MASTER THESIS | MASTER'S THESIS

Titel | Title

Digital Labour and Double Taxation: The Limits of the OECD Model Convention in the Platform Economy and Possible Reform Approaches

verfasst von | submitted by

Laura Kõdar BA

angestrebter akademischer Grad | in partial fulfilment of the requirements for the degree of

Master of Laws (LL.M.)

Wien | Vienna, 2026

Studienkennzahl lt. Studienblatt | Degree programme code as it appears on the student record sheet:	UA 999 082
Universitätslehrgang lt. Studienblatt | Postgraduate programme as it appears on the student record sheet:	Europäisches und Internationales Wirtschaftsrecht [Vollzeit Englisch]
Betreut von | Supervisor:	Dr. Dimitar Hristov

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INTRODUCTION

Tax policy in the platform economy, particularly regarding platform workers, has attracted significant attention because it has introduced substantial changes to the traditional labour market. To describe this emerging form of economic activity, terms such as “platform economy,” “sharing economy,” “collaborative economy,” “gig economy” have frequently been used interchangeably.[1] The European Commission has described the term "collaborative economy" as business models in which activities are facilitated by platforms that create an open marketplace for the temporary use of goods or services, often provided by private individuals.[2] Typical examples of such companies include transportation services (e.g., Uber), meal delivery services (e.g., Wolt), short-term accommodation rentals (e.g., Airbnb), and outsourced business services (e.g., Upwork).[3] As a result of the growing popularity of these online platforms and mobile applications, an increasing number of individuals now earn income through “gig” work.[4]

Recognising these developments, the European Commission, in its European Agenda for the Collaborative Economy, highlighted both the rapid growth and the economic potential of this sector within the European Union (EU).[5] Empirical findings further support this assessment. A 2016 study measuring the development of the collaborative economy in the EU concluded that it already played a significant role in the overall economy.[6] The largest markets were identified in France, Poland, and Spain, although several other Member States were also found to have experienced notable growth in this area.[7]

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[1] Arun Sundararajan, ‘The Sharing Economy: The End of Employment and the Rise of Crowd-Based Capitalism‘, Cambridge: MIT Press 2016, p. 27.
[2] European Commission, *A European agenda for the collaborative economy* COM(2016) 356 final, p 3.
[3] *Ibidem*, p 64.
[4] Kathleen D Thoas, ‘Taxing the Gig Economy‘, [2018] University of Pennsylvania Law Review Vol. 166: 1415, p 1415.
[5] European Commission, *A European agenda for the collaborative economy* COM(2016) 356 final, p 2.
[6] European Commission, *Study to Monitor the Economic Development of the Collaborative Economy at sector level in the 28 EU Member States* (2018), p 9.
[7] *Ibidem*.

The COVID-19 pandemic, together with the widespread shift to remote work, further accelerated the expansion of the platform economy.[8] At the same time, it exposed and intensified challenges to the traditional principles of source and residence taxation, particularly in situations where individuals perform work in jurisdictions other than those in which they reside. These developments have brought taxation issues to the forefront, especially concerning platform workers operating across borders. For example, a freelancer residing in the United States may provide digital design services to clients in Germany via an online platform. If the United States classifies this activity as self-employment, while Germany treats the individual as an employee performing services within its territory, both states may assert taxing rights over the same income.

These developments also reveal a structural limitation of the current international tax framework. Where states classify the same platform activity differently, the allocation of taxing rights under the OECD Model Tax Convention (OECD MC) may diverge. If one state treats the income as employment under Article 15, it may tax the income where the work is exercised, whereas if the other state qualifies the same activity as business profits under Article 7, taxation in the source state arises only if the activity is carried on through a Permanent Establishment as defined in Article 5.[9] In many cases of platform work, such a permanent establishment will not exist, leading to conflicting claims between the source and residence states.

This conflict cannot be effectively resolved through Article 23, which merely governs the elimination of double taxation once taxing rights have already been allocated. Where the underlying classification differs, the residence state may not recognise the source state's taxing right and may therefore deny relief. As a result, the issue lies in the characterisation of platform income, raising doubts as to whether the current framework adequately prevents double taxation in the context of cross-border digital labour.

[8] Ulrich Becker, Olga Chesalina, *Social Law 4.0: Update: Innovative Approaches to Ensuring and Financing Social Protection for Platform Workers in Europe*, Baden-Baden: Nomos, 2025, p 105.
[9] OECD, Model Tax Convention on Income and on Capital 2017, art. 5, 7, 15.

The challenges have been widely recognised at the international level, particularly within the framework of the OECD/G20 Base Erosion and Profit Shifting (BEPS) Project. As highlighted in the Tax Challenges Arising from Digitalisation – Report on Pillar One Blueprint, the existing international tax rules, largely developed in the early twentieth century, are increasingly strained by new digital business models that enable economic participation in a jurisdiction without a corresponding physical presence.[10]

More recently, at the EU level, the adoption of Directive (EU) 2024/2831 on improving working conditions in platform work represents a significant legislative response to the classification challenges posed by platform labour.[11] By introducing a rebuttable presumption of employment for platform workers, the Directive acknowledges that existing legal categories are inadequate to capture the hybrid nature of platform work.[12]

The aim of this thesis is to assess whether the current international tax framework, in particular Articles 5, 7, and 15 of the OECD Model Tax Convention, is capable of effectively preventing double taxation for platform workers engaged in cross-border digital labour. To address this question, the thesis examines the extent to which inconsistent classification of workers as either employees or independent contractors contributes to overlapping taxing rights and potential double taxation. It further evaluates whether the traditional distinction between employment income under Article 15 and business profits under Article 7 remains suitable for modern forms of digital labour facilitated by online platforms.

In addition, the research explores whether the absence of a clear nexus rule for digital labour, such as a concept of significant digital presence within the meaning of Permanent Establishment under Article 5, creates systematic risks of double taxation for platform workers. The thesis also considers whether ongoing international tax reform initiatives, including digital permanent establishment concepts and the OECD's Pillar One approach, adequately address these

[10] OECD, *Tax Challenges Arising from Digitalisation – Report on Pillar One Blueprint* (OECD Publishing 2020) pp 5, 12.
[11] Council Directive (EU) 2024/2831 of the European Parliament and of the Council of 23 October 2024 on improving working conditions in platform work [2024] OJ L 2024/2831.
[12] Ibidem, art 5(1); see also recital 26

challenges or remain primarily focused on large platform companies rather than individual workers. Ultimately, the study seeks to identify potential legal and policy solutions that could improve coherence in the allocation of taxing rights and reduce double taxation risks in the evolving platform economy. First, the research examines the nature of digital platforms and labour performed through such platforms. Second, it analyses the existing nexus rules governing the taxation of platform work under the OECD Model Convention. Third, it identifies the risks of double taxation arising in the platform economy. Finally, it evaluates potential legal and policy solutions to improve coherence and reduce double taxation risks for cross-border platform workers. This research is grounded in primary legal sources, including the OECD Model Tax Convention and its Commentary, EU legislation, and judicial decisions from multiple jurisdictions, supplemented by academic scholarship in international tax law, employment law, and social security law. The methodology is therefore doctrinal and analytical-critical in nature.

1. The Nature of Platform Economy and Digital Labour

1.1. Digital Platforms as Multisided Intermediaries

The platform economy forms part of the broader digital economy and includes a variety of business models operating in multisided markets.[13] However, there is no universally agreed-upon definition of what constitutes a digital platform. Terms such as "platform economy," "sharing economy," "collaborative economy," "gig economy," and "peer-to-peer (P2P) economy" are used interchangeably.[14]

Digital platforms generate value by facilitating transactions between distinct groups of users, such as buyers and sellers, service providers and customers, or advertisers and audiences.[15] Rather than producing goods or services through a traditional vertically integrated structure, platform firms act as intermediaries that create value by coordinating exchanges between external participants through digital infrastructure.[16]

Digital platforms operate through a multisided business model in which they connect two or more user groups and generate revenue by charging at least one side of the market for access, transactions, or complementary services.[17] However, their role extends beyond simple matching of groups.[18] Platforms structure and govern interactions through algorithmic systems, pricing

[13] Katerina Pantazatou, 'Taxation of the Platform Economy: Challenges and Lessons for Social Security' [2020] SSRN Electronic Journal 1, pp 1-2.
[14] Arun Sundararajan, 'The Sharing Economy: The End of Employment and the Rise of Crowd-Based Capitalism', Cambridge: MIT Press 2016, p. 27.
[15] Thomas Eisenmann and others, 'Strategies for Two-Sided Markets' [2006] Harvard Business Review, 84, pp 92–101.
[16] Maximilian Stallkamp, Andreas Schotter, 'Platforms without borders? The international strategies of digital platform firms' [2019] Global Strategy Journal,11, p 61 and Carmelo Cennamo, Juan Santalo, 'Platform competition: Strategic trade-offs in platform markets' [2013] Strategic Management Journal, 34, p 1331.
[17] Maximilian Stallkamp, Andreas Schotter, 'Platforms without borders? The international strategies of digital platform firms' [2019] Global Strategy Journal,11, pp 59-61.
[18] Islam Zelimkhanovich Geliskhanov, Tamara Nikolaevna Yudina, 'Digital Platform: A New Economic Institution' [2019] Quality - Access to Success Journal, Volume 19, Issue S2, pp 22-23.

mechanisms, performance evaluation tools, and rules of participation.[19] Therefore, they not only connect users but also actively shape the conditions under which transactions occur.[20]

In many digital business models, the interaction between users and platforms may also resemble a form of "digital barter," whereby users exchange personal data, attention, and engagement in return for access to digital services.[21] Although such exchanges are not always monetary, they contribute significantly to value creation within the platform ecosystem.[22] User participation, therefore, constitutes an economically relevant component of the multisided structure, further complicating traditional understandings of value generation in the digital economy.[23]

Value creation in digital business models cannot be attributed solely to the firm itself but increasingly depends on user participation, data generation, and network effects.[24] This challenges traditional tax frameworks, which have historically linked value creation to the location of production and physical business activity, and raises fundamental questions regarding how and where value should be taxed in the digital economy.[25] This shift in the understanding of value creation has become a central issue in international tax policy.

From an institutional perspective, digital platforms can therefore be understood as hybrid structures that combine organizational, technological, and governance elements.[26] They create value by enabling direct interaction between multiple groups of external users within a single digital ecosystem, often governed by algorithmic decision-making processes.[27]

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[19] *Ibidem.*
[20] *Ibidem.*
[21] Aqib Aslam, Alpa Shah, 'Tec(h)Tonic Shifts: 'Taxing the Digital Economy'' [2020] International Monetary Fund Working Paper, p 9.
[22] *Ibidem.*
[23] *Ibidem.*
[24] Pasquale Pistone, Dennis 'Weber Taxing the Digital Economy, The EU Proposals and Other Insights' Amsterdam : IBFD, 2019, pp 75-77.
[25] *Ibidem.*
[26] Islam Zelimkhanovich Geliskhanov, Tamara Nikolaevna Yudina, 'Digital Platform: A New Economic Institution' [2019] Quality - Access to Success Journal, Volume 19, Issue S2, p 22.
[27] *Ibidem.*

A defining characteristic of digital platforms is their reliance on network externalities.[28] The value of the platform increases as more users join, since each additional participant enhances the potential interactions within the ecosystem.[29] Digital technologies, including internet connectivity, mobile applications, and data analytics, allow platforms to reduce transaction costs, scale rapidly, and coordinate exchanges across large user bases.[30] Participants typically remain external to the firm; the platform does not fully internalize them but instead provides the digital platform through which they transact.[31]

1.2. Platform Work and Digital Labour

Platform work refers to labour performed through these digital infrastructures, where individuals use online applications or websites to connect with clients and provide services in exchange for payment.[32] Unlike traditional firms that internalize production, platforms facilitate service provision by external participants who remain outside the firm's formal organizational structure.[33]

Platform work covers a wide variety of activities. Typical examples include transportation services (e.g., Uber), meal delivery services (e.g., Wolt), short-term accommodation rentals (e.g., Airbnb), and outsourced business services (e.g., Upwork).[34] These activities may include providing physical services, like driving or hosting accommodations, or purely digital services, such as graphic design or data entry. The diversity of these models contributes to the difficulty of establishing a uniform legal definition of platform work.[35] Despite increasing policy attention,

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[28] Maximilian Stallkamp, Andreas Schotter, 'Platforms without borders? The international strategies of digital platform firms' [2019] Global Strategy Journal,11, pp 64-66.
[29] *Ibidem,* p 62.
[30] *Ibidem*, p 61.
[31] *Ibidem*, p 66.
[32] Rory O'Farrell, Pierre Montagnier 'Measuring digital platform-mediated workers' New Technology, Work and Employment, 35, p 130
[33] Maximilian Stallkamp, Andreas Schotter, 'Platforms without borders? The international strategies of digital platform firms' [2019] Global Strategy Journal,11, p 66.
[34] *Ibidem*, p 64.
[35] Katerina Pantazatou, 'Taxation of the Platform Economy: Challenges and Lessons for Social Security' [2020] SSRN Electronic Journal 1, p 3.

there is currently no agreed definition, and considerable variation exists across countries in how platform-mediated labour is conceptualized and measured.[36]

From an economic perspective, a significant share of the transaction value generated through platforms accrues to the service provider rather than the platform itself.[37] In many cases, service providers retain the majority of the transaction value, frequently exceeding 85 percent, whereas the platform collects a commission.[38] Although public debate often focuses on taxing large digital corporations, a substantial portion of economic activity arises at the level of individual workers.[39]

Platform work may serve as a worker's primary source of income or function as supplementary employment alongside other forms of work.[40] Furthermore, many platform workers operate across multiple platforms simultaneously, generating income from different sources and, in some cases, across different jurisdictions.[41] This fragmentation of income streams complicates income characterization, reporting obligations, and compliance with domestic and international tax rules.[42]

1.2.1. Platform Work *vs* Traditional Employment

Platform work differs from traditional employment in both its organizational structure and its legal classification. In contrast to conventional employment, where work is performed within a defined organizational hierarchy, the digital interface is central to the performance of platform-based services.[43] The platform facilitates matching between service providers and

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[36] Rory O'Farrell, Pierre Montagnier 'Measuring digital platform-mediated workers' New Technology, Work and Employment, 35, p 130
[37] Katerina Pantazatou, 'Taxation of the Platform Economy: Challenges and Lessons for Social Security' [2020] SSRN Electronic Journal 1, p 5.
[38] *Ibidem.*
[39] *Ibidem*.
[40] *Ibidem,* p 16.
[41] *Ibidem.*
[42] *Ibidem.*
[43] Rory O'Farrell, Pierre Montagnier 'Measuring digital platform-mediated workers' New Technology, Work and Employment, 35, p 130.

customers, manages communication, processes payments, allocates tasks, and often evaluates performance through algorithmic systems.[44] The worker, therefore, operates within a digitally governed environment rather than a traditional employer–employee structure.

Another distinguishing feature is the variability of engagement. Platform work may constitute a worker's primary source of income, but it may also function as supplementary or occasional work alongside other employment.[45] The degree of participation ranges from full-time dependence on platform earnings to sporadic, part-time involvement.[46] This variability challenges legal frameworks that assume stable and continuous employment relationships.

A central difference from traditional employment lies in worker classification.[47] Platform workers may be treated as employees in one jurisdiction and as independent contractors in another.[48] This divergence has direct tax implications.[49] Where workers are classified as employees, income tax is typically withheld at source by the employer. By contrast, independent contractors are generally responsible for declaring and paying their own taxes.[50] The absence of withholding mechanisms in many platform arrangements increases compliance risks and contributes to inconsistent treatment across jurisdictions.[51]

Platform work frequently exhibits hybrid characteristics.[52] Workers often enjoy flexibility regarding working hours and task acceptance, yet platforms may exercise substantial algorithmic control over pricing, access to customers, performance evaluation, and deactivation.[53] This

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[44] *Ibidem* and Islam Zelimkhanovich Geliskhanov, Tamara Nikolaevna Yudina, 'Digital Platform: A New Economic Institution' [2019] Quality - Access to Success Journal, Volume 19, Issue S2, p 22.
[45] Rory O'Farrell, Pierre Montagnier 'Measuring digital platform-mediated workers' New Technology, Work and Employment, 35, p 130.
[46] *Ibidem.*
[47] Katerina Pantazatou, 'Taxation of the Platform Economy: Challenges and Lessons for Social Security' [2020] SSRN Electronic Journal 1, p 11.
[48] *Ibidem.*
[49] *Ibidem.*
[50] *Ibidem.*
[51] *Ibidem.*
[52] *Ibidem,* p 12.
[53] *Ibidem,* p 12 and Islam Zelimkhanovich Geliskhanov, Tamara Nikolaevna Yudina, 'Digital Platform: A New Economic Institution' [2019] Quality - Access to Success Journal, Volume 19, Issue S2, pp 22-23.

combination of flexibility and control complicates the application of traditional legal categories developed for standard employment relationships.

Finally, tax and social security incentives may influence classification outcomes.[54] Platforms may prefer independent contractor arrangements due to reduced payroll tax and contribution obligations.[55] For example, in the Netherlands, it has been reported that the tax cost of hiring an independent contractor is 37% lower compared to hiring a standard employee.[56] Such incentives can distort legal classification and lead to inconsistencies across jurisdictions, particularly in cross-border contexts.

1.2.2. Cross-Border Nature of Platform Work

The digital nature of platform work inherently facilitates cross-border economic activity.[57] Unlike traditional forms of labour, which are often tied to a specific physical workplace, platform-mediated services can be performed remotely and coordinated through digital infrastructure.[58] As a result, economic activity is no longer limited by geographical proximity between the service provider, the client, and the platform itself.[59]

This phenomenon reflects a broader feature of digitalized business models often described as "scale without mass".[60] Digital platforms are able to participate extensively in the economic life of multiple jurisdictions without establishing significant physical infrastructure in those markets.[61] As a result, economic activity may occur simultaneously across several jurisdictions even where the platform or worker lacks a traditional territorial presence.[62]

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[54] Katerina Pantazatou, 'Taxation of the Platform Economy: Challenges and Lessons for Social Security' [2020] SSRN Electronic Journal 1, p 13.
[55] *Ibidem,* p 8.
[56] Anna Milanez and B Bratta, *OECD Input to the Netherlands Independent Commission on the Regulation of Work* (OECD 2019) p 23.
[57] *Ibidem,* pp 3-4.
[58] *Ibidem.*
[59] *Ibidem.*
[60] OECD/G20, Tax Challenges Arising from Digitalisation – Interim Report 2018, OECD, p 24.
[61] *Ibidem.*
[62] *Ibidem.*

Digital platforms are inherently capable of expanding across borders.[63] Digital technologies significantly reduce distance-related transaction costs, allowing platforms to operate across jurisdictions without requiring substantial physical presence.[64] In particular, platforms characterized by cross-country network externalities derive value from user participation across multiple states.[65] Whereas platforms with primarily local network effects depend on participation within a single market, globally oriented platforms enable interactions between users located in different countries.[66] Their digital architecture allows participants to connect and transact across borders, thereby embedding internationality into the platform model itself.[67] The cross-border capacity of digital labour has therefore been described as contributing to a "planetary labour market," in which services are provided globally with minimal geographic constraints.[68]

Moreover, the cross-border dimension may manifest in several forms. First, the cross-border element may arise through the physical mobility of the worker, who performs platform-mediated work in another state.[69] Second, platform work may involve simultaneous engagement in multiple jurisdictions, where a worker combines several work arrangements across different states, some or all of which are facilitated by digital platforms.[70] This hybrid and fragmented nature of work reinforces the cross-border character of platform labour and highlights the increasing difficulty of linking economic activity to a single jurisdiction.

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[63] Maximilian Stallkamp, Andreas Schotter, 'Platforms without borders? The international strategies of digital platform firms' [2019] Global Strategy Journal,11, p 60.
[64] *Ibidem,* p 61.
[65] *Ibidem,* pp 60-61.
[66] *Ibidem,* pp 64–66.
[67] *Ibidem,* pp 61, 66–67, 71.
[68] Mark Graham, Mohammad A. Anwar, *The Digital Transformation of Labor: Automation, the Gig Economy and Welfare* (2019) p 213.
[69] Ivana Vukorepa, 'Cross-Border Platform Work: Riddles for Free Movement of Workers and Social Security Coordination', 70 Zbornik PFZ 481 [2020], p 489.
[70] *Ibidem*.

2. Nexus Rules Governing the Taxation of Platform Work under the OECD Model Convention

2.1. Residence and Source Principles in International Tax Law

International tax law is traditionally structured around the allocation of taxing rights between residence and source jurisdictions.[71] Domestic tax systems distinguish between unlimited (worldwide) tax liability, which applies to residents, and limited (source-based) tax liability, which applies to non-residents.[72] This distinction constitutes one of the foundational structural assumptions of modern income taxation.[73]

Under the principle of unlimited tax liability, a state taxes its residents on their worldwide income, irrespective of where that income arises.[74] Residence-based taxation is generally associated with worldwide income taxation and is linked to the ability-to-pay principle, under which the state of residence is best placed to assess a taxpayer's overall personal and financial circumstances.[75] By contrast, limited tax liability permits a state to tax non-residents only on income arising within its territory.[76]

Importantly, source taxation is not merely an expression of political power; it possesses a normative foundation grounded in the concept of market access.[77] A state may justifiably tax non-residents to the extent that they exploit the economic infrastructure, legal system, and consumer markets of that jurisdiction.[78] In this view, source taxation functions less as an

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[71] Francisco Alfredo Garcia Prats, 'Source, Residence and Nationality in Income Tax Matters: Between International Tax Rules and EU Law'[2013] Rivista di Diritto Tributario Internazionale. International Tax Law Review. 2/2013, p 39.
[72] *Ibidem.*
[73] *Ibidem.*
[74] *Ibidem.*
[75] *Ibidem,* pp 39 and 51.
[76] *Ibidem,* p 39.
[77] Stephen E. Shay, J. Clifton Fleming, JR., Robert J. Peroni, 'The David R. Tillinghast Lecture "What's Source Got to Do With It?" Source Rules and U.S. International Taxation' [2002-2003] Heinonline, pp 91-92.
[78] *Ibidem.*

ability-to-pay mechanism and more as a charge for participation in, and benefit from, the market environment provided by the source state. [79]

The coexistence of residence and source taxation produces overlapping taxing claims in cross-border situations, as residence states tax worldwide income while source states assert jurisdiction over income arising within their territory.[80] The structural tension between these connecting factors forms the core problem that international tax coordination seeks to address.

Modern bilateral tax treaties follow the League of Nations'[81] approach of "classification and assignment of sources," under which items of income are categorized and allocated between source and residence jurisdictions.[82] Under this approach, categories of income, such as business profits, employment income, dividends, interest, or royalties, are first classified and then assigned primarily either to the residence state or to the source state.[83] This technique, originally developed in the League of Nations reports[84] and later embedded in the OECD Model Convention, provides a systematic mechanism for allocating taxing rights while attempting to reduce juridical double taxation.[85]

Treaty allocation also reflects negotiated reciprocity.[86] In particular, withholding taxes on certain categories of income are often limited through maximum rates agreed between contracting

[79] *Ibidem,* pp 95-96.
[80] Francisco Alfredo Garcia Prats, 'Source, Residence and Nationality in Income Tax Matters: Between International Tax Rules and EU Law'[2013] Rivista di Diritto Tributario Internazionale. International Tax Law Review. 2/2013, p 39 and Stephen E. Shay, J. Clifton Fleming, JR., Robert J. Peroni, 'The David R. Tillinghast Lecture "What's Source Got to Do With It?" Source Rules and U.S. International Taxation' [2002-2003] Heinonline, p 83.
[81] Bruins, Einaudi, Seligman, and Sir Josiah Stamp, 'Report on Double Taxation, Submitted to the Financial Committee,' League of Nations Doc. No. E.F.S. 73.F.19, 40 (1923).
[82] Hugh J. Ault 'Corporate Integration, Tax Treaties and the Division of the International Tax Base: Principles and Practices' [1991-1992] Heinonline, p 568.
[83] *Ibidem.*
[84] Bruins, Einaudi, Seligman, and Sir Josiah Stamp, 'Report on Double Taxation, Submitted to the Financial Committee,' League of Nations Doc. No. E.F.S. 73.F.19, 40 (1923).
[85] Hugh J. Ault 'Corporate Integration, Tax Treaties and the Division of the International Tax Base: Principles and Practices' [1991-1992] Heinonline, pp 567-569.
[86] *Ibidem*, p 570.

states.[87] The allocation of taxing rights is therefore not purely an economic theory but also the product of political compromise between states.

At the same time, the conceptual coherence of source rules has long been questioned.[88] The connection between income and geographic "source" is often tenuous, and sourcing rules frequently operate as pragmatic allocation devices rather than precise reflections of economic reality.[89] Source rules may therefore allocate taxing rights in ways that only imperfectly correspond to where value is actually created.[90]

To mitigate juridical double taxation arising from overlapping claims, treaties typically require the residence state to grant relief through either the exemption method or the credit method.[91] However, tax treaties do not eliminate the structural coexistence of residence and source principles; rather, they coordinate their interaction within a framework that remains anchored in personal and territorial connecting factors.[92]

These structural foundations were developed in an economic environment in which income-generating activities were closely linked to physical presence and clearly identifiable geographic markets.[93] The market-access rationale for source taxation presupposes that economic participation can be meaningfully tied to a territorial market.[94] In the context of digital platform work, however, economic participation may occur without physical presence, and income generation may be fragmented across multiple jurisdictions. The potential disconnect between economic participation and territorial nexus, therefore, places pressure on traditional

[87] *Ibidem*.
[88] Stephen E. Shay, J. Clifton Fleming, JR., Robert J. Peroni, 'The David R. Tillinghast Lecture "What's Source Got to Do With It?" Source Rules and U.S. International Taxation' [2002-2003] Heinonline, pp 83–84, 137.
[89] *Ibidem*.
[90] *Ibidem,* p 137.
[91] Francisco Alfredo Garcia Prats, 'Source, Residence and Nationality in Income Tax Matters: Between International Tax Rules and EU Law'[2013] Rivista di Diritto Tributario Internazionale. International Tax Law Review. 2/2013, pp 34–35, 40–41, and OECD, Model Tax Convention on Income and on Capital 2017, art. 23.
[92] Francisco Alfredo Garcia Prats, 'Source, Residence and Nationality in Income Tax Matters: Between International Tax Rules and EU Law'[2013] Rivista di Diritto Tributario Internazionale. International Tax Law Review. 2/2013, pp 39–41.
[93] Stephen E. Shay, J. Clifton Fleming, JR., Robert J. Peroni, 'The David R. Tillinghast Lecture "What's Source Got to Do With It?" Source Rules and U.S. International Taxation' [2002-2003] Heinonline, pp 84–85, 137.
[94] *Ibidem*, pp 15–16.

residence–source allocation principles.[95] The digital economy has intensified this tension by enabling economic participation in a jurisdiction without a corresponding physical presence.[96] Digital platforms and online services can engage extensively with users and generate income in foreign markets while maintaining limited tangible infrastructure in those jurisdictions.[97] This development challenges the traditional territorial assumptions underlying the allocation of taxing rights in international tax law.[98]

2.2. Article 15 OECD MC – Income from Employment

Article 15 of the OECD Model Convention governs the allocation of taxing rights over income derived from dependent employment.[99] It applies to wages, salaries, and other similar remuneration received by an individual in respect of employment as an employee.[100] Within the structure of the Convention, Article 15 operates as a specific distributive rule under Chapter III (Taxation of Income) and determines whether taxing rights belong primarily to the state of residence or to the state in which the employment is exercised.[101] Article 15 is one of the most practically significant provisions of the OECD Model Convention because of its direct relevance for cross-border labour mobility and short-term employment situations.[102]

The general rule is contained in Article 15(1), which provides that employment income is taxable in the state where the employment is exercised.[103] Employment is exercised in the place where the employee is physically present while performing the activities for which the remuneration is paid.[104] Consequently, the decisive criterion is the physical performance of the work. Neither the

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[95] Aqib Aslam, Alpa Shah, 'Tec(h)Tonic Shifts: 'Taxing the Digital Economy" [2020] International Monetary Fund Working Paper, p 73-74.
[96] *Ibidem.*
[97] *Ibidem.*
[98] *Ibidem,* pp 71-72.
[99] OECD, Model Tax Convention on Income and on Capital 2017, art. 15.
[100] *Ibidem.*
[101] *Ibidem.*
[102] Shkumbin Asllani 'Interpretation and qualification of short-term employment in cross-border situation at Article 15(2) OECD MC' Uppsala Universitet, p 2.
[103] OECD, Model Tax Convention on Income and on Capital 2017, art. 15.
[104] Clara M. Jubilar, 'Commentaries on Article 15 of the OECD Model Tax Convention: Income from Labour Work' Working Papers of the Iberoamerican Observatory of International Taxation. Commentaries to the Iberoamerican Tax Treaty Network, p 21 and OECD, Model Tax Convention on Income and on Capital 2017, art. 15.

place where the employment contract is concluded nor the place where remuneration is paid determines the allocation of taxing rights.[105] This reflects the traditional territorial logic of international tax law, which links taxing competence to physical economic activity within a state.[106]

Physical presence in the source state, therefore, constitutes the central connecting factor for the application of Article 15.[107] Where an employee performs work while physically present in another contracting state, that state obtains a primary taxing right under Article 15(1).[108] The underlying rationale is that physical presence establishes a sufficient economic nexus between the employee and the source state to justify taxation.[109] This approach presupposes that labour is geographically anchored and economically connected to a particular territory.[110]

Article 15(2) introduces a limited exception to this source-based allocation.[111] Even where employment is exercised in the source state, taxation remains exclusively with the residence state if three cumulative conditions are satisfied: first, the employee must not be present in the source state for more than 183 days in any twelve-month period beginning or ending in the fiscal year concerned; second, the remuneration must be paid by, or on behalf of, an employer who is not a resident of the source state; and third, the remuneration must not be borne by a permanent establishment which the employer has in the source state.[112] The objective of the exception is to facilitate short-term labour mobility and to reduce administrative burdens in temporary cross-border assignments.[113]

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[105] Clara M. Jubilar, 'Commentaries on Article 15 of the OECD Model Tax Convention: Income from Labour Work' Working Papers of the Iberoamerican Observatory of International Taxation. Commentaries to the Iberoamerican Tax Treaty Network, p 21.
[106] *Ibidem*, pp 6-7.
[107] Shkumbin Asllani 'Interpretation and qualification of short-term employment in cross-border situation at Article 15(2) OECD MC' Uppsala Universitet, pp 8-9.
[108] OECD, Model Tax Convention on Income and on Capital 2017, art. 15.
[109] *Ibidem.*
[110] Shkumbin Asllani 'Interpretation and qualification of short-term employment in cross-border situation at Article 15(2) OECD MC' Uppsala Universitet, p 8.
[111] OECD, Model Tax Convention on Income and on Capital 2017, art. 15.
[112] *Ibidem.*
[113] Shkumbin Asllani 'Interpretation and qualification of short-term employment in cross-border situation at Article 15(2) OECD MC' Uppsala Universitet, p 26.

However, several key concepts in Article 15(2) are not defined in the Convention itself, particularly the notion of “employer” and the expressions “paid by” and “borne by.”[114] The absence of autonomous treaty definitions may lead to divergent interpretations between contracting states.[115] Academic analysis distinguishes between the formal contractual employer and the *de facto* employer who effectively exercises control over the employee, a distinction that may directly affect the application of Article 15(2)(b).[116] Interpretative developments in the OECD Commentary have attempted to address such qualification conflicts, particularly in situations involving secondments or intermediary entities.[117]

Article 15 is based on the principle that employment is taxed where the work is physically exercised, i.e., where the employee is physically present.[118] Cross-border work in the digital economy raises increasing complexity, particularly as physical presence is no longer essential.[119] The COVID-19 pandemic and the widespread shift to remote work challenged the traditional foundations of source and residence taxation, particularly for individuals residing in a different state from that in which they were formally employed.[120] Therefore, the growing prevalence of remote and platform work exposes structural tensions within Article 15, which remains anchored in territorially defined physical activity.

2.3 Article 7 OECD MC – Business Profits

Article 7 of the OECD Model Convention allocates taxing rights over business profits. According to Article 7(1), the profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a

[114] *Ibidem*, pp 9-10.
[115] *Ibidem.*
[116] *Ibidem,* pp 20-22.
[117] Clara M. Jubilar, ‘Commentaries on Article 15 of the OECD Model Tax Convention: Income from Labour Work‘ Working Papers of the Iberoamerican Observatory of International Taxation. Commentaries to the Iberoamerican Tax Treaty Network, p 3.
[118] *Ibidem*, p 21.
[119] Katerina Pantazatou, ‘Taxation of the Platform Economy: Challenges and Lessons for Social Security‘ [2020] SSRN Electronic Journal 1, p 19.
[120] Ulrich Becker, Olga Chesalina, *Social Law 4.0: Update: Innovative Approaches to Ensuring and Financing Social Protection for Platform Workers in Europe*, Baden-Baden: Nomos, 2025, p 105.

permanent establishment situated therein.[121] Where such a permanent establishment exists, the source state may tax the profits attributable to that establishment.[122] This provision reflects the fundamental structure of the international tax regime, under which source taxation of active business income is conditional upon a sufficient territorial nexus.[123]

In cross-border situations involving platform workers, the application of Article 7 depends primarily on their classification. Where platform workers are treated as independent contractors rather than employees, their income does not fall under Article 15 (dependent personal services) but instead qualifies as business profits under Article 7.[124] The OECD Model Convention defines "business" broadly to include the performance of professional services and other activities of an independent character.[125] In the platform economy, many service providers, such as freelance digital workers, ride-share drivers, or content creators, are contractually classified as self-employed.[126] This classification has direct tax implications, as independent contractors are typically responsible for declaring and paying their own income taxes and social contributions, and their cross-border income must therefore be assessed within the framework of business profits rather than employment income.[127] The classification of platform workers thus determines whether Article 7 becomes the relevant distributive rule.

Under Article 7, the right of the source state to tax business profits arises only where the enterprise carries on business through a permanent establishment within its territory.[128]Article 5 defines a permanent establishment as a fixed place of business through which the business of an enterprise is wholly or partly carried on.[129] The traditional permanent establishment concept is built upon three cumulative elements: the existence of a place of business, its fixed character, and

[121]OECD, Model Tax Convention on Income and on Capital 2017, art. 7.
[122] *Ibidem.*
[123] Reuven S Avi-Yonah and Kimberly A Clausing, 'Business Profits (Article 7 OECD Model Convention)' in Michael Lang and others (eds), *Source versus Residence: Problems Arising from the Allocation of Taxing Rights in Tax Treaty Law and Possible Alternatives* (Kluwer Law International 2008) p 9.
[124] OECD, Model Tax Convention on Income and on Capital 2017, art. 7.
[125]*Ibidem,* art. 3(h).
[126] Katerina Pantazatou, 'Taxation of the Platform Economy: Challenges and Lessons for Social Security' [2020] SSRN Electronic Journal 1, pp 6-7.
[127]*Ibidem,* p 11.
[128] OECD, Model Tax Convention on Income and on Capital 2017, art. 7.
[129] OECD, Model Tax Convention on Income and on Capital 2017, art. 5.

the carrying on of business activities through that place.[130] In addition to fixed place establishments, Article 5 also recognises dependent agent permanent establishments where a person habitually concludes contracts on behalf of an enterprise under specified conditions.[131]

The permanent establishment requirement reflects the territorial foundation of international tax law. Article 7 historically served to limit source taxation to situations where business operations were physically embedded in the source state.[132] The underlying assumption is that physical presence constitutes a sufficient economic connection to justify source taxation. However, digitalisation and the expansion of platform-based activities increasingly challenge this assumption. Enterprises may generate substantial income within a jurisdiction without maintaining physical infrastructure there, thereby exposing structural tensions within the permanent establishment concept.[133]

Where a permanent establishment exists, Article 7(2) provides that the profits attributable to the permanent establishment are those which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions.[134] This so-called "separate entity" approach aligns with the arm's length principle and requires that profits be allocated according to the functions performed, assets used, and risks assumed by the permanent establishment.[135] Nevertheless, the separate accounting method has been criticised for its increasingly artificial character in the context of highly integrated multinational enterprises, where business activities are economically unified rather than territorially compartmentalised.[136] In digital and platform-based business models, value creation may be decentralised and dispersed across multiple jurisdictions, making profit attribution

[130] *Ibidem.*
[131] *Ibidem.*
[132] Reuven S Avi-Yonah and Kimberly A Clausing, 'Business Profits (Article 7 OECD Model Convention)' in Michael Lang and others (eds), *Source versus Residence: Problems Arising from the Allocation of Taxing Rights in Tax Treaty Law and Possible Alternatives* (Kluwer Law International 2008) p 9.
[133] *Ibidem*, p 10
[134] OECD, Model Tax Convention on Income and on Capital 2017, art. 7.
[135] Reuven S. Avi-Yonah and Kimberly A. Clausing, 'Business Profits (Article 7 OECD Model Convention)' in Michael Lang and others (eds), *Source versus Residence: Problems Arising from the Allocation of Taxing Rights in Tax Treaty Law and Possible Alternatives* (Kluwer Law International 2008) p 10.
[136] *Ibidem*, pp 11-12

conceptually and practically complex.[137] International policy discussions have increasingly focused on the question of where value is created in digital markets, precisely because the traditional physical-presence-based nexus may fail to capture modern forms of economic participation.[138]

When applied to individual platform workers, the permanent establishment threshold often limits the taxing rights of source states. A freelance digital worker who provides services remotely from their residence state to clients located abroad will generally not have a fixed place of business in the client's jurisdiction. The mere existence of customers in another state does not constitute a permanent establishment within the meaning of Article 5.[139] In such cases, the worker's business profits remain taxable exclusively in the residence state.[140] However, a permanent establishment may arise where the platform worker maintains a fixed place of business in the source state, such as an office, workshop, or other facility used with sufficient permanence.[141] Similarly, if the worker habitually concludes contracts in a state on behalf of another enterprise under the conditions of Article 5(5), a dependent agent permanent establishment could arise.[142]

In practice, most small-scale platform workers operating digitally across borders will not meet the permanent establishment threshold in foreign jurisdictions.[143] This outcome reflects the continued reliance of Article 7 on physical presence as the decisive nexus for source taxation.[144] Digitalisation of labour and the rise of platform-mediated services reveal the limitations of a tax allocation system that remains anchored in territorial and physical concepts.[145] The application of Article 7 to platform work therefore illustrates a broader structural tension within international

[137] Katerina Pantazatou, 'Taxation of the Platform Economy: Challenges and Lessons for Social Security' [2020] SSRN Electronic Journal 1, p 4.
[138] *Ibidem.*
[139] OECD, Model Tax Convention on Income and on Capital 2017, art. 5.
[140] *Ibidem.*
[141] *Ibidem.*
[142] *Ibidem.*
[143] *Ibidem.*
[144] *Ibidem,* art 7.
[145] Katerina Pantazatou, 'Taxation of the Platform Economy: Challenges and Lessons for Social Security' [2020] SSRN Electronic Journal 1, pp 17-19.

tax law: while economic activity becomes increasingly mobile and digitally mediated, the allocation of taxing rights continues to depend on notions of fixed place and physical establishment.

2.4 Article 5 OECD MC – Permanent Establishment

The concept of permanent establishment determines when a source state may exercise taxing rights over the business profits of a non-resident enterprise pursuant to Article 7 of the OECD Model Convention.[146] As Article 5(1) of the OECD Model Convention provides, a permanent establishment means "a fixed place of business through which the business of an enterprise is wholly or partly carried on."[147] The provision thus operates as the critical territorial connection between economic activity and taxing jurisdiction. Without the existence of a permanent establishment, business profits remain taxable exclusively in the state of residence.[148]

Historically, the permanent establishment concept emerged as a mechanism to allocate taxing rights in an international economy characterised by physically anchored production and distribution structures.[149] It has long been described as a fundamental pillar of international tax law, functioning as the decisive link for the attribution of taxing authority to the source state.[150] The permanent establishment concept reflects a territorial approach to taxation, linking taxing rights to the existence of a physical presence through which business activities are carried out within a jurisdiction.[151]

The core definition in Article 5(1) contains three cumulative elements: the existence of a place of business, its fixed character, and the carrying on of business activities through that place.[152] A "place of business" includes facilities, premises, or installations used for carrying out business

[146] OECD, Model Tax Convention on Income and on Capital 2017, art. 5.
[147] *Ibidem.*
[148] *Ibidem.*
[149] Montserrat Hermosín Álvarez, 'Permanent Establishment. The Crisis of the Article 5 OECD MC in the Digital Economy' [2021] Revista Crónica Tributaria, pp 104-105.
[150] *Ibidem*, p 99.
[151] *Ibidem*, pp 99-100.
[152] OECD, Model Tax Convention on Income and on Capital 2017, art. 5.

activities, and it is immaterial whether such premises are owned, rented, or otherwise at the disposal of the enterprise.[153] The requirement of "fixedness" implies a certain degree of permanence and a geographical link to a specific location.[154] Finally, the enterprise's business must be carried on wholly or partly through that place.[155] Article 5(2) supplements this general clause with a non-exhaustive list of examples, including a place of management, branch, office, factory, workshop, or place of extraction of natural resources.[156]

At the same time, Article 5(4) excludes certain activities from constituting a permanent establishment where they are of a preparatory or auxiliary character.[157] This reflects the underlying rationale that only activities forming an essential and significant part of the enterprise's business should give rise to source taxation, as clarified in the OECD Commentary.[158]

In addition to the fixed place permanent establishment, Article 5(5) introduces the concept of a dependent agent permanent establishment.[159] An enterprise may be deemed to have a permanent establishment where a person acting on its behalf habitually concludes contracts, or plays the principal role leading to their conclusion, in the source state.[160] This provision seeks to prevent enterprises from avoiding permanent establishment status by formally operating through intermediaries while substantively conducting business in the jurisdiction.[161] The 2017 amendments, influenced by the BEPS Project, expanded the scope of the dependent agent rule to address strategies aimed at the artificial avoidance of permanent establishment status.[162] In

[153] Montserrat Hermosín Álvarez, 'Permanent Establishment. The Crisis of the Article 5 OECD MC in the Digital Economy' [2021] Revista Crónica Tributaria, pp 106-107.
[154] OECD, Model Tax Convention on Income and on Capital 2017, art. 5.
[155] *Ibidem.*
[156] *Ibidem.*
[157] *Ibidem.*
[158] *Ibidem*, Commentary paras 58-60.
[159] *Ibidem.*
[160] *Ibidem.*
[161] *Ibidem.*
[162] Montserrat Hermosín Álvarez, 'Permanent Establishment. The Crisis of the Article 5 OECD MC in the Digital Economy' [2021] Revista Crónica Tributaria, pp 111-112.

particular, Action 7 of the BEPS Plan[163] targeted contractual arrangements designed to fragment activities or avoid the formal conclusion of contracts in the source state.[164]

Despite these reforms, the permanent establishment concept remains structurally anchored in physical presence.[165] The traditional framework assumes that business profits are generated through activities carried out via a material and geographically identifiable place of business within a jurisdiction.[166] The digital economy has disrupted business models that previously required physical presence to carry out economic activity, thereby displacing the traditional permanent establishment concept.[167] Enterprises may operate in a jurisdiction and contribute to value creation without maintaining any physical presence there.[168]

The rise of the digital economy has therefore exposed structural weaknesses in Article 5. While the BEPS Project introduced significant reforms to the permanent establishment definition, particularly through Action 7, challenges associated with digitalised business models persist, as physical presence is no longer essential for economic participation.[169] The traditional permanent establishment concept, which is based on a physical place of business, does not readily accommodate purely digital or virtual forms of economic presence.[170] The absence of a physical nexus enables multinational enterprises to generate income in source states without triggering permanent establishment status, thereby limiting the source state's taxing rights.[171]

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[163] OECD, *Action 7 - 2015 Final Report* (n 1)

[164] Montserrat Hermosín Álvarez, 'Permanent Establishment. The Crisis of the Article 5 OECD MC in the Digital Economy' [2021] Revista Crónica Tributaria, pp 109-113.

[165] *Ibidem,* pp 104-105.

[166] *Ibidem*.

[167] Katerina Pantazatou, 'Taxation of the Platform Economy: Challenges and Lessons for Social Security' [2020] SSRN Electronic Journal 1, p 4.

[168] *Ibidem*.

[169] *Ibidem,* pp 17-19 and Montserrat Hermosín Álvarez, 'Permanent Establishment. The Crisis of the Article 5 OECD MC in the Digital Economy' [2021] Revista Crónica Tributaria, pp 111-112.

[170] Montserrat Hermosín Álvarez, 'Permanent Establishment. The Crisis of the Article 5 OECD MC in the Digital Economy' [2021] Revista Crónica Tributaria, pp 104-105.

[171] Reuven S. Avi-Yonah and Kimberly A. Clausing, 'Business Profits (Article 7 OECD Model Convention)' in Michael Lang and others (eds), *Source versus Residence: Problems Arising from the Allocation of Taxing Rights in Tax Treaty Law and Possible Alternatives* (Kluwer Law International 2008) pp 9-10.

International tax discussions have increasingly focused on the introduction of alternative nexus standards, such as “significant digital presence” or “virtual permanent establishment”, in response to the inability of the traditional permanent establishment threshold to capture digital economic activity.[172] The debate surrounding significant digital presence illustrates the growing tension between economic reality and the territorial logic embedded in Article 5.[173]

In the context of platform-mediated labour, these structural tensions have become particularly visible. Platform workers may provide services remotely to customers located in another jurisdiction without establishing a fixed place of business there. The mere existence of clients in a foreign state does not satisfy the requirements of Article 5(1).[174] Nor will the use of a digital platform, without more, ordinarily create a fixed place permanent establishment in the customer’s state. As a result, cross-border digital labour often falls outside the scope of source taxation under Article 7 due to the absence of a permanent establishment.[175]

The permanent establishment concept, although doctrinally consistent, its application to digital labor and platform-based business models exposes a mismatch between traditional physical-presence standards and the dematerialized nature of modern economic activity. The ongoing debates on digital presence and the reform of nexus standards underscore the centrality of Article 5 in understanding the allocation of taxing rights in the platform economy.[176]

[172] Katerina Pantazatou, ‘Taxation of the Platform Economy: Challenges and Lessons for Social Security‘ [2020] SSRN Electronic Journal 1, p 4.
[173] *Ibidem* and Montserrat Hermosín Álvarez, ‘Permanent Establishment. The Crisis of the Article 5 OECD MC in the Digital Economy‘ [2021] Revista Crónica Tributaria, pp 104-105.
[174] OECD, Model Tax Convention on Income and on Capital 2017, art. 5.
[175] *Ibidem*, art 7.
[176] Katerina Pantazatou, ‘Taxation of the Platform Economy: Challenges and Lessons for Social Security‘ [2020] SSRN Electronic Journal 1, pp 17-19.

3. Double Taxation Risks and Challenges in the Platform Economy

3.1 Worker Classification Uncertainty

A central issue in the taxation of platform work is the classification of platform workers within existing legal categories.[177] Where a platform worker is treated as self-employed, the income typically falls within the scope of business profits under Article 7 of the OECD Model Convention and is taxable primarily in the state of residence, unless a permanent establishment exists in the source state.[178] By contrast, if the same activity is classified as employment, Article 15 applies, granting taxing rights to the state in which the work is exercised.[179]

For example, courts and authorities have reached inconsistent conclusions regarding the status of platform workers, particularly in the case of ride-sharing services. Uber drivers have been classified as employees in jurisdictions such as the United Kingdom[180] and France,[181] while being treated as independent contractors in others, including certain decisions in the United States[182] and Australia.[183] These inconsistencies demonstrate that classification is not only fact-dependent but also jurisdiction-specific, thereby increasing the likelihood of qualification conflicts in cross-border situations.

An illustration of these classification challenges can be found in the United States, where the California Supreme Court reconsidered the criteria for determining whether workers should be treated as employees or independent contractors under California Wage Orders.[184] The Court introduced a presumption that workers are to be regarded as employees unless the hiring entity

177 *Ibidem,* pp 5-6.
178 OECD, Model Tax Convention on Income and on Capital 2017, art. 7.
179 *Ibidem*, art. 15.
180 Case Uber BV v Aslam [2021] UKSC 5, para. 65
181 Cass soc, 4 March 2020, No 19-13.316, *'Justifie légalement sa décision…'* (points 1°–4°).
182 *Castellanos v. State of California*, California Supreme Court, July 25, 2024 (upholding Proposition 22 and permitting Uber and Lyft to classify drivers as independent contractors).
183 Fair Work Ombudsman, *'Uber Australia investigation finalised'* (7 June 2019).
184 Supreme Court of California Judgement of 30 April 2018, *Dynamex Operations West, Inc v Superior Court* (2018) 4 Cal 5th 903.

can demonstrate otherwise.[185] This approach was subsequently codified in California Assembly Bill 5, which formalised the so-called “ABC test”,[186] a three-part cumulative standard that must be satisfied for a worker to qualify as an independent contractor. Under this test, the hiring entity must establish that: (A) the worker operates free from the control and direction of the hiring entity, both contractually and in practice; (B) the work performed falls outside the usual course of the hiring entity’s business; and (C) the worker is engaged in an independently established trade or business of the same nature as the work performed. Because these conditions are cumulative, the failure to meet any one of them results in the worker being classified as an employee.

While the ABC test represents a stringent approach in U.S. law, similar classification challenges also arise in the European legal framework, albeit addressed through different doctrinal concepts. Under EU tax law principles, a person who independently carries out an economic activity is generally considered a taxable person.[187] Economic activity includes activities carried out by producers, traders, or persons supplying services, as well as the exploitation of tangible or intangible property for the purpose of obtaining income on a continuing basis.[188] However, individuals who work within a relationship of subordination to an employer are not regarded as acting independently.[189] Where a person is bound to an employer by legal ties relating to working conditions, remuneration, and the employer’s liability, the activity cannot be regarded as independent, and the individual is treated as an employee rather than as a self-employed service provider.[190]

The distinction between independent activity and employment relationships has been addressed in several decisions of the Court of Justice of the European Union. In the Van der Steen case, the Court examined whether an individual who provided services to a company of which he was the

[185] *Ibidem*, p 977 (Cal).
[186] Cal Lab Code § 2750.3 (2019).
[187] Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax [2006] OJ L347/1, art 9(1).
[188] *Ibidem.*
[189] Case C-355/06 *van der Steen* EU:C:2007:615, paras 18–19, 21, 32.
[190] Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax [2006] OJ L347/1, art 10; Case C-355/06 *van der Steen* EU:C:2007:615, paras 18–19, 21, 32.

sole shareholder could be regarded as carrying out an independent economic activity.[191] The Court emphasized that an activity cannot be regarded as independent if the individual is bound to the company by legal ties that create a relationship of employer and employee, particularly with regard to working conditions, remuneration, and liability.[192] Similarly, EU law defines a taxable person as any individual who independently carries out economic activity, meaning that activities performed within a relationship of subordination fall outside the scope of independent economic activity.[193]

Factors under the OECD MC that could be taken into account when determining the working relationship are: who has the authority to instruct the manner in which the work has to be performed, who has the responsibility and control over the place of work, if the remuneration of the individual is directly charged by the employer to the enterprise to which the services are provided, who gives the work tools and materials to the working individual, who has the right to select and terminate the contractual arrangements of the working individual, who has the right to impose disciplinary sanctions related to the work of that individual and who decides over the holidays and work schedule of that individual.[194] However, these factors do not provide any clear solutions for platform workers.

Gig-economy labour frequently challenges the traditional binary classification between employees and independent contractors as platform workers often combine characteristics associated with both categories, such as flexibility in choosing working hours alongside significant control exercised by platforms through digital management systems.[195] The regulatory frameworks governing employment and self-employment were developed for traditional labour markets, and platform-mediated labour frequently challenges these binary classifications.[196]

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[191] Case C-355/06 *van der Steen* EU:C:2007:615, paras 18–21.
[192] Case C-355/06 *van der Steen* EU:C:2007:615, paras 18–19, 21.
[193] Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax [2006] OJ L347/1, arts 9(1), 10; Case C-263/11 *Rēdlihs* EU:C:2012:497, para 26.
[194] Commentary on Article 15 (1) OECD MC (2017 version), paras 8.13-8.14.
[195] Valerio De Stefano, 'The Rise of the "Just-in-Time Workforce": On-Demand Work, Crowdwork and Labour Protection in the "Gig-Economy"' [2016] ILO Conditions of Work and Employment Series No 71, pp 10–12 and Jeremias Prassl, *Humans as a Service: The Promise and Perils of Work in the Gig Economy* (OUP 2018) pp 8–9, 13.
[196] Katerina Pantazatou, 'Taxation of the Platform Economy: Challenges and Lessons for Social Security' [2020] SSRN Electronic Journal 1, pp 11-12.

While the OECD MC provides a certain substance that could help to determine the classification of platform workers, the problem can not be solved solely by relying on the OECD Commentary. Taking into account the non-agreement between states, the Commentary advises to use the mutual agreement procedure (MAP) to resolve the tax dispute.[197] However, reliance on MAP highlights the reactive nature of the current framework, as it addresses conflicts only after they arise rather than preventing them at the level of classification.

A similar difficulty arises under EU VAT law, where only persons carrying out an economic activity "independently" qualify as taxable persons, while employees are excluded.[198] The criteria used to assess independence, such as organisational autonomy and economic risk, often suggest that platform workers operate independently, as they have autonomy to decide whether to drive their cars or rent their properties, despite the presence of platform control.[199] This fragmentation is further intensified by the fact that platform workers often derive income from multiple sources simultaneously.[200] The existence of multiple income streams, each potentially subject to different classifications and tax treatments, increases the likelihood of inconsistent treaty application and overlapping tax claims.

The distinction between employment income and income derived from independent economic activity plays a crucial role in determining how income is taxed under both domestic law and international tax treaties.[201] For example, when someone qualifies as self-employed or as an independent contractor, they are responsible for declaring their income and for paying taxes (and social security contributions) accordingly, saving the company significant administrative costs.[202]

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[197] OECD, *Model Tax Convention on Income and on Capital* (Condensed Version, latest edn), Commentary on Articles 3, 5, 7, 15; see also Article 25 and Commentary (Mutual Agreement Procedure).
[198] Council Directive 2006/112/EC on the common system of value added tax, Articles 9(1) and 10.
[199] Katerina Pantazatou, 'Taxation of the Platform Economy: Challenges and Lessons for Social Security' [2020] SSRN Electronic Journal 1, p 23.
[200] *Ibidem*, p 16.
[201] *Ibidem,* pp 18-19.
[202] *Ibidem,* p 11.

Where different jurisdictions apply these provisions to the same income based on divergent classifications, both states may assert taxing rights, resulting in overlapping claims over the same income.

Although platform workers are often formally classified as independent contractors, case law demonstrates that digital platforms may exercise significant control over key aspects of their work, including pricing, access to customers, and performance monitoring, thereby calling such classifications into question.[203] Digital platforms frequently regulate worker behaviour through algorithmic management systems that determine pricing structures, task allocation, and performance monitoring.[204] These mechanisms may resemble elements of managerial control traditionally associated with employment relationships.[205]

This hybrid structure creates legal uncertainty because the formal contractual status of the worker may not reflect the economic reality of the relationship between the worker and the platform.[206] Platform labour often combines elements associated with both employment and independent contracting, such as flexibility in working hours combined with significant platform control over working conditions.[207] As a result, different jurisdictions may classify the same platform activity differently for legal and tax purposes.[208] The classification of platform workers may also depend on how the role of the platform itself is interpreted within national legal systems.[209] In some cases, platforms may be treated as mere intermediaries connecting service providers and customers, while in other cases they may be regarded as exercising sufficient control to resemble traditional employers.[210]

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[203] Case Uber BV v Aslam [2021] UKSC 5, paras 3, 94–100.
[204] *Uber BV v Aslam* [2021] UKSC 5, paras 97–99; Jeremias Prassl, *Humans as a Service* (OUP 2018) p 30.
[205] Jeremias Prassl, *Humans as a Service* (OUP 2018) p 30, 49.
[206] Uber BV v Aslam [2021] UKSC 5, paras 76–77; Jeremias Prassl, *Humans as a Service* (OUP 2018) p 49.
[207] Uber BV v Aslam [2021] UKSC 5, paras 94–100; Jeremias Prassl, *Humans as a Service* (OUP 2018) p 49.
[208] Katerina Pantazatou, ‘Taxation of the Platform Economy: Challenges and Lessons for Social Security‘ [2020] SSRN Electronic Journal 1, pp 16-17.
[209] *Ibidem*, pp 6-7.
[210] *Ibidem*, pp 6-8.

3.2 Platform Service Classification

The legal classification of services provided by digital platforms plays a significant role in determining the tax treatment of platform work. The nature of the platform's activity may influence the legal relationship between the platform, the worker, and the customer, which in turn affects how the resulting income is characterized for tax purposes.[211] Digital platforms frequently operate as intermediaries connecting service providers with customers through online applications.[212] However, the extent to which platforms merely facilitate transactions or actively organize and control the underlying service varies significantly across different business models.[213]

Digital platforms often do more than simply match users seeking services with those willing to provide them.[214] Through digital interfaces and pricing structures, platforms actively organise interactions between users and influence the conditions under which transactions take place.[215] As a result, platforms may exercise varying degrees of influence over user participation and the structure of transactions within the platform.[216]

The Court of Justice of the European Union has addressed the classification of platform services in several cases involving major digital platforms. In Uber Spain, the Court examined whether the service provided by Uber constituted an information society service or a transport service.[217] Uber argued that it merely provided a digital platform connecting passengers with drivers through a smartphone application.[218] However, the Court concluded that Uber's intermediation service was inseparably linked to the provision of urban transport services.[219] Because Uber exercised significant control over the conditions under which the transportation service was

[211] Wei Cui, *'The Digital Services Tax: A Conceptual Defense'* [2019] NYU Tax Policy Colloquium pp 12–13.
[212] *Ibidem*, pp 11-12.
[213] *Ibidem*, pp 12-16.
[214] *Ibidem*, pp 11-13.
[215] *Ibidem*, pp 11-12.
[216] *Ibidem*, pp 11-13.
[217] Case C-434/15 *Asociación Profesional Elite Taxi v Uber Systems Spain SL* EU:C:2017:981, para 40.
[218] *Ibidem*, para 35.
[219] *Ibidem*, para 40.

provided, including by organizing the matching of drivers and passengers and determining key aspects of the service, the Court classified Uber's activity as a transport service rather than as a purely digital intermediary service.[220]

The Court emphasized that Uber's role went beyond that of a passive intermediary.[221] The platform played a decisive role in organizing the service, controlling the economic conditions of the transactions, and enabling the provision of urban transport services through its digital infrastructure.[222] Such forms of platform governance show how digital platforms can act as market organizers instead of neutral intermediaries.

By contrast, the Court reached a different conclusion in Airbnb Ireland. In that case, the Court examined whether Airbnb's activity constituted an information society service or a real estate service.[223] The Court concluded that Airbnb's activity primarily consisted of providing an online platform that facilitated connections between hosts offering accommodation and guests seeking short-term rentals.[224] Because the platform did not exercise decisive control over the conditions under which accommodation services were provided, the Court held that Airbnb's activity constituted an information society service rather than a real estate service.[225] The Court therefore distinguished Airbnb from Uber on the basis of the degree of control exercised by the platform over the underlying service.[226] While Uber organized and controlled the provision of transportation services, Airbnb primarily facilitated interactions between independent parties who remained responsible for providing the accommodation service.[227]

Some platforms play a more direct role in facilitating transactions, while others function primarily as digital intermediaries connecting different groups of users.[228] The degree of control

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[220] *Ibidem*, para 39.
[221] *Ibidem*.
[222] *Ibidem*.
[223] Case C-390/18 *Airbnb Ireland UC v AHTOP* EU:C:2019:1112, paras 39–42.
[224] *Ibidem*, para 69.
[225] *Ibidem*, paras 65-69.
[226] *Ibidem*.
[227] Case C-434/15 *Asociación Profesional Elite Taxi v Uber Systems Spain SL* EU:C:2017:981, para 39; Case C-390/18 *Airbnb Ireland UC v AHTOP* EU:C:2019:1112, paras 65–69.
[228] Wei Cui, *'The Digital Services Tax: A Conceptual Defense'* [2019] NYU Tax Policy Colloquium pp 11-12.

exercised by the platform over the service, therefore, becomes a key factor in determining its legal classification.[229] Digital platforms typically operate as multi-sided platforms that facilitate interactions between distinct groups of users.[230] Because platforms simultaneously function as technological intermediaries and organisers of interactions between users, their economic role is inherently complex.[231]

Where a platform is regarded as merely facilitating transactions between independent service providers and customers, workers are more likely to be treated as independent contractors generating business income.[232] By contrast, where the platform exercises significant control over the service and plays a central role in organizing the activity, the relationship between the platform and the worker may resemble a traditional employment relationship.[233]

The classification of platform services may therefore indirectly influence the classification of platform workers and the characterization of the income generated through platform work. Since different tax treaty provisions apply depending on whether income is classified as employment income or business profits, divergent classifications of platform activities may contribute to inconsistencies in the allocation of taxing rights between jurisdictions.

3.3 Limitations of the Permanent Establishment Concept

The concept of permanent establishment constitutes a central element of the international tax framework, under Article 5 of the OECD Model Convention, a state generally obtains taxing rights over business profits only where the enterprise carries on its activities through a fixed place of business within its territory. However, digital platforms operate through highly mobile and scalable business models, relying on data, network effects, and user participation rather than

[229] *Ibidem*, pp 11-13.
[230] *Ibidem.*
[231] *Ibidem.*
[232] Katerina Pantazatou, ‘Taxation of the Platform Economy: Challenges and Lessons for Social Security‘ [2020] SSRN Electronic Journal 1, p 6.
[233] *Ibidem*, pp 6-8.

on physical infrastructure.[234] These features allow economic activity to be carried out across multiple jurisdictions simultaneously, without a clear geographical anchor. Therefore, the structural mismatch between the concept of permanent establishment and digital platform work becomes particularly evident.

Platform workers frequently provide services across borders through digital platforms without establishing any physical presence in the jurisdictions where their clients or customers are located. For example, an individual may reside in one country while providing digital services to clients in multiple other jurisdictions through a platform established elsewhere. In such situations, the worker, if classified as independent contractor, may generate income in several jurisdictions without meeting the traditional requirements for a permanent establishment in any of them.[235]

Digital labour enables economic participation in a jurisdiction without satisfying physical nexus requirements embedded in the permanent establishment concept.[236] Consequently, income generated through cross-border platform work may escape taxation in the source jurisdiction or be taxed solely in the state of residence, even where substantial economic interaction takes place elsewhere.[237]

Furthermore, where different jurisdictions adopt differing interpretations of the existence of a permanent establishment or seek to expand their taxing rights through domestic measures, overlapping claims to taxation may arise.[238] This is particularly relevant in the context of evolving policy debates, where states increasingly attempt to address the limitations of traditional nexus rules through unilateral or coordinated reforms.[239] In response to these

[234] Pasquale Pistone, Dennis ‘Weber Taxing the Digital Economy, The EU Proposals and Other Insights‘ Amsterdam : IBFD, 2019, pp 75-77.
[235] Katerina Pantazatou, ‘Taxation of the Platform Economy: Challenges and Lessons for Social Security‘ [2020] SSRN Electronic Journal 1, pp 16-18.
[236] Thomas Fetzer, Bianka Dinger ‘The Digital Platform Economy and its Challenges to Taxation‘ Heinonline [2019], p 31-33.
[237] *Ibidem*.
[238] *Ibidem*, pp 35, 39.
[239] *Ibidem*.

challenges, international policy discussions have explored alternative approaches to establishing a nexus in the digital economy.[240] Proposals such as “significant economic presence” or “digital permanent establishment” seek to allocate taxing rights based on economic participation rather than physical presence.[241] These approaches aim to capture value created through user interaction, data generation, and digital engagement within a jurisdiction.[242] However, the reform proposals discussed primarily address the taxation of multinational platform enterprises, while issues relating to individual platform workers are treated separately and largely concern enforcement rather than nexus.[243]

Ultimately, the limitations of the permanent establishment concept highlight the structural inadequacy of the current international tax framework in addressing the digital economy.[244] The reliance on physical presence as a basis for allocating taxing rights no longer reflects the realities of platform-mediated economic activity.[245] As digital labour enables individuals to participate economically in multiple jurisdictions without establishing a territorial presence, the traditional nexus rules embedded in Article 5 OECD Model Convention struggle to provide a coherent and effective basis for taxation. This structural mismatch contributes to both gaps and overlaps in taxation and forms a central source of the challenges identified in the platform economy.

4. Policy Developments and Reform Proposals

4.1 Policy initiatives

In response to the broader challenges created by digitalisation, a range of international and regional policy initiatives have been developed. It is therefore necessary to assess whether these

[240] *Ibidem*, pp 33, 35.
[241] *Ibidem*, pp 35-36.
[242] *Ibidem*, pp 36-37.
[243] *Ibidem*, pp 30, 46–47.
[244] *Ibidem*, pp 33-35.
[245] *Ibidem*, pp 31-33.

reforms adequately address the specific issues identified in the taxation of cross-border platform work.

At the international level, the OECD Base Erosion and Profit Shifting (BEPS) project represents a significant effort to modernise the international tax system.[246] The BEPS initiative sought to address tax avoidance strategies used by multinational enterprises, including challenges arising from the digital economy.[247] However, while BEPS recognised that digitalisation enables economic activity to take place without physical presence, its primary focus remained on corporate tax planning and profit shifting by multinational enterprises rather than on the taxation of individuals engaged in digital labour.[248]

Subsequent reforms developed under the OECD's Two-Pillar Solution have continued this focus.[249] Pillar One, in particular, seeks to reallocate taxing rights by granting market jurisdictions a share of the residual profits of large multinational enterprises that derive value from user participation and market engagement.[250] This reflects an acknowledgement that existing nexus rules may not fully capture the tax challenges arising from the digitalisation of the economy.[251] However, the scope of Pillar One is limited to large multinational groups exceeding specified revenue thresholds, thereby focusing only on the largest and most profitable enterprises.[252] The exclusion of individual platform workers from the scope of these reforms reflects a structural gap in the international policy response to digitalization.

At the European Union level, policy responses have similarly focused on improving the taxation of digital platform activities. One of the most significant developments is the introduction of reporting obligations for digital platform operators under Council Directive (EU) 2021/514

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[246] Cécile Remeur, *Understanding BEPS: From tax avoidance to digital tax challenges* (European Parliamentary Research Service, PE 642.258, 2019) pp 1-2.
[247] *Ibidem*.
[248] *Ibidem*, pp 1,2, 7-8.
[249] OECD, 'Progress Report on Amount A of Pillar One' (OECD 2022) p 8.
[250] *Ibidem*.
[251] *Ibidem*.
[252] *Ibidem*, p 3.

(DAC7).[253] Under these rules, platform operators are required to collect and report information on income earned by sellers using their platforms, including cross-border activities.[254] This mechanism aims to enhance transparency and enable tax authorities to better identify taxable income derived from platform work.[255]

In practice, some European Member States have already implemented cooperative models between tax authorities and digital platforms.[256] For example, Estonia has developed mechanisms whereby platforms transmit relevant income data directly to tax authorities, allowing tax returns to be pre-filled for platform workers.[257] This approach demonstrates how platform-based reporting can significantly reduce compliance burdens and improve tax transparency.[258]

Such reporting obligations reflect a broader policy approach whereby platforms are used as intermediaries for tax compliance.[259] This policy approach aligns with broader EU guidance, which recognises that the digital infrastructure of platforms enables a high degree of traceability of economic activity, thereby creating new opportunities for tax enforcement through data sharing and cooperation with tax authorities.[260] One proposed solution to enforcement difficulties in the platform economy is precisely to impose reporting or withholding obligations on platform operators, thereby shifting part of the administrative burden from individual workers to the platforms themselves.[261] While such measures may improve tax enforcement and reduce underreporting, they do not, in themselves, resolve broader legal issues, such as the classification of platform workers or the allocation of taxing rights under international tax rules. More broadly, EU policy discussions have emphasised that the rapid development of collaborative business

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253 Council Directive (EU) 2021/514 of 22 March 2021 amending Directive 2011/16/EU on administrative cooperation in the field of taxation [2021] OJ L 104/1.
254 *Ibidem*, art 8ac.
255 *Ibidem*, recitals 1, 6 and art 8ac.
256 European Commission, *A European agenda for the collaborative economy* COM(2016) 356 final, pp 13–14.
257 *Ibidem*.
258 *Ibidem*.
259 *Ibidem*.
260 *Ibidem*.
261 *Ibidem*.

models has created regulatory uncertainty due to fragmented national approaches, further complicating the taxation of cross-border platform work.[262]

A further development relevant to the classification of platform workers is the adoption of Directive (EU) 2024/2831 of the European Parliament and of the Council on improving working conditions in platform work.[263] This Directive introduces a rebuttable presumption of employment for persons performing platform work, placing the burden of proof on the platform to demonstrate that no employment relationship exists.[264] The significance of this development for international tax law should not be underestimated. As demonstrated in Chapter 3, worker classification uncertainty constitutes one of the primary sources of double taxation risk for platform workers operating across borders. By establishing a harmonized presumption of employment at the EU level, the Directive may reduce divergence in classification outcomes between Member States, thereby partially addressing the qualification conflicts that arise under Articles 7 and 15 of the OECD Model Convention. However, its scope is limited to the EU and does not resolve classification divergences arising in relations with third states, nor does it directly modify the applicable tax treaty rules. The Directive therefore represents an important step forward in labor law, while its indirect tax implications remain contingent on how Member States transpose and apply the presumption in cross-border tax contexts.

In parallel, policy discussions at both the OECD and EU levels have concentrated on addressing the tax challenges of the digital economy, particularly by introducing minimum taxation rules for multinational enterprises and revising the allocation of taxing rights between jurisdictions.[265] These measures are based on the premise that existing international tax rules, which rely heavily on physical presence, are not well suited to address digital and platform-based activities.[266] For example, EU-level developments have highlighted that digital platform activities create

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[262] *Ibidem*, p 2.
[263] Council Directive (EU) 2024/2831 of the European Parliament and of the Council of 23 October 2024 on improving working conditions in platform work [2024] OJ L 2024/2831.
[264] *Ibidem*, art 5(1); see also recital 26.
[265] Ulrich Becker, Olga Chesalina, *Social Law 4.0: Update: Innovative Approaches to Ensuring and Financing Social Protection for Platform Workers in Europe*, Nomos 2025, p 105.
[266] *Ibidem*, p 112.

challenges for tax authorities, particularly due to limited visibility over income and difficulties in ensuring tax compliance.[267]

However, despite these developments, a central problem lies in the fact that policy discussions concerning the digital economy have primarily focused on the taxation of large multinational platforms with a very high revenue[268] rather than the taxation of individual service providers operating through those platforms.[269] International initiatives have primarily focused on ensuring that the profits of large digital platforms, such as Uber and Airbnb, are taxed where value is created while comparatively little attention has been devoted to the taxation of platform workers themselves.[270] This imbalance has contributed to the absence of coordinated rules addressing the cross-border taxation of platform workers.[271] Similarly, EU initiatives such as the Digital Services Tax were designed to capture revenues generated by large digital platforms, rather than taxing the underlying transactions or individuals using those platforms.[272]

This focus reflects an implicit assumption that the primary tax challenges of the digital economy arise at the level of multinational enterprises. However, a substantial portion of economic activity in the platform economy is generated by individual workers.[273] As mentioned previously, in many cases, service providers retain the majority of the transaction value, frequently exceeding 85 percent, whereas the platform collects a commission.[274] These workers face distinct tax challenges, including classification uncertainty, fragmented cross-border income streams, and

[267] *Ibidem*, p 107.
[268] Council Directive (EU) 2022/2523 of 14 December 2022 on Ensuring a Global Minimum Level of Taxation for Multinational Enterprise Groups and Large-Scale Domestic Groups in the Union (the "GloBE Directive").
[269] Ulrich Becker, Olga Chesalina, *Social Law 4.0: Update: Innovative Approaches to Ensuring and Financing Social Protection for Platform Workers in Europe*, Nomos 2025, p 105.
[270] Katerina Pantazatou, 'Taxation of the Platform Economy: Challenges and Lessons for Social Security' [2020] SSRN Electronic Journal 1, pp 2-3.
[271] *Ibidem*, p 2 and Ulrich Becker, Olga Chesalina, *Social Law 4.0: Update: Innovative Approaches to Ensuring and Financing Social Protection for Platform Workers in Europe*, Baden-Baden: Nomos, 2025, pp 105-106.
[272] Clifford Chance, *Missing the Target? The Surprising Scope of the Proposed New EU Digital Services Tax* (Clifford Chance, 2018), p 2.
[273] Katerina Pantazatou, 'Taxation of the Platform Economy: Challenges and Lessons for Social Security' [2020] SSRN Electronic Journal 1, p 5.
[274] *Ibidem.*

inconsistent allocation of taxing rights under tax treaties.[275] These issues are not directly addressed by current reform initiatives.[276]

Consequently, while recent policy developments represent important progress in adapting the international tax system to digitalisation, particularly through enhanced transparency and partial adjustments to nexus rules, they do not provide a comprehensive solution to the challenges identified in the taxation of platform work.[277] In particular, they fail to address the structural reliance of tax treaties on domestic classification rules and physical presence, which remain the primary sources of legal uncertainty and double taxation risks for platform workers.[278]

In light of these considerations, current reform efforts only partially resolve the limitations of the existing international tax framework. While they represent significant steps in addressing the taxation of multinational digital enterprises, they leave largely unresolved the fundamental challenges associated with the taxation of cross-border platform labour.

4.2. Possible Approaches to Reforming the Taxation of Digital Platform Work

As stated previously, the greatest challenge in taxing digital business models is that they can be operated without any physical presence. However, international taxation rules require a physical presence for taxation. Thus, the modification of the nexus for taxation is vital. The following section examines possible reform approaches, moving from nexus reform to classification harmonization and practical enforcement mechanisms, and evaluates their suitability for addressing the specific challenges faced by cross-border platform workers.

[275] *Ibidem*, pp 2–3, 10–16.
[276] *Ibidem*, p 2.
[277] *Ibidem*, pp 2–4.
[278] *Ibidem*, pp 16-19.

4.2.1 Extension of the Permanent Establishment Concept: Significant Digital Presence

The most structurally fundamental reform would be the extension of the permanent establishment concept to encompass a significant digital presence. As demonstrated in Chapter 3, the traditional fixed-place-of-business requirement under Article 5 of the OECD Model Convention systematically excludes cross-border digital labor from source taxation, as platform workers rarely maintain any physical infrastructure in the jurisdictions where their clients are located. Therefore, the concept of a permanent establishment should be extended to include a significant digital presence.[279]

According to the EU Commission's proposal, a significant digital presence shall be constituted if a business consists wholly or partly of the supply of digital services through a digital interface.[280] A digital interface is considered as any software, including a website or a part thereof and applications, including mobile applications, accessible by users.[281] Digital services are services which are delivered over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention, and impossible to ensure in the absence of information technology.[282] Examples include the supply of digitized products, services providing or supporting a business or personal presence on an electronic network, providing storage space on the internet, streaming or downloading of music, films or games, or the transfer of rights to put goods or services on an internet site operating as an online market.[283]

The EU Commission's proposal states that, a digital presence is significant in a country if the company meets one of the following three criteria: it exceeds a threshold of seven million euros in annual revenues from digital services in a country, it has more than 100,000 users who access its digital services in a country in a taxable year, or the company concludes over 3,000 business

[279] European Commission, Proposal for a Council Directive laying down rules relating to the corporate taxation of a significant digital presence COM(2018) 147 final, (n 6) p 7.
[280] *Ibidem*, p 16.
[281] *Ibidem*, p 14.
[282] *Ibidem*.
[283] *Ibidem,* p 15.

contracts for digital services with business users in a taxable year.[284] It is also suggested that the must focus be on the collection, storage, and processing of user-level data and of user-generated content, the sale of online advertising space, and the supply of third-party created content on digital marketplaces.[285] The country where a user's device is used is to be determined by reference to the Internet Protocol (IP) address of the device or any other method of geolocation.[286]

While the significant digital presence concept represents a meaningful conceptual advance, its application to individual platform workers is not straightforward. The revenue and user thresholds proposed by the Commission are designed with large digital enterprises in mind, and individual freelance workers or small-scale gig economy participants would not ordinarily meet them.[287] This illustrates a recurring limitation in digital tax reform: proposals are calibrated for platform companies rather than for the workers who generate value through those platforms. Nevertheless, the concept of significant digital presence is relevant to platform workers in an indirect sense, as it could inform the development of lower-threshold or activity-based nexus rules specifically tailored to cross-border digital labor. An adapted version of the significant digital presence standard, focused on the regularity and economic significance of service provision within a jurisdiction rather than on revenue volume, could offer a more coherent basis for allocating taxing rights over platform work income.[288]

4.2.2 The Digital Services Tax as an Interim Measure

In addition to the significant digital presence proposal, the Commission proposed a Directive introducing a Digital Services Tax (DST) as an interim solution for the taxation of digital

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[284] *Ibidem,* p 16.
[285] *Ibidem,* p 17.
[286] *Ibidem*.
[287] European Commission, Proposal for a Council Directive laying down rules relating to the corporate taxation of a significant digital presence COM(2018) 147 final, pp 1-5, 8; Katerina Pantazatou, 'Taxation of the Platform Economy: Challenges and Lessons for Social Security' [2020] SSRN Electronic Journal, pp 2–3; Clifford Chance, *Missing the Target? The Surprising Scope of the Proposed New EU Digital Services Tax* (Clifford Chance 2018) p 2.
[288] Thomas Fetzer and Bianka Dinger, 'The Digital Platform Economy and its Challenges to Taxation' [2019] Heinonline, pp 35–36, 41–42; European Commission, Proposal for a Council Directive laying down rules relating to the corporate taxation of a significant digital presence COM(2018) 147 final, p 16.

activities in the EU.[289] The DST sets out a tax on the revenues derived from the provision of certain digital services.[290] The DST should apply on a temporary basis until a comprehensive solution is in place. The aim of the proposal is to create corresponding rules for all businesses, whether EU or non-EU based, large or small, more or less digitalized.[291] A number of countries already have a similar tax in place, including Austria, France, Israel, India and some US states.[292]

However, the DST has attracted significant criticism as an imperfect solution to the challenges identified in this thesis. As a revenue-based tax levied on gross receipts rather than net income, it does not map neatly onto the income tax framework established by the OECD Model Convention.[293] Furthermore, it targets the revenues of platform operators rather than the income of platform workers, meaning that it does not address the classification uncertainty or the double taxation risks that individual workers face. The practical difficulties associated with the DST, combined with the failure of EU Member States to reach consensus on its adoption and the subsequent focus on the OECD Two-Pillar Solution, further underscore the limitations of unilateral and interim approaches to digital taxation.[294]

4.2.3 Reform of Profit Allocation Rules

Another proposal set out by the Commission suggests a reform of profit allocation rules in order to better reflect value creation in the digital economy.[295] While formally maintaining the existing OECD-based framework, it adapts it to account for the specific features of digital business models, which rely heavily on intangible assets, user participation, and data.[296] This approach

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[289] European Commission, Proposal for a Council Directive laying down rules relating to the corporate taxation of a significant digital presence COM(2018) 147 final, p 4.

[290] *Ibidem.*

[291] *Ibidem.*

[292] Thomas Fetzer, Bianka Dinger 'The Digital Platform Economy and its Challenges to Taxation' Heinonline [2019], p 37.

[293] European Commission, 'Proposal for a Council Directive as regards a common system of a tax on the revenues resulting from the supply of certain digital services' COM(2018) 148 final, arts 1–3; Thomas Fetzer and Bianka Dinger, 'The Digital Platform Economy and its Challenges to Taxation' (2019) Heinonline pp 36–37.

[294] Cécile Remeur, 'Understanding BEPS: From Tax Avoidance to Digital Tax Challenges' (European Parliamentary Research Service PE 642.258, 2019) pp 4, 6-9.

[295] European Commission, Proposal for a Council Directive laying down rules relating to the corporate taxation of a significant digital presence COM(2018) 147 final, pp 8-9, 18.

[296] *Ibidem*, p 3.

recognizes that the traditional arm's length principle, developed for physically integrated multinational enterprises, does not adequately capture how value is created in platform-based ecosystems where user participation constitutes a central driver of economic activity.[297]

However, as with the significant digital presence proposal and the DST, this reform is primarily directed at the profit allocation challenges of large multinational enterprises.[298] Individual platform workers are not addressed within this framework.[299] The profit allocation debate concerns how to divide taxing rights over corporate profits between jurisdictions, whereas the challenges facing platform workers relate to the prior question of how to classify their income and determine which state holds primary taxing rights. These are structurally distinct problems requiring distinct solutions.

4.2.4 Harmonization of Worker Classification Standards

As demonstrated in Chapter 3, worker classification uncertainty is the most immediate and practically significant source of double taxation risk for platform workers. Where one jurisdiction treats the same platform activity as employment and another treats it as independent contracting, both states may assert taxing rights over the same income under different treaty provisions, with no coherent mechanism for resolving the resulting conflict. The existing framework relies on domestic classification law, which varies significantly across jurisdictions, and addresses resulting conflicts only reactively through the mutual agreement procedure under Article 25 of the OECD Model Convention.[300]

A more effective approach would involve the development of a harmonized classification standard at the international or regional level specifically applicable to platform work. The EU Platform Work Directive 2024/2831, represents a partial step in this direction within the EU

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[297] *Ibidem*, pp 2–3, 8–10; Pasquale Pistone and Dennis Weber, *Taxing the Digital Economy: The EU Proposals and Other Insights* (IBFD 2019) pp 72–77.
[298] OECD, 'Progress Report on Amount A of Pillar One' (OECD 2022) p 8.
[299] Ulrich Becker and Olga Chesalina, *Social Law 4.0: Update: Innovative Approaches to Ensuring and Financing Social Protection for Platform Workers in Europe*, Nomos 2025, pp 105–106.
[300] OECD, *Model Tax Convention on Income and on Capital* (OECD Publishing 2017) art 25.

context. However, a classification standard with direct tax treaty relevance would need to be incorporated into the OECD Commentary or developed as a specific protocol to bilateral tax treaties, so that contracting states apply consistent criteria when determining whether platform income falls under Article 7 or Article 15.[301]

Such a standard could draw on the substance-over-form approach already present in the OECD Commentary, which identifies relevant factors such as control over the manner of work, responsibility for tools and equipment, and the right to determine working hours.[302] Applied specifically to platform work, the standard could address the role of algorithmic management, platform-determined pricing, and access restrictions as indicators of a relationship of subordination, thereby ensuring that the formal contractual classification of workers as independent contractors does not override the economic reality of their relationship with the platform.[303] Crucially, this approach would reduce the likelihood of qualification conflicts arising in cross-border situations, since both contracting states would apply the same substantive criteria to determine which treaty provision governs the income.

Concretely, such a harmonized standard could operate through three complementary mechanisms. First, the OECD could develop a dedicated Commentary addition to Articles 7 and 15, setting out a non-exhaustive list of platform-specific indicators of employment. These would go beyond the general factors in paragraph 8.14 of the Commentary on Article 15 by addressing features particular to algorithmically governed work, such as the degree to which a platform determines pricing without worker input, whether the platform restricts the worker's ability to offer services outside the platform, and whether the platform's rating and deactivation systems

[301] Directive (EU) 2024/2831 of the European Parliament and of the Council of 23 October 2024 on improving working conditions in platform work [2024] OJ L 2024/2831, arts 4–5; Katerina Pantazatou, 'Taxation of the Platform Economy: Challenges and Lessons for Social Security' (2020) SSRN Electronic Journal pp 15–16, 18–20.
[302] Commentary on Article 15 OECD MC (2017) para 8.13.
[303] Uber BV v Aslam [2021] UKSC 5, paras 94-100; Jeremias Prassl, *Humans as a Service: The Promise and Perils of Work in the Gig Economy* (OUP 2018) pp 12-13; Valerio De Stefano, 'The Rise of the "Just-in-Time Workforce": On-Demand Work, Crowdwork and Labor Protection in the "Gig-Economy"' (ILO Conditions of Work and Employment Series No 71, 2016) pp 4–5, 20–21.

function as disciplinary mechanisms equivalent to those exercised by traditional employers.[304] These factors reflect the economic reality identified in case law such as Uber BV v Aslam, where the UK Supreme Court found that algorithmic control constituted a sufficient basis for recognising an employment relationship despite the formal contractual classification of drivers as independent contractors.[305]

Second, contracting states could incorporate a platform work classification protocol into bilateral tax treaties, modelled on the existing provisions for resolving qualification conflicts under Article 3(2) of the OECD Model Convention.[306] Such a protocol would require both states to apply the agreed platform-specific indicators before reverting to domestic classification law, thereby preventing divergent outcomes from arising in the first instance rather than addressing them reactively through mutual agreement. This would represent a structural improvement over the current framework, which leaves classification to domestic law and intervenes only after double taxation has materialised.[307]

Third, and most practically in the short term, the OECD could issue supplementary guidance in the form of a targeted report on the classification of platform workers for tax treaty purposes, analogous to the guidance already issued on the effective taxation of platform sellers in the sharing and gig economy[308] and on the treatment of remote workers following the COVID-19 pandemic.[309] Such guidance, while not legally binding, would encourage convergence in the domestic classification rules applied by contracting states and reduce the frequency of qualification conflicts without requiring formal amendment of existing treaties. The precedent

[304] Commentary on Article 15 OECD MC (2017 version), para 8.14; *Uber BV v Aslam* [2021] UKSC 5, paras 94–100; Jeremias Prassl, *Humans as a Service: The Promise and Perils of Work in the Gig Economy* (OUP 2018) ch 3.
[305] *Uber BV v Aslam* [2021] UKSC 5, paras 76–77, 94–100.
[306] OECD, Model Tax Convention on Income and on Capital (OECD Publishing 2017) art 3(2) and Commentary on art 3, paras 11–12.
[307] OECD, Model Tax Convention on Income and on Capital (OECD Publishing 2017) art 25; Katerina Pantazatou, 'Taxation of the Platform Economy: Challenges and Lessons for Social Security' (2020) SSRN Electronic Journal, pp 16-22.
[308] OECD, *The Sharing and Gig Economy: Effective Taxation of Platform Sellers* (OECD Forum on Tax Administration, OECD Publishing 2019).
[309] OECD, 'Updated Guidance on Tax Treaties and the Impact of the COVID-19 Pandemic' (OECD Policy Responses to Coronavirus (COVID-19), OECD Publishing, January 2021).

for this approach exists in the OECD's practice of issuing interpretive guidance that is progressively incorporated into domestic administrative practice across member states.[310]

Harmonization of worker classification standards remains the most structurally important reform available within the existing treaty framework. Without it, the other reform approaches examined in this chapter, withholding obligations, safe harbor rules, and digital nexus concepts, address only the consequences of classification uncertainty rather than its source. A coherent and prospective classification standard would reduce the frequency of double taxation risks at the point of origin, rather than requiring individual workers to bear the cost and complexity of resolving them after the fact.[311]

4.2.5 Withholding Obligations and Platform-Based Enforcement

A further reform approach, which is both practically feasible and directly responsive to the enforcement challenges identified in Chapter 3, concerns the imposition of withholding or reporting obligations on platform operators. DAC7 already moves in this direction by requiring platforms to collect and report income data on sellers operating through their platforms.[312] The Estonian model demonstrates that this data can be used to pre-fill tax returns and reduce compliance burdens for individual workers.[313]

This approach could be extended to include mandatory withholding of tax at source by platform operators in respect of income earned by workers through their platforms. Because platforms process all payments and possess full information about the income flows of their workers, they

[310] Ibidem; OECD, *The Sharing and Gig Economy: Effective Taxation of Platform Sellers* (OECD Forum on Tax Administration, OECD Publishing 2019).
[311] Katerina Pantazatou, 'Taxation of the Platform Economy: Challenges and Lessons for Social Security' (2020) SSRN Electronic Journal, pp 11-12, 16–21; Thomas Fetzer and Bianka Dinger, 'The Digital Platform Economy and its Challenges to Taxation' (2019) Heinonline, pp 39–41, 47–48.
[312] Council Directive (EU) 2021/514 of 22 March 2021 amending Directive 2011/16/EU on administrative cooperation in the field of taxation [2021] OJ L 104/1, art 8ac, recitals 1, 6.
[313] European Commission, 'A European Agenda for the Collaborative Economy' COM(2016) 356 final, 13–14; Ulrich Becker and Olga Chesalina, *Social Law 4.0: Update: Innovative Approaches to Ensuring and Financing Social Protection for Platform Workers in Europe*, Nomos 2025, pp 157–158; e-Estonia, 'e-Tax' https://e-estonia.com/solutions/ease_of_doing_business/e-tax/.

are structurally well-positioned to act as withholding agents.[314] Imposing such obligations would effectively eliminate the underreporting and compliance gaps that arise from the fragmented and multi-jurisdictional nature of platform income, while also shifting the administrative burden away from individual workers who may lack the resources or expertise to navigate complex cross-border tax obligations.

However, withholding obligations raise significant design challenges in the cross-border context. Where a worker earns income through a platform operating in multiple jurisdictions, it is not immediately clear which state's withholding rules apply and at what rate. Furthermore, withholding at source does not resolve the prior question of which state holds primary taxing rights, and may therefore produce over-withholding or under-withholding depending on how the underlying classification and treaty allocation questions are resolved.[315] Effective withholding mechanisms therefore presuppose, rather than substitute for, the classification harmonization and nexus reforms discussed above.

4.2.6 Safe Harbor Rules for Cross-Border Platform Work

A more targeted reform option, which could be introduced within the existing treaty framework without requiring a fundamental revision of the OECD Model Convention, would be the development of safe harbor rules specifically applicable to short-term or small-scale cross-border platform work. This approach is analogous to the existing exception under Article 15(2), which preserves residence-state taxation for short-term employment assignments meeting specified conditions, thereby reducing administrative burdens for temporary cross-border workers.[316]

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[314] Katerina Pantazatou, 'Taxation of the Platform Economy: Challenges and Lessons for Social Security' (2020) SSRN Electronic Journal 5, pp 3–4, 11–12; Thomas Fetzer and Bianka Dinger, 'The Digital Platform Economy and its Challenges to Taxation' (2019) Heinonline pp 46, 52–55; Kathleen D Thoas, 'Taxing the Gig Economy' (2018) 166 University of Pennsylvania Law Review pp 1432–1436.
[315] OECD, *Model Tax Convention on Income and on Capital* (OECD Publishing 2017) arts 7, 15, 23; Katerina Pantazatou, 'Taxation of the Platform Economy: Challenges and Lessons for Social Security' (2020) SSRN Electronic Journal pp 16–20; Thomas Fetzer and Bianka Dinger, 'The Digital Platform Economy and its Challenges to Taxation' (2019) Heinonline pp 52–55.
[316] OECD, *Model Tax Convention on Income and on Capital* (OECD Publishing 2017) art 15(2).

A dedicated safe harbor for platform workers could operate by establishing a minimum threshold of economic activity below which source-state taxation would not arise, with taxing rights remaining exclusively with the state of residence. This would reduce compliance costs for small-scale platform workers whose cross-border income flows are economically modest and for whom the complexity of multi-jurisdictional tax obligations is disproportionate to the sums involved. The threshold could be defined by reference to annual revenue from services provided in a given jurisdiction, the number of transactions concluded, or the number of days on which services were provided, drawing on the quantitative criteria already developed in the significant digital presence proposals.[317]

Such a safe harbor would not resolve the fundamental structural tensions identified in this thesis, but it would provide a pragmatic and administratively workable solution for a significant portion of cross-border platform workers, while more comprehensive reforms are developed at the international level.

[317] European Commission, 'Proposal for a Council Directive laying down rules relating to the corporate taxation of a significant digital presence' COM(2018) 147 final, pp 8, 16-17; Thomas Fetzer and Bianka Dinger, 'The Digital Platform Economy and its Challenges to Taxation' (2019) Heinonline pp 35–36.

CONCLUSION

The central research question of this thesis is whether the current international tax framework, in particular Articles 5, 7, and 15 of the OECD Model Tax Convention, is capable of effectively preventing double taxation for platform workers engaged in cross-border digital labor. The answer, on the basis of the analysis conducted in this thesis, is that the existing framework is not capable of effectively preventing double taxation for platform workers. This conclusion rests on four specific findings corresponding to the research questions examined throughout the thesis.

The thesis first examined the extent to which inconsistent classification of platform workers as either employees or independent contractors contributes to overlapping taxing rights and potential double taxation. The analysis demonstrates that classification constitutes the most immediate and structurally significant source of double taxation risk in the platform economy. When one jurisdiction treats a platform activity as employment while another treats it as independent contracting, both states may claim taxing rights over the same income. The current framework lacks any prospective mechanism for resolving such qualification conflicts. The mutual agreement procedure under Article 25 of the OECD Model Convention addresses these conflicts only reactively, after double taxation has already arisen, and places a disproportionate compliance burden on individual workers who typically lack the resources to initiate and sustain cross-border tax disputes. The EU Platform Work Directive 2024/2831 represents a partial step towards classification harmonization within the EU, but its scope is limited to Member State relations and does not directly modify the applicable tax treaty rules. A harmonized classification standard with direct treaty relevance therefore remains absent from the international framework.

The second research question examined whether the traditional distinction between employment income under Article 15 OECD MC and business profits under Article 7 OECD MC remains adequate to address modern forms of digital labor facilitated by online platforms. The analysis demonstrates that this distinction is not suitable for platform work as currently structured. Platform labor combines elements associated with both employment and independent contracting, flexibility in working hours alongside significant algorithmic control over pricing, task allocation, and performance evaluation, in ways that do not correspond neatly to the categories assumed by Articles 7 and 15. The commissions were designed for a labor market characterized by stable, continuous, and geographically anchored employment relationships, whereas platform work is inherently fragmented, variable, and cross-border in character. Article 15 in particular presupposes physical presence as the decisive connecting factor, yet platform work is frequently performed remotely from the worker's state of residence, severing the territorial link on which the provision depends. The result is a structural mismatch between the legal categories embedded in the OECD Model Convention and the economic reality of platform-mediated labor, which generates systematic qualification conflicts and double taxation risks that the existing framework cannot coherently resolve.

The third research question analyzed whether the absence of a clear nexus rule for digital labor, such as a concept of significant digital presence within the meaning of permanent establishment under Article 5, creates systematic risks of double taxation for platform workers. The analysis confirms that it does. The permanent establishment concept under Article 5 requires a fixed place of business in the source state, a threshold that most individual platform workers operating digitally across borders will never meet. The mere provision of services to clients in a foreign jurisdiction, without any physical infrastructure there, does not constitute a permanent establishment within the meaning of Article 5(1). As a result, income generated through cross-border platform work frequently escapes source taxation entirely, concentrating taxing rights exclusively in the state of residence regardless of where economic value is created or consumed. If source states respond by broadening their taxing rights through unilateral action, this risks creating overlapping taxation rather than solving the problem of under-taxation. The significant digital presence proposals developed at the EU level represent a conceptually important advance, but they are calibrated for large multinational enterprises and do not translate directly to individual platform workers. The absence of an adapted nexus standard for digital labor therefore leaves a fundamental gap in the allocation of taxing rights that the current framework is structurally unable to fill.

The fourth research question analyzed whether ongoing international tax reform initiatives adequately address the double taxation challenges faced by platform workers, or whether they remain primarily focused on large platform companies rather than individual workers. The analysis demonstrates that current reform efforts only partially address the challenges identified. The BEPS project and the OECD Two-Pillar Solution are directed primarily at the tax planning strategies of multinational enterprises and do not engage with the classification and nexus problems that generate double taxation risks for individual workers. DAC7 and the Estonian cooperative reporting model represent meaningful progress in terms of transparency and enforcement, but they do not resolve the underlying structural problems. The Digital Services Tax, designed to capture revenues generated by large digital platforms, does not address the income tax position of individual platform workers at all. The implicit assumption running through international tax reform, that the primary challenges of the digital economy arise at the level of multinational enterprises, is contradicted by the economic reality of the platform economy, in which individual workers retain a substantial majority of the transaction value generated through platforms, frequently exceeding 85 percent, and bear the practical consequences of classification uncertainty and inconsistent nexus rules on a daily basis.

Taken together, these findings lead to the conclusion that the OECD Model Convention, as currently structured, does not provide a coherent or effective framework for the prevention of double taxation in the context of cross-border platform work. The framework's reliance on physical presence, binary income classification, and domestic classification law reflects economic assumptions that are fundamentally at odds with the dematerialized, hybrid, and cross-border nature of platform-mediated labor. Of the reform approaches examined in this thesis, a combination of classification harmonization at the treaty level and platform-based withholding obligations appears most capable of addressing these challenges within the existing framework in the short term. Over the longer term, the development of adapted nexus rules for digital labor, recalibrated with lower thresholds reflecting the economic reality of individual platform work, and safe harbor rules for small-scale cross-border activity would provide a more coherent and administratively workable basis for the allocation of taxing rights in the platform economy. Ultimately, addressing the double taxation risks faced by platform workers requires a deliberate reorientation of the international tax policy agenda, from the taxation of digital enterprises to the taxation of digital labor, and the development of legal instruments capable of responding to the economic realities of the platform economy as it continues to evolve.

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ABSTRACT

This thesis examines whether the current international tax framework, in particular Articles 5, 7, and 15 of the OECD Model Tax Convention, is capable of effectively preventing double taxation for platform workers engaged in cross-border digital labour. The analysis proceeds in four steps: it maps the nature of digital platforms and platform work, examines the existing nexus rules governing taxation, identifies the structural sources of double taxation risk, and evaluates both current reform initiatives and potential legal solutions.

The thesis argues that the existing framework is structurally not equipped to address the realities of platform-mediated labour. Three principal deficiencies are identified. First, worker classification uncertainty, arising from divergent domestic standards for distinguishing employees from independent contractors, generates systematic qualification conflicts under Articles 7 and 15, which the mutual agreement procedure under Article 25 can only address reactively. Second, the binary income classification embedded in the OECD Model Convention does not accommodate the hybrid character of platform work, which combines flexibility with significant algorithmic control. Third, the permanent establishment concept under Article 5, anchored in physical presence, systematically excludes cross-border digital labour from source taxation, while unilateral attempts by states to extend taxing rights risk producing overlapping claims.

The methodology is doctrinal and analytical-critical, drawing on primary sources including the OECD Model Tax Convention and its Commentary, EU legislation and CJEU case law, and comparative national jurisprudence. The thesis concludes that current international reform efforts, including the OECD Two-Pillar Solution, DAC7, and the EU Digital Services Tax, remain primarily directed at multinational enterprises and do not resolve the fundamental challenges facing individual platform workers. A combination of harmonized worker classification standards at the treaty level, platform-based withholding obligations, adapted digital nexus rules, and safe harbour provisions for small-scale cross-border activity is proposed as the most coherent path forward.

ZUSAMMENFASSUNG

Die vorliegende Arbeit untersucht, ob der geltende internationale Steuerrahmen, insbesondere die Artikel 5, 7 und 15 des OECD-Musterabkommens, geeignet ist, eine effektive Vermeidung der Doppelbesteuerung für Plattformarbeitnehmer im grenzüberschreitenden digitalen Arbeitsbereich zu gewährleisten. Die Analyse gliedert sich in vier Schritte: Zunächst wird die Natur digitaler Plattformen und der Plattformarbeit erfasst, anschließend werden die bestehenden Anknüpfungsregeln für die Besteuerung untersucht, danach werden die strukturellen Ursachen von Doppelbesteuerungsrisiken identifiziert, und schließlich werden aktuelle Reforminitiativen sowie mögliche rechtliche Lösungsansätze bewertet.

Die Arbeit vertritt die These, dass der bestehende Rechtsrahmen strukturell nicht in der Lage ist, den Realitäten plattformvermittelter Arbeit gerecht zu werden. Es werden drei wesentliche Defizite herausgearbeitet: Erstens erzeugt die Unsicherheit bei der Arbeitnehmerklassifikation, die aus divergierenden nationalen Abgrenzungsstandards zwischen Arbeitnehmern und selbstständigen Auftragnehmern resultiert, systematische Qualifikationskonflikte unter den Artikeln 7 und 15, die das Verständigungsverfahren gemäß Artikel 25 lediglich reaktiv lösen kann. Zweitens bildet die im OECD-Musterabkommen verankerte binäre Einkommensklassifikation den hybriden Charakter der Plattformarbeit nicht ab, der Flexibilität mit erheblicher algorithmischer Kontrolle verbindet. Drittens schließt das Betriebsstättenkonzept gemäß Artikel 5, das auf physischer Präsenz beruht, grenzüberschreitende digitale Arbeit systematisch von der Quellenbesteuerung aus, während unilaterale Ausdehnungsversuche der Staaten das Risiko überlappender Besteuerungsansprüche bergen.

Die Methodik ist rechtsdogmatisch und analytisch-kritisch ausgerichtet und stützt sich auf primäre Rechtsquellen, darunter das OECD-Musterabkommen und seinen Kommentar, EU-Rechtsakte und die Rechtsprechung des EuGH sowie rechtsvergleichende nationale Judikatur. Die Arbeit kommt zu dem Ergebnis, dass aktuelle internationale Reformbemühungen, einschließlich der Zwei-Säulen-Lösung der OECD, DAC7 und der europäischen Digitalsteuer, primär auf multinationale Unternehmen ausgerichtet sind und die grundlegenden

Herausforderungen für einzelne Plattformarbeitnehmer nicht lösen. Als kohärentester Lösungsweg werden eine Kombination aus harmonisierten Klassifikationsstandards für Plattformarbeitnehmer auf Abkommensebene, plattformbasierte Quellensteuerabzugspflichten, angepasste digitale Nexus-Regeln sowie Safe-Harbour-Bestimmungen für kleinvolumige grenzüberschreitende Tätigkeiten vorgeschlagen.