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Ms. Manal Corwin
Director
OECD Centre for Tax Policy and Administration

Via e-mail to taxpublicconsultation@oecd.org

RE: Public Consultation on Global Mobility of Individuals

Dear Ms. Corwin:

I appreciate the Inclusive Framework's attention to the tax issues related to global mobility and willingness to consider input from stakeholders. I am writing to respond to the OECD's public consultation¹ and share my perspective in light of my many decades of experience as U.S. lawyer advising multinational corporations and individuals on tax controversy and litigation. I frequently advise clients on tax controversies involving multiple jurisdictions.

The public consultation document identifies many of the recent trends driving global mobility as well as the key technical tax issues arising from global mobility. The consultation document also mentions compliance, administration, and dispute resolution. In this letter, I suggest that these issues (in addition to substantive tax issues) should be a principal focus of the Inclusive Framework's work in this area. In particular, the OECD should promote tax certainty and fair tax administration related to countries' increasing use of special tax incentives to attract talent, including remote workers.

Global Mobility Trends and Tax Incentives

Jurisdictions have long engaged in tax competition to attract economic activity, including offering incentives for businesses and individuals to relocate. In recent years, as observed by the OECD, "a number of countries [have] expanded or introduced preferential tax regimes to attract high-skilled foreign workers."² In particular, in light of the technological changes facilitating remote work and increasing employer acceptance of remote work, many jurisdictions have offered special programs for remote workers (often called "digital nomads"). The goals of these programs often include increased local economic activity, such as through increased local consumption and the facilitation of opportunities for

¹ Public Consultation Document: Global Mobility of Individuals, OECD (2025).

² Tax Policy Reforms 2025: OECD and Selected Partner Economies 23, OECD (2025), available at https://www.oecd.org/en/publications/tax-policy-reforms-2025_de648d27-en.html.

innovation.³ These programs often include tax incentives as well as preferred treatment under the countries' immigration regime, such as special visas or a path to citizenship.

In addition to the need to understand the economic effects of such tax incentive regimes, as noted by the consultation document, it is also important to consider how these regimes are being administered in light of certain guiding principles promoted by the OECD, including fair tax administration⁴ and tax certainty,⁵ and the effects of those principles on tax morale.⁶ In particular, the OECD should consider ways to discourage countries' use of tax incentive programs in a manner that is inconsistent with fair tax administration, such as where taxpayers are encouraged to move to a jurisdiction in light of promised incentives but then such incentives are subsequently limited or denied through aggressive tax audits and enforcement. Concerns about fairness are especially acute in the case of individuals, who generally lack the resources and influence of large corporations and are more vulnerable to financial and personal harm. In addition, individuals may face discrimination based on their ethnicity or country of origin.

For example, serious concerns have been raised about Spain's *Impatriate* Law, a tax regime enacted in 2003 that provides special benefits to foreign professionals who relocate to Spain.⁷ The law is commonly referred to as the "Beckham Law," after soccer player David Beckham, who was one of the first prominent beneficiaries of the tax regime after his signing with Real Madrid in 2003. The Spanish *Impatriate* Law originally required the taxpayer to have a business or professional reason to move to Spain, such as a job offer or assignment in Spain from a Spanish company or branch. The regime was modified several times, most recently in 2023, when it was expanded to include digital nomads and entrepreneurs.⁸

³ Should OECD Countries Develop New Digital Nomad Visas, Migration Policy Debates, OECD (2022), available at https://www.oecd.org/content/dam/oecd/en/publications/reports/2022/07/should-oecd-countries-develop-new-digital-nomad-visas_4d283d33/4d425e15-en.pdf.

⁴ See, e.g., Tax Administration, OECD, available at <https://www.oecd.org/en/topics/policy-issues/tax-administration.html> ("To maintain public confidence, tax systems must be seen to be fair, efficient and effective, an area where international co-operation between administrations can play an important role.").

⁵ See, e.g., Tax Certainty and Policy Administration, OECD, available at <https://www.oecd.org/en/topics/sub-issues/tax-certainty-and-policy-implementation.html>.

⁶ See, e.g., Tax Morale, OECD, available at <https://www.oecd.org/en/topics/sub-issues/tax-morale.html> ("By promoting tax morale and education, the OECD helps governments mobilise sustainable revenues through a stronger fiscal pact and a fairer tax system, reinforcing the connection between taxation and social well-being.").

⁷ The *Impatriate* Law tax regime for inbound workers was first introduced through Law 62/2003 of December 30, 2003. It inserted a new paragraph 5 into article 9 of the Personal Income Tax Act 40/1998, with effect from January 1, 2004. Its formal structure was consolidated into article 93 of Law 35/2006.

⁸ Since its introduction in 2003, the *Impatriate* Law has undergone substantive reforms, including in 2009, 2014, and most recently in 2023 (through Royal Decree

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Without the benefit of the *Impatriate* regime, an individual living in Spain for 183 days in the year would become a tax resident taxed at progressive rates, with a top tax rate of 47% on worldwide income. Under the *Impatriate* regime, the individual is subject to a flat 24% tax on Spanish income up to €600,000 per year, while income exceeding the €600,000 threshold is taxed at 47%, for up to six years. Income earned outside Spain, including investment income, rental income, interest, dividends, and capital gains, is exempt from Spanish taxation. In addition, taxpayers are subject to Spanish wealth tax only on assets located inside Spain, not worldwide assets, and individuals qualifying under the regime are exempted from the obligation to report assets located abroad to Spanish authorities.

The *Impatriate* regime applies only to individuals that elect *Impatriate* status and are issued a certificate by the Spanish Tax Authorities. To opt into the regime, the taxpayer must file Form 149 with the Spanish Tax Authorities, accompanied by certain documentation. The Spanish Tax Authorities have 10 business days to respond and, absent any objections, will issue the taxpayer a Certificate (*Certificado de haber ejercitado la opción por el régimen especial aplicable a los trabajadores desplazados a territorio español*). Recipients are required to show this certificate to third parties, including their employer, to evidence that they are entitled to the lower rate provided by the law.

Despite recipients' legitimate expectation that the certificates evidenced qualification for the *Impatriate* regime, the Spanish Tax Authority has been aggressively auditing individuals who elected *Impatriate* status, taking the position that the certificates have no real significance.

These audits often occur late in the six-year period covered by the regime or after an individual has left Spain. The audits are often time-consuming, intrusive and cost prohibitive. To begin with, there is a very troubling bonus scheme practice in which Spanish inspectors receive incentive payments for audits. Financial rewards received through this bonus scheme appear to have totaled over €2 billion over ten years as a reward for facilitating the collection of additional taxes.⁹ In April 2025 the Spanish Tax Authorities crafted a new bonus scheme, offering staff €125 million if specified 2025 target collections are achieved.¹⁰ The bonuses are linked to the amount of tax assessed, not the amount collected, and the inspectors are allowed to keep their bonuses even if taxpayers succeed on appeal. This raises obvious conflicts of interest and creates incentives for erroneous and excessive tax and penalty assessments. Not surprisingly, these assessments are often subject to procedural and legal

1008/2023 and Order HPF/1338/2023). In 2023, the Startup Law, "*Ley de Fomento del Ecosistema de Empresas Emergentes*," created the digital nomad visa and expanded the *Impatriate* Law to apply to digital nomads.

⁹ See "Hacienda vs. The People: An Initial Report on Spain and the Beckham Law," Amsterdam & Partners LLP (May 2025).

¹⁰ Mercedes Serraller, "Hacienda Pacta un Bonus de €125 Milliones con su Plantilla a Cambio de Recaudar más IRPF e IVA," *Voz Populi*, Apr. 11, 2025 (in Spanish), <https://vozpopuli.com/economica/hacienda-bonus-125-milliones-plantilla-cambio-recaudar-irpf-iva.html>. See also Christopher J. Wales, "Todos en España Viven Con Miedo a la Agencia Tributaria," *La Razón*, Aug. 10, 2025 (in Spanish).

deficiencies. The Institute of Economic Studies, in fact, reported that the Spanish Tax Agency loses about 50 percent of taxpayer appeals.¹¹ Under Spain’s “pay-to-appeal” system, while a taxpayer may appeal an assessment if the tax has not been paid, the taxpayers assets, however, may be seized if the payment is not made. Moreover, the filing of an appeal does not suspend the tax collection process.¹² The appeal process is often extremely lengthy, sometimes taking up to ten years,¹³ to wind its way through the Spanish courts.

It has been reported that the authorities may use coercive tactics, including threatening criminal prosecution and/or higher taxes and penalties to extract settlements from taxpayers fearful of protracted litigation and asset seizure.¹⁴ The Spanish Tax Authorities audit practices and intimidation techniques, such as seizing the entire balance of a taxpayer’s bank account, leave taxpayers with a difficult choice between paying erroneous assessments or investing potentially greater expense and emotional capital to challenge those assessments.¹⁵ The Spanish Tax Authority has a practice of incentivizing taxpayers to forego their right to appeal by reducing the penalty if the settlement is not challenged.¹⁶ The former head of the Spanish Tax Authority recently accused the agency of luring investors into Spain with favorable tax regimes and claimed to know of cases in which the investigators targeted foreigners with financial audits, regardless of their status under the *Impatriate* regime.¹⁷

¹¹ See Instituto de Estudios Económicos, “El Problema de la Litigiosidad Tributaria en España Propuestas de Solución y Mejora Desde la Perspectiva de las Empresas,” *Revista del IEE*, Nos. 1 y 2 (July 22, 2025) (in Spanish). See also Elsa Pacios, “La Agencia Tributaria ha Perdido 2.900 Juicios Desde el Año 2015,” *The Objective* (Apr. 6, 2025) (in Spanish).

¹² See Christopher J. Wales, “Citizens or Serfs: Are We All Serfs in Our Own Tax Systems?” Lecture at the Univ. of Seville (Sept. 30, 2025).

¹³ See Baker McKenzie, “Tax Dispute Resolution Timelines: Spain: Average Time to Final Resolution in Spain Exceeds 8-11 Years, Creating Severe Delays Without Taxpayer Benefit.” See also “Tax Litigation in Spain: A Brake on Investment That Requires Urgent Solutions.” Resitax, July 14, 2025.

¹⁴ See Hacienda vs. The People, *supra* note 9. See also James Badcock, “Spain’s Mafia-Like Taxman Won’t Leave Expats Like Us Alone,” *The Telegraph* (Sept. 2, 2025), <https://www.telegraph.co.uk/news/2025/09/02/british-expats-spanish-taxman/>.

¹⁵ See Badcock, *supra* note 15. See also Post on the Citizens Advice Bureau (2024) “Unfair Practices in Spain’s Tax System: Addressing the Barriers to Fair Appeals for Expats.”

¹⁶ Ignacio Ruiz-Jarabo, “Jaque a la Agencia Tributaria,” *Voz Populi* (June 29, 2025). <https://www.vozpopuli.com/opinion/jaque-a-la-agencia-tributaria.html>. (The former director of the Spanish Tax Agency recently published an opinion piece decrying their practices as abusive, coercive, and harassing).

¹⁷ *Id.* See also Noah Eastwood, “Spain is Robbing British Expats, Says Former Tax Chief,” *The Telegraph* (July 12, 2025), www.telegraph.co.uk/money/tax/spain-robbing-british-expats-former-tax-chief/.

The Spanish Tax Authorities have raised issues that have seemingly no foreseeable relevance to *Impatriate* status or the tax consequences under the regime, including questions about worldwide assets and income and activities in years before or after the *Impatriate* regime applied. I am aware of the Spanish Tax Authorities making information exchange requests under tax treaties for information and documents that, I believe, amount to “fishing expeditions,” contrary to the standards for treaty information exchange.¹⁸ These requests, in my opinion, contravene the reasonable standard language set forth in the OECD Commentary on the Model Treaty, namely the requesting authority should be required to provide “the specific facts and circumstances that have led to the request, an explanation of the applicable law and why there is a reason to believe that the taxpayers for whom information is requested have been non-compliant with that law, supported by a clear factual basis.”¹⁹ Improper and speculative requests under tax treaties risk eroding domestic and international trust in the information exchange network and undermine the OECD’s goal of eliminating tax barriers to cross-border investment.

The OECD Role in Promoting Tax Certainty and Fair Tax Administration of Residency Tax Incentive Regimes

The OECD has made significant contributions in the last several decades in promoting improvements in tax administration and tax-related dispute resolution mechanisms, such as through the development and publication of the Manual on Effective Mutual Agreement Procedure (“MEMAP”),²⁰ Bilateral APA Manual,²¹ the Tax Administration Series reports,²²

¹⁸ See Convention Between the Kingdom of Spain and the United States of America for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion With Respect to Taxes on Income (signed Feb. 22, 1990) and accompanying Protocol (signed Jan. 14, 2013), Art. 27. See also The Department of Treasury Technical Explanation of the Protocol to the U.S.-Spain Treaty, “Contracting States are not at liberty to engage in ‘fishing expeditions’ or otherwise to request information that is unlikely to be relevant to the tax affairs of a given taxpayer.”

¹⁹ OECD (2019) Model Tax Convention on Income and on Capital 2017 (Full Version), OECD Publishing. <http://dx.doi.org/10.1787/g2g972ee-en>. Commentary on Article 26 concerning exchange of information, 5.2.

²⁰ Manual on Effective Mutual Agreement Procedures (MEMAP), OECD Centre for Tax Policy and Administration (February 2007), available at https://www.oecd.org/en/publications/manual-on-effective-mutual-agreement-procedures-memap_2bb3ab55-en.html.

²¹ Bilateral Advance Pricing Arrangement Manual, OECD Forum on Tax Administration (2022), available at https://www.oecd.org/en/publications/bilateral-advance-pricing-arrangement-manual_4aa570e1-en.html.

²² Tax Administration 2025: Comparative Information and OECD and Other Advanced and Emerging Economies, OECD Forum on Tax Administration (2025), available at https://www.oecd.org/content/dam/oecd/en/publications/reports/2025/11/tax-administration-2025_6360fad8/cc015ce8-en.pdf.

and country peer reviews, including on dispute resolution and exchange of information. The OECD has also made important contributions to evaluating preferential tax regimes.²³

Much of the OECD's work on tax certainty and tax administration has focused on businesses. This work is clearly important, but I believe that more attention is needed to be focused on tax certainty for individuals, particularly in light of increasing global mobility and the tax administration issues that may be raised by special incentive programs for digital nomads. All taxpayers—businesses and individuals alike—as well as governments benefit from clear rules and fair tax administration to avoid costly and unnecessary disputes. Further, consistent and transparent tax systems promote voluntary compliance, which is the foundation of most tax regimes, especially in the case of individuals. Tax certainty for individuals also benefits cross-border investment and trade as businesses consider where to locate their workers.

As the OECD studies global mobility issues, it should promote fair tax administration and tax certainty with respect to country incentives for mobile workers. In recent decades, the OECD has played an important role in assisting governments in understanding and implementing effective dispute resolution mechanisms. It would be beneficial for the OECD to similarly support governments in evaluating the advantages and disadvantages of residency tax incentive programs. It would also be beneficial for the OECD to describe design considerations, such as with respect to qualification for the incentives and the type of incentives offered, as well as best practices with respect to the administration of such regimes.

The OECD's work could draw on aspects of the report on "Tax Incentive Principles" developed by the Platform for Collaboration on Tax (a joint initiative of the IMF, OECD, UN, and World Bank).²⁴ That report described six main principles for countries to consider as they evaluate tax incentives: justification, design, international considerations, legislation, implementation, and evaluation. The OECD should consider issuing a similar report, specifically focused on residency tax incentive programs.

The OECD's facilitation of peer reviews on dispute resolution and exchange of information has been very worthwhile. Similarly, the OECD should conduct reviews with respect to tax incentives for individuals, including incentives that are aimed at remote workers. These reviews should include a peer review aspect (i.e., they should reflect the input and experiences of other jurisdictions) and should also reflect feedback from individuals, businesses, and tax professionals. These peer reviews could describe the relevant tax incentives in a jurisdiction, including requirements for entitlement to the regime, tax benefits, and any relevant immigration requirements or benefits. The reviews could also describe implementation of the tax incentives in practice, including whether the jurisdiction issues advance determinations with respect to the regime, the extent to which such

²³ See, e.g., Harmful Tax Practices—Consolidated Peer Review Results, Inclusive Framework on BEPS: Action 5 (Jan. 2025), available at <https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/harmful-tax-practices/harmful-tax-practices-consolidated-peer-review-results-on-preferential-regimes.pdf>.

²⁴ Tax Incentives Principles, The Platform for Collaboration on Tax (May 2025), available at <https://www.tax-platform.org/news/pct-tax-incentives-principles>.

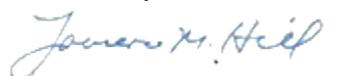
determinations may be subsequently challenged, experiences with MAP or other resolution mechanisms to resolve disputes, and litigation involving the regime.

In addition to promoting the principles of fair tax administration and tax certainty, the efforts described above would also have practical value for the governments that institute tax incentive regimes. Where individuals do not believe that a government will deliver on the promised tax incentives, individuals will be less likely to seek to use incentives, which defeats the purpose of a government offering the programs in the first place.

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Thank you for the opportunity to comment on these important issues. I commend the OECD for its continued focus on promoting tax certainty, principled dispute resolution, and fair tax administration. I look forward to a continued dialogue between tax authorities, policymakers, taxpayers, and tax practitioners on how these principles can be promoted in the context of the tax issues raised by global mobility.

Sincerely,



Lawrence M. Hill