INTERNATIONAL EMPLOYEE MOBILITY: THE IMPACT OF BILATERAL TAX TREATIES ON TERRITORIAL TAXATION

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Abstract:
This article examines the international mobility of salaried workers and its tax impact within the framework of international conventions. It analyzes the role of these conventions in moderating the principle of tax territoriality by harmonizing national tax systems, thereby avoiding double taxation and uncovering potential abuses. The study also highlights optimization strategies and abusive practices related to these conventions. Finally, it offers recommendations to limit such abuses while preserving the benefits associated with the international mobility of workers.
Keywords: Worker mobility, secondment, expatriation, principle of territoriality, tax residence, double taxation, tax evasion.

INTRODUCTION.

Taxation follows the principle of territoriality, according to which economic activities and income generated within a state's territory give that state the right to tax and collect taxes. This principle ensures that states can exercise their fiscal sovereignty over the resources and activities located within their territories, thus contributing to tax justice and the distribution of public burdens.

However, the development of technologies, economic globalization, and the expansion of international trade have led to increased mobility of people and workers. These movements are often motivated by benefits such as the transfer of skills, access to new economic opportunities, and the search for more favorable working conditions. This mobility is also influenced by the quest for global competitiveness, which drives workers to move to markets offering better prospects.

Nevertheless, this dynamic of mobility faces limitations imposed by the tax systems of different states. Indeed, each state applies its own tax rules under the principle of territoriality, which can create situations of conflict or double taxation. Mobile workers may thus find themselves in a complex situation when determining in which state they must fulfill their tax obligations.

The complexity of international taxation also lies in determining tax residence. The various terms used to define this residence, such as "tax domicile," "fiscal home," "place of stay," "center of family interests," "center of vital interests," and "center of personal interests," create a "terminological blur." This diversity of definitions complicates the precise determination of the competent state for tax collection and may lead to inconsistencies in the application of tax rules.

To address these difficulties, bilateral tax conventions have been established. These conventions aim to harmonize tax rules between states and to avoid double taxation of international workers and prevent tax evasion. They define the criteria for determining the competent state for tax collection and establish mechanisms for cooperation between the tax administrations of different countries.

In this context, several crucial questions arise:

- What is the concept of international worker mobility?
- What is the impact of the principle of fiscal territoriality on mobility?
- What is the role of bilateral tax conventions in mitigating the principle of territoriality?

To address this issue, we will adopt a comparative legal analytical methodology, following the plan below: I. Concept of international worker mobility. II. Tax regime applicable to international mobile workers. III. Conventional framework for the taxation of mobile salaried workers.

I- Concept of International Worker Mobility.

International worker mobility can be classified according to several criteria, thus determining their tax situation. These criteria are generally related to the following elements: the temporal element,

which refers to the duration of the mobility, whether it is long-term or short-term; the geographical element, which specifies the location of the mobility, whether it is within the country or abroad; and the legal element, which determines the nature of the relationship between the worker and the employer, whether this relationship continues or is terminated. Thus, each worker falling into one of these situations is classified, according to these criteria, as an expatriate, a seconded worker, or a cross-border worker. The absence of a precise framework in labor law concerning international worker mobility perpetuates a "terminological blur"[1] that could lead to imprecise use of the various forms of international mobility, without taking into account the legal consequences that follow. Hence the need to clarify these forms.

1- Definition and Typology of Mobile Workers.

a) Expatriate Workers: To determine the status of expatriate workers, reference is made to the temporal and geographical criteria. However, the temporal criterion can prove erroneous, as labor legislation does not specify a duration beyond which a worker is considered expatriate. This is why the legal criterion is preferred, as it allows for the assessment of whether the employment relationship between the employee and their employer is maintained during the transfer period. Nevertheless, the legal criterion alone is insufficient to define expatriation, hence the need to combine it with the geographical criterion. These two criteria help better identify the constitutive elements of expatriation, namely the transfer of the employee to a foreign country and the termination of the employment relationship with the employer in the country of origin. Consequently, the tax residence of the expatriate worker is transferred to the host country, where the employment relationship is effectively established.

b) Posted Workers: Unlike expatriation, posting involves sending a worker abroad by their employer to perform a specific task for a "limited" [2]duration. The temporal criterion is therefore decisive in defining posting. However, labor legislation does not specify this duration, leaving social security law to define it and any possible extensions. For example, the social security convention between Algeria and France sets the duration of posting at three years according to Article 6 §1[3], with a possibility of an additional two-year extension[4]. Nevertheless, posting does not terminate the employment relationship between the employer and the employee; the latter remains subject to the social security system of the country of origin, that is, where the employer is established, which introduces the legal criterion as a determining and complementary factor to the temporal criterion in the definition of posting. Consequently, the tax residence of the posted worker retains their tax residence in their country of origin while being temporarily assigned abroad for specific missions[5].
However, it is important to highlight the significance of the temporal criterion in determining the posting status of the employee. Indeed, exceeding the duration prescribed by the social security convention results in the conversion of the posting status into that of expatriation. This distinction was confirmed by the French Court of Cassation in its ruling of January 22, 2009, where it judged that "… an employee, even classified as posted, necessarily has the status of expatriate…"[6].

[1] Lefebvre, F. (2011). Mémento pratique – Social. Editions Francis Lefebvre.
[2] The term "limited" is used by the European Parliament and Council Directive of December 16, 1996, on the posting of workers. Additionally, Article 2 of the same directive defines the posted worker as "any worker who, for a limited period, performs his or her work in the territory of a Member State other than the State in whose territory he or she normally works."
[3] General Social Security Convention of October 1, 1980, between the Government of the French Republic and the People's Democratic Republic of Algeria (Decree No. 82-166 of February 10, 1982 – JORF of February 17, 1982), entered into force on February 1, 1982.
[4] Ibid., Article 6§1-b.
[5] EY. (2023). Worldwide personal tax and immigration guide 2023. Ernst & Young.
[6] Cass. Civ 2ème arrêt du 22 janvier 2009, n° 08-41375.

2- The Motivations for International Mobility.

International mobility of salaried workers is motivated by various factors, including economic and professional ones. It should be noted that a worker's motivation for such mobility may result from the convergence of these two interests. This combination makes it difficult to detect the personal interest of the worker, which can only be known through their own statements. Therefore, our analysis will focus exclusively on economic and professional factors, as personal interest varies considerably from one worker to another, with some considering a break from their country of origin in favor of a new life or a strictly personal experience.

a) Economic motivation: Economic motivation is one of the main factors driving international mobility for workers. It primarily relies on the improvement of financial and material conditions, as employment abroad can offer higher salaries, expatriate bonuses, housing allowances, and other benefits that make expatriation more attractive[7] benefits that are not always available in the home country. For example, sectors with high demand for qualifications, such as the oil industry, exemplify this economic advantage. It also provides a better quality of life, particularly in countries where the cost of living is lower[8] and access to effective healthcare and educational systems is available[9].

Similarly, the tax benefits provided by certain countries through their legislation or international conventions constitute one of the motivations for international mobility of salaried workers. Indeed, some international conventions provide for tax exemptions to avoid double taxation, allowing the worker not to be taxed both in the host country and in the country of origin, particularly in the context of fund transfers. Furthermore, some countries, in order to attract foreign workers, offer attractive tax benefits, such as reduced tax rates or specific exemptions granted to foreigners[10], such as in the United Arab Emirates, where the tax regime is particularly appealing[11].

b) Professional motivation: The employee's professional motivation for international mobility lies in the improvement of their career, which they may not find in their home country[12]; it would also allow them to make a name for themselves within multinational companies[13]. Among the various reasons that might lead an employee to consider international mobility, some authors do not fail to mention "the fear of intellectual stagnation and exclusion from the research community."[14] This fear drives the employee to seek more recognition by taking on professional challenges or being driven by intellectual dynamism, such as solving large-scale problems and managing international projects, which offer unique opportunities for personal and professional development[15].

II- The Tax System Applicable to the International Mobility of Employees.

The application of taxation to mobile workers requires consideration of several parameters to determine their tax obligations, particularly in the context of international mobility. Indeed, the prevailing fiscal principle in most states is that of "territoriality." This principle stipulates that taxes are owed either in the state where the income is generated or in the state of residence or domicile of the taxpayer. Thus, determining the place of taxation is fundamental as it dictates the applicable tax legislation and helps avoid double taxation.

[7] Martin, L. (2020). "Preferential tax regimes for expatriates." Revue de Fiscalité Internationale, 45(3), 215-232.
[8] Black, S. (2020). International taxation of employment income. Cambridge University Press.
[9] Renault, F. (2019). Preferential tax regimes for expatriates: A comparative analysis. Revue Française de Fiscalité Internationale, 34(1), 67-82.
[10] Gravelle, J. G. (2009). Tax havens: International tax avoidance and evasion. National Tax Journal, 62(4), 727-753.
[11] Baldwin, R. (2019). The globotics upheaval: Globalization, robotics, and the future of work. Oxford University Press.
[12] Ghemawat, P. (2017). Redesigning the organization: A multinational perspective. Harvard Business Review Press
[13] Collings, D. G., & Mellahi, K. (2019). Globalizing human resource management. Routledge.
[14] Maingari Daouda. (2011). Brain drain in Africa: Realities and deconstruction of the discourse on a social phenomenon. Education and Societies, 2(28), 131-147.
[15] Kraimer, M. L., & Wayne, S. J. (2018). The role of international experience in career development. Career Development Quarterly, 67(2), 162-178.

However, the predominance of this principle leaves us perplexed, as during our study, we encountered several terms used to determine the conditions under which a state acquires the right to collect taxes or tax mobile workers. Among these terms are "tax domicile," "fiscal home," "place of stay," "center of family interests," "center of vital interests," and "center of personal interests." Given that the principle of territoriality is essential for determining where the state is competent to collect taxes, it is necessary to question whether these terms, despite their diversity and potential for confusion, represent criteria that all converge towards the single principle of territoriality or if they are elements that, in one situation or another, are independent and autonomous relative to the principle of territoriality in taxation. It is therefore essential to examine these criteria to clarify the understanding of the taxation of mobile workers on an international scale and to eliminate any terminological confusion.

1- The Principle of Tax Territoriality.

The principle of fiscal territoriality grants each state the right to levy taxes on income generated within its territory or received by individuals residing there. In Algerian law, Article 3 of the Code of Direct Taxes and Similar Taxes (CIDTA) states: "Persons who have their tax domicile in Algeria are liable to income tax on all their income. Those whose tax domicile is outside Algeria are liable to this tax only on their income from Algerian sources." This principle is also reaffirmed in French law, as specified in Article 4 A of the General Tax Code (CGI), which is notably similar to the Algerian text. It states: "Persons who have their tax domicile in France are liable to income tax on all their income. Those whose tax domicile is outside France are liable to this tax only on their income from French sources." This conformity between French and Algerian legislation illustrates the importance of the principle of territoriality as a fundamental rule in tax matters. Through the two articles cited above, it can be concluded that the principle of territoriality refers to two essential elements: tax domicile and the source of income.

a) Tax domicile: Tax domicile can be defined as the place where a person usually resides. However, even if the person does not reside in the territory of that state, simply staying there for more than 183 days (the six-month rule) during the calendar year[16] is sufficient to establish tax domicile. Consequently, the determination of tax domicile relies not only on the criterion of habitual residence but also on the duration of the stay.

However, it is important not to confuse two entirely different concepts: tax domicile and civil domicile.

Civil domicile is a concept of private law, determining the place where a person has their principal establishment (main residence) for exercising their civil rights[17], such as contracts and jurisdictional competence. In contrast, tax domicile is a concept of public law that determines the place where tax obligations are fulfilled. It also determines jurisdictional competence in the case of tax disputes.

b) Taxation at the source of income: Income earned within the territory of a state where an employee performs their tasks is subject to the tax regime of that state, even if the worker does not have a fixed residence in terms of residency[18]. Consequently, taxation is due solely because of earning income within the territory of that state[19].

However, income taxation distinguishes between income from local sources, as previously examined, and income from foreign sources. Thus, a mobile worker residing in one state but performing their salaried activity in another state is subject to taxation in both their state of residence and the state

[16] Article 3 of the Algerian Code of Direct Taxes and Similar Taxes (CIDTA) and Article 4 B of the French General Tax Code (CGI) are identical. However, this same duration is outlined internationally in the OECD Model Convention of November 21, 2017, in Article 15 titled "Income from Employment."

[17] Article 102 § 1 of the French Civil Code states: "The domicile of every French citizen, for the exercise of his civil rights, is the place where he has his principal establishment..." This corresponds to Article 36 of the Algerian Civil Code, which states: "The domicile of every Algerian is the place where his main residence is located..."

[18] Cornu, G. (2023). Vocabulaire juridique (13th ed). Presses Universitaires de France.

[19] OECD. (2021). Model tax convention on income and on capital: Commentary (Vol. 1). OECD Publishing, pp. 35-37.

where they perform their activity. This situation is common for cross-border workers, unless tax conventions are in place to avoid double taxation.

2- Tax household.

The fiscal household corresponds to the place where the taxpayer resides habitually and permanently, thus constituting the center of their family interests. This notion applies even when the taxpayer is temporarily staying in another state for professional reasons. The determination of the fiscal household is based on a consistent jurisprudence of the Council of State[20], which has specified in one of its rulings, and reiterated in subsequent rulings, that it is the "place where the taxpayer normally lives and has the center of their family interests without taking into account temporary stays elsewhere due to professional necessities or exceptional circumstances."[21] From this ruling, two essential criteria for determining the fiscal household emerge: the *"center of family interests"* and *"temporary stay or residence."* It is necessary to examine not only these two criteria but also other crucial ones in order to define their boundaries, thereby preventing any confusion in meaning due to similarities. The following criteria are concerned: the *"center of vital interests"*, the *"center of private life", and the "center of economic interests"*.

a) The center of family interests: The Council of State, in the aforementioned ruling, determines the fiscal household by linking the taxpayer's "normal" residence to the "center of their family interests," thereby emphasizing that this center constitutes a stabilizing element of the place of residence. In other words, family interests play a central role in normalizing the place of "residence," thereby ensuring a certain stability.

For illustration, Algerian law considers the place of primary residence independently of the center of primary interests[22]. This implies a distinction between "the place of primary residence" and "the center of primary interests," unlike the position of the Council of State, which associates "the place where the taxpayer normally resides" with "the center of their family interests"[23].

b) Temporary stay or residence: The Council of State's case law considers that a temporary stay, whether motivated by professional requirements or exceptional circumstances, does not affect the determination of the tax residence. Thus, the temporary nature of the stay is established as a criterion by the Council of State to determine the tax residence. However, a pertinent question arises: how to define or determine the temporary nature? The answer to this question was provided by the Paris Administrative Court of Appeal, which excluded the criterion of temporality in favor of exceptional circumstances, even when stays are prolonged and uninterrupted. The Court thus considered, in its ruling[24], that uninterrupted presence should be "regarded as resulting from exceptional circumstances,"[25] concluding that the tax residence of the individual was not located in France.

c) The center of vital interests: The center of vital interests constitutes a determining criterion for establishing the fiscal household. It refers to the place where a person maintains their essential connections, which means that the person may be in another state. This concept is confirmed by the jurisprudence of the Council of State, which specifies that the fiscal residence remains in France if the center of vital interests is maintained there, even when the taxpayer's stay is temporarily abroad.[26]

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[20] Council of State. (1958, April 23). Decision No. 37792.

[21] Council of State. (1995, November 3). Decision No. 126513 & Council of State. (2011, October 21). Decision No. 333898.

[22] Article 3-2-b of the Algerian General Tax Code: *"the place of their main residence, that is, the center of their main interests."*

[23] Council of State. (2016, November 7). Decision No. 365043, determines a taxpayer's tax residence by considering both the place of habitual residence and the center of their family interests.

[24] Administrative Court of Appeal of Paris. (2016, February 2). Decision No. 15PA01092. Unpublished in the Lebon collection, 5th consideration

[25] Ibid.

[26] Council of State. (2018, March 9). Decision No. 401223.

Thus, the center of vital interests of a taxpayer can be characterized by family or economic ties. In this context, the Administrative Court of Appeal[27] has considered that the permanent place of residence was the location of the children's schooling, thus constituting the center of vital interests, even though the spouse works as a professional football agent in another state.

The determination of the "center of vital interests," although it seems to correspond to the "center of family interests," presents a dimension of foreignness, particularly applicable to the internationally mobile worker. This approach is corroborated by the Franco-Algerian[28] tax convention aimed at avoiding double taxation and preventing tax evasion, which states that if a person "has a permanent home in both states, they are considered a resident of the state with which their personal and economic ties are closest (center of vital interests).[29]"

d) The center of private life: The concept of the center of private life of a person determines the place where their personal ties are located. However, this concept can be confused with the center of family interests, given that family life is intimately connected to private life. The Council of State[30], in its ruling, provided an important explanation for determining the center of the taxpayer's private life: "without family burdens, this refers to the place where they normally live and have the center of their personal life, without taking into account temporary stays elsewhere due to professional necessities or exceptional circumstances." However, ambiguity persists, particularly regarding the situation of a single taxpayer who might reside with their parents. Could this situation fall under the "center of family interests," or is the latter exclusively reserved for individuals in a marital relationship?

e) The center of economic interests: The center of economic interests of a taxpayer corresponds to the place where their main sources of income are located, whether they come from professional activities, investments, placements, businesses, or salary activities. Algerian law does not explicitly use the criterion of "center of economic interests," but rather the criterion of "center of main interests.[31]"

The concept of "center of main interests" is very broad and general, potentially encompassing all criteria, whether familial, private, or economic. In this study, we limit our exploration to the definition of the "center of economic interests," which can be defined as "the place where the taxpayer has made their main investments, where they have their business headquarters, and from where they manage their assets. It can also be the place where the taxpayer has the center of their professional activities, or from where they derive the majority of their income.[32]"

Thus, the majority of income constitutes the center of economic interests. However, in the case of an expatriate employee who earns income both in their country of origin and in the host country, the question arises regarding how to assess the center of economic interests. This situation requires "a geographical and economic comparative approach to examine which country the taxpayer derives the essential or largest part of their income from.[33]" Therefore, the determination of this "largest part" of the income must logically be made through a rigorous comparison of the different incomes earned by the expatriate in each of the two countries (host country and country of origin).

III- The Conventional Framework for the Taxation of Mobile Employees.

[27] Administrative Court of Appeal of Marseille. (2014, May 6). Decision No. 12MA01610, unpublished in the Lebon collection, 9th consideration

[28] Franco-Algerian Tax Convention. To avoid double taxation, prevent tax evasion and fraud, and establish rules for mutual assistance regarding income, wealth, and inheritance taxes, signed in Algiers on October 17, 1999, approved by Algeria through Presidential Decree No. 02-121 of April 7, 2002, published in the Algerian Official Journal No. 24 of April 10, 2002.

[29] Ibid.

[30] Council of State. (2010, December 17). Decision No. 306174.

[31] Article 3-2-b of the Algerian General Tax Code.

[32] Official Bulletin of Public Finance – Taxes, BOI-IR-CHAMP-10-20130131. Point No. 230.

[33] Dieu, F. (2011, May 19). La domiciliation en France des salariés en mission à l'étranger. Droit fiscal, No. 20, commentary 353.

International tax treaties play a fundamental role in regulating the taxation applicable to employees in international mobility situations, particularly given the complexity of the tax rules of different states to which the mobile worker must comply.

However, a pertinent question arises: are the criteria set forth by these treaties for determining tax residency the same as those we have outlined in our analysis, or are they specific to these international treaties? Referring to the Franco-Algerian Tax Convention as an example, which is based on the OECD model also adopted by other states, Article 4 of said convention shows that the criteria for determining tax residency are indeed those we have already illustrated in this study. These criteria include permanent home, center of vital interests, habitual residence, and finally, nationality, which warrants particular attention. It is important to note that the nationality criterion helps determine tax residency in cases where a mobile worker holds dual nationality and other criteria do not conclusively establish their tax residency.

The main objective of tax treaties is to prevent double taxation and combat tax evasion. In this regard, Algeria has concluded several bilateral treaties[34], notably with France[35]. It should be emphasized that these treaties are largely inspired by the OECD model tax convention. This model provides a harmonized and unified framework to address issues of double taxation, prevent tax evasion, promote international cooperation, and clarify the tax situation of internationally mobile workers as well as taxpayers[36].

1- Prevention of Double Taxation:

The role of tax treaties is essential for the expansion of international mobility of salaried workers. These treaties help avoid double taxation, which constitutes a significant barrier to international mobility of workers. Double taxation, resulting from residence and source criteria, allows two states to simultaneously claim the right to tax the same income, as previously analyzed.

To address this issue, international tax treaties provide mechanisms to eliminate double taxation. For example, they allow for the crediting of taxes paid in the host state against the taxes that would have been due in the state of residence[37]. Thus, the tax treaty between France and Algeria stipulates that taxes paid by a worker in Algeria can be credited against the tax due in France if that worker is temporarily carrying out professional activities in Algeria[38].

This clarification on the elimination of double taxation is based on criteria. Are these criteria the same as those we have outlined in our analysis, or are they specific to international treaties? To answer this question, we will use the Franco-Algerian treaty as an example to examine the criteria used to determine tax residency. In our view, this treaty serves as a sufficient example since the criteria it sets forth are general, as most tax treaties are based on the OECD model.

Article 4 of the Franco-Algerian treaty reveals that it refers to the criteria that all states consider in determining tax residency, such as: permanent home, center of vital interests, habitual residence, and finally, the nationality criterion which needs to be addressed. The nationality criterion allows for the determination of tax residency in cases where the habitual residence criterion does not apply, especially if the salaried worker holds dual nationality, French and Algerian.

2- The Fight Against Tax Evasion.

Tax evasion is a practice that has been known for a long time; it involves taxpayers using fraudulent means to escape or reduce their tax liability. Although such practices may seem impossible within

[34] We cite here, some of the conventions for illustration.

[35] Franco-Algerian Tax Convention, signed in Algiers on October 17, 1999, approved by Algeria through Presidential Decree No. 02-121 of April 7, 2002, published in the Algerian Official Journal No. 24 of April 10, 2002.

[36] OECD. (2014). Model tax convention on income and on capital. OECD Publishing, Paris

[37] OECD. (2014). Model tax convention on income and on capital, Articles 23A and 23B, concerning methods for eliminating double taxation.

[38] Article 24 of the Tax Convention between France and Algeria states: “Taxes due in a contracting State and paid in accordance with the legislation of that State may be credited, in accordance with the legislation of that State, against the tax due to the other contracting State.”

the framework of international worker mobility, particularly in cases of secondment and expatriation, since financial controls have the means to address them, such as the employment contracts of seconded or expatriate workers, employer declarations, and transactions on the individuals' bank accounts.[39] These measures sometimes prove ineffective against the various forms of tax evasion that exploit system loopholes. Practices to evade taxes include failing to declare income received abroad, fictitious changes in tax residence to a country with favorable taxation[40], or even the abusive use of tax treaties[41].

Thus, international tax treaties play a crucial role. By establishing mechanisms to avoid double taxation, they also facilitate financial control over the income of mobile workers[42]. However, measures taken by states to prevent tax evasion remain a significant challenge due to the development of international worker mobility and the emergence of new working methods such as telecommuting[43]. For these reasons, states must intensify their financial control efforts[44] with methods more suited to international economic development and its impact on the mobility of workers.

3- International Tax Reform and Its Impact on Worker Mobility.

Due to the gaps faced by international taxation, the proliferation of practices known as "Base Erosion and Profit Shifting (BEPS)" has occurred. This phenomenon allows "multinational companies to shift profits to low-tax jurisdictions, often at the expense of the states where these profits were generated.[45]" This has prompted OECD/G20 countries to intervene and implement an action plan to combat these practices. However, this action plan includes a series of measures that could have a significant impact on the international mobility of workers. Among these measures, they would involve revising bilateral tax treaties as outlined in Action 6 of the BEPS plan, to prevent the abusive use of tax treaties, ensuring that these treaties are not used "to generate double non-taxation."[46] The same applies to Action 13 of the BEPS plan, which imposes automatic exchange of country-by-country[47] reports, which could expose expatriate workers to double taxation. However, these reforms proposed by OECD/G20 countries, while addressing the abusive use of bilateral tax treaties, should not hinder the expansion of international mobility of salaried workers to the detriment of the significant benefits they offer, such as skills sharing between workers and developed and developing states.

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[39] Baker, P. (2019). Double taxation conventions (4th ed., p. 88). Sweet & Maxwell.

[40] Slemrod, J., & Yitzhaki, S. (2002). Tax avoidance, evasion, and administration. In A. J. Auerbach & M. Feldstein (Eds.), Handbook of public economics (Vol. 1, pp. 1423-1470). Elsevier.

[41] Rixen, T. (2008). The political economy of international tax governance. Routledge.

[42] OECD. (2017). Model tax convention on income and on capital (p. 12). OECD Publishing.

[43] OECD. (2020). Implications of the COVID-19 crisis on international tax matters.

[44] OECD. (2018). Tax challenges arising from digitalisation – Interim report 2018: Inclusive framework on BEPS (p.3) OECD/G20 Base Erosion and Profit Shifting Project. OECD Publishing. In this perspective, the states: "Following the release of the report Addressing Base Erosion and Profit Shifting in February 2013, OECD and G20 countries adopted a 15-point Action Plan to address BEPS in September 2013. The Action Plan identified 15 actions along three key pillars: introducing coherence in the domestic rules that affect cross-border activities, reinforcing substance requirements in the existing international standards, and improving transparency as well as certainty."

[45] OECD. (2013). Addressing base erosion and profit shifting (p. 10). OECD Publishing.

[46] OECD. (2017). Preventing the improper use of tax treaties, Action 6 - Final report. OECD/G20 Base Erosion and Profit Shifting Project. OECD Publishing. (2015). Transfer pricing documentation and country-by-country reporting, Action 13 - Final report (pp. 13 & 23). OECD/G20 Base Erosion and Profit Shifting Project. OECD Publishing.

[47] OECD. (2015). Transfer pricing documentation and country-by-country reporting, Action 13 - Final report (p. 43). OECD/G20 Base Erosion and Profit Shifting Project. OECD Publishing.

CONCLUSION.

International mobility of workers presents significant challenges to the principle of tax territoriality, constituting a real challenge. Aware of the benefits of this mobility for global competitiveness, skills transfer, and innovation, states have established bilateral tax treaties to reconcile different national tax systems and mitigate the strictness of the principle of territoriality, notably by reducing the risk of double taxation. These treaties have proven effective in meeting the expectations of international mobility actors.

However, abusive tax practices have exploited the gaps in these treaties, contributing to the proliferation of the phenomenon of base erosion and profit shifting (BEPS). To combat these abusive practices, states have implemented an action plan. Nevertheless, the adopted measures should not act as "tax barriers" to the expansion of international mobility of workers or the benefits it provides. Therefore, the following recommendations can be proposed:

- Clarification and harmonization of the terms of tax treaties to facilitate the determination of tax residence.
- Simplification of tax filings.
- Tax procedures should be clearer, more fluid, and easier for mobile workers to understand and use, to facilitate compliance and reduce administrative obstacles.
- Strengthening cooperation between states in information exchange while avoiding double taxation for mobile workers.
- Enhancing cooperation between states to provide mobile workers with a stable and suitable legal framework, ensuring advantageous and prosperous mobility beneficial to all concerned parties.

International texts:

International Conventions:

- General Social Security Convention of October 1, 1980, between the Government of the French Republic and the People's Democratic Republic of Algeria (Decree No. 82-166 of February 10, 1982 - JORF of February 17, 1982), effective from February 1, 1982.
- Franco-Algerian Tax Convention, signed in Algiers on October 17, 1999, approved by Algeria by Presidential Decree No. 02-121 of April 7, 2002, published in the Algerian Official Journal No. 24 of April 10, 2002.

Texts from International Organizations:

1. OECD. (2021). Model Tax Convention on Income and on Capital: Commentary (Vol. 1). Paris: OECD Publishing.
2. OECD. (2017). Model Tax Convention on Income and on Capital 2017. Paris: OECD Publishing.
3. OECD. (2014). Model Tax Convention on Income and on Capital. Paris: OECD Publishing.
4. OECD. (2017). Preventing the Improper Use of Tax Treaties, Action 6 - Final Report. Paris: OECD Publishing.
5. OECD. (2015). Transfer Pricing Documentation and Country-by-Country Reporting, Action 13 - Final Report. Paris: OECD Publishing.

Legal Texts:

- Algerian Code of Direct Taxes and Assimilated Taxes (CIDTA).
- General Tax Code (CGI-France).

Decisions:

French Council of State:

- Council of State (1958, April 23). Decision No. 37792.
- Council of State (1995, November 3). Decision No. 126513.
- Council of State. (2011, October 21). Decision No. 333898.
- Council of State (2016, November 7). Decision No. 365043.
- Council of State. (2018, March 9). Decision No. 401223.
- Council of State (2010, December 17). Decision No. 306174.

Administrative Court of Appeal:

- Administrative Court of Appeal of Marseille. (2014, May 6). Decision No. 12MA01610.
- Administrative Court of Appeal of Paris. (2016, February 2). Decision No. 15PA01092.

Books:
1. EY. (2023). Worldwide personal tax and immigration guide 2023. Ernst & Young.
2. Cornu, G. (2023). Vocabulaire juridique (13th ed.). Presses Universitaires de France.
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