part deals with the taxation of pension income in cross-border situations, with Graeme Saggers and Tracy Johnson looking at the cases of double non-taxation that can arise in an emigration scenario. Sander Kramer takes an EU approach by discussing the role of the Court of Justice of the European Union and the European Commission in harmonizing the taxation of pension income.

The emerging view is kaleidoscopic in that nearly every corner of the current spectrum is explored. Nevertheless, ample room for future research remains, as the contributions to this book indicate. The editors would like to point to a few of those issues and hint at how this book can inspire future avenues of research, without suggesting that the list of these issues is exhaustive.

The first issue, which is also (partly) addressed in this book, relates to the revisiting of the tax nexus and allocation of taxing rights rules in light of the emerging new economic class of individuals who can perform gainful activity for an employer/service recipient from anywhere in the world. On the one hand, one can observe a boisterous rollout of specialized tax regimes aimed at attracting these individuals to jurisdictions (based on the current default rule under international tax law of taxation at the place of residence of the employee/service provider). On the other hand, the existing tax compliance rules make living in one country and being employed in another an impractical exercise from the employer's point of view, who might face tax withholding obligations related to the payroll in multiple jurisdictions. Even when it comes down to independent service providers, the cross-border service delivery element might have a dissuading effect due to possible additional VAT registration and reporting requirements that would not have arisen purely domestically (for example, if the amounts are below the minimum VAT registration threshold when there is one). In light of this, the current practical reality is that, although remote work from abroad is possible for many types of gainful activity, it faces significant tax compliance obstacles that are often prohibitive. Thus, while discussing principle-based solutions for revisiting the tax nexus and allocation of taxing rights, one should always consider the administrability of the system and, more fundamentally, whether it is desirable to make the rules less distortive.

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