Tax Aspects of Migrations

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The speed at which the world around us is changing combined with the novelty of the challenges our societies are faced with, seems to lead our policy makers towards what can be described as panic driven decisions. At this point in time we can with some ease point towards the on-going developments regarding variants of the digital service taxes or the overreliance on increasingly broad and ambiguous anti-avoidance measures at the expense of legal certainty as examples of such a state of affairs within the ambit of corporate income taxation. To a point we have reached a state of affairs which can be described as taxation for taxations sake.
However, it is the rather neglected developments at the level of individual income taxation which show a worrying tendency to strive towards solutions without taking into consideration the broader impact they may have on our societies and increasingly fragile democracies. Namely, the entire world is facing the issue of the brain drain, or to be more precise the population drain. Many countries are faced with the painful outflow of their bright and young, often with an already acquired education. Those more fortunate are in the position to fight for this talent with other potential destinations. In Europe, and, as population statistics show, soon in other parts of the world, societies across the board are having to deal with the declining birthrates and the aging of the population (e.g. South Korea has gone from an explosive population growth to the world's lowest birth rate in less than half a century and is yet to determine its approach towards immigration. A similar problem is facing Japan). Again those more affluent are able to fill in their population ranks by virtue of immigration, while others are facing a grim reality of becoming habitats for the elderly, as their young leave, while at the same time they are unable to attract new settlers. The described issue has been rather neglected within the tax sphere. Countries like the Netherlands or Spain were the pioneers of using tax measures to be more competitive in the market for individual talent. Many more introduced programs to lure in high net value individuals, programs which were primarily based on granting permanent residence and citizenship, but that always had an overt or covert tax component. However, it is the most recent measures introduced or proposed by countries trying to combat the outflow of their citizens that quite strikingly show that we need to go back to the principles. Recently countries like Poland and Croatia introduced or proposed introducing measures which grant beneficial tax treatment purely on the basis of age. In simple terms, if you are below a certain age different tax rules apply to you. These measures are intended to induce the young to stay in the country as a more beneficial tax treatment will provide them with more disposable income and a higher living standard. Starting from measures to attract inbound researchers and scientist, top football players, and the very rich, to those targeting high skilled workers, we have now reached a point of providing incentives to those members of our societies whose stay in the country is, in the absence of inbound immigration, the perquisite for their long-term sustainability.

Special rules for the very rich (tax incentives for the high net value individuals) strike at the very heart of our modern systems which are based on the French Revolution principle of equality before the law regardless of one's status or wealth. Some 2000 years ago St. Paul cried out in desperation the famous words *Civis Romanus sum*! (I am a Roman citizen!), which illustrate the power of our social contract. It is essential to, at the very least, raise the question are the now quite common tax measures overtly providing special treatment for the very rich not only contributing to the growing social inequality plaguing our societies, but are they going a step further and undermining the very foundations on which we have build our modern democracies. In other words, have we, in our constant struggle to attract capital and investment gone so far as to relativize the whole *Civis…sum*! concept on the basis of personal wealth.

In ancient Rome when circumstances became desperate the Senate suspended laws and placed the faith of the Republic in the hands of the Consuls by proclaiming the following formula: *Videant consules ne res publica detrimenti capiat!* (Let the Consuls see to it that the state suffer no harm!). What should raise grave concerns is that an increasing number of countries are facing desperate circumstances and are designing measures before even discussing the essential nature of their troubles. What is the *differentia specifica* of providing special tax treatment based on possessing a set of skills or just referring to the age of an individual? Where is the boundary of our ability to choose those we wish to see come to and increasingly stay in our societies. If countries are facing depopulation levels of above 25% (depopulation levels not witnessed since the great plagues or in some rare cases world wars), or average birthrates below 1.5 should we accept tax measures based on fertility? Or could we instead of skills use IQ measurements as standards for tax incentives? If it is acceptable to use such standards when choosing who we want joining our societies, why would it be unthinkable to apply the same or similar standards when tailoring tax measures targeting those already present? These questions are no longer theoretical. Alas, they are increasingly, as legislations of numerous countries show, reality.

The new exodus is not only driven by economics. Climate change, availability of essential resources such as drinking water, the ability to grow food, or pollution are impacting masses of humanity and are driving them to find new spaces to settle. As ancient Rome and China showed us, walls will not keep the *barbaroi* out, and while building these walls we might be nurturing internal conflict by undermining our own social contracts. Wealthy, but aging societies (with perhaps the exception of the USA which is still not facing the aging crisis as acutely as Europe or Japan and Korea are) should also be aware that it was less than half a century ago that they experimented with rules designed to determine who is good enough to procreate (eugenics as basis for sterilization of women were used in e.g. Sweden until 1976). We are already seeing emigration nations providing tax benefits on a criterion that is essentially based on the ability to bear children.

The relevance of BEPS fails to impress when compared to the impact of our modern migrations and the fundamental issue they raise. Thus, it would be more than urgent to divert at least some of our energy towards international (but not only international) individual income taxation and questions on whose answer depends not just the fiscal sustainability of our governments, but the very survival of our societies.