

# Tax measures adopted due to the COVID-19 emergency. A general overview<sup>\*</sup>

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### ABSTRACT

The health and economic crisis created by COVID-19 has posed some challenges to national tax systems. The primary reaction of Governments in terms of taxation was aimed at alleviating the consequences of lockdowns and restrictions. In this sense, most countries have adopted specific measures regarding tax procedures, postponing the submission of tax returns and the collection of tax debts. Nonetheless, there are other measures that have been adopted in the field of direct and indirect taxes that are relevant to support some economic sectors. Additionally, the measures adopted to fight COVID-19 have also had consequences in the application of tax treaties. In this report, I outline the main measures adopted by the eight participating countries and analyze the existing trends in the tax measures adopted by these jurisdictions in the fight against COVID-19.

### KEYWORDS

COVID-19 – Pandemic – Tax measures

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## I. Introduction

On 11th March 2020, the World Health Organization (WHO) declared COVID-19 as a pandemic due to the rapid spread of cases and outbreaks around the world. Since then, almost all countries in the world have suffered the consequences of the COVID crisis in the last few months<sup>1</sup>. Currently, the number of deaths due to COVID has surpassed 2.5 million and the total number of cases is over 100 million<sup>2</sup>.

Most European and American countries have suffered two waves of the pandemic. While the first wave was characterized by the rapid and sudden increase in cases and deaths, the second wave has shown a steadier rise in numbers. As countries faced the spread of the virus, Governments were required to adopt measures to stop or minimize transmission. Accordingly, during the first wave most countries opted for locking down their population. Lockdowns included educational and social activities and even economic activities in some countries for weeks or months. During the second wave, lockdowns have still been adopted by some countries, although, in most cases, they have not yet reached the intensity of those adopted during the first wave.

These measures have demanded rapid action from the Governments and legislators to adapt their legal systems to the responses against the virus, including modifications in

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<sup>1</sup> World Health Organization, *WHO Director-General's opening remarks at the media briefing on COVID-19 – 11 March 2020* (2020) <https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020> accessed 25 February 2021.

<sup>2</sup> World Health Organization, *WHO Coronavirus Disease (COVID-19) Dashboard* (last updated 24 February 2021) (2021) <https://covid19.who.int/> accessed 25 February 2021.

the tax field. Most measures adopted during the first wave were aimed at softening the consequences of lockdowns in tax procedures, postponing tax returns, improving and facilitating digital administrative procedures and other procedures as well as fragmenting or postponing the collection of taxes in some cases. As well as these measures, there were other measures that were targeted towards the recovery of economic activities due to the hiatus created by lockdowns, and measures aimed to facilitate the distribution of medical equipment and other supplies. Most of these measures were temporary. Afterwards, the pressure for increasing public funds and the need to face the economic consequences of lockdowns have motivated the adoption of some measures in the form of, inter alia, new taxes in some countries.

In this report, I will introduce some of the measures that are detailed in the national reports from eight selected countries (Argentina, Brazil, Canada, Colombia, Germany, Portugal, Spain, and Uruguay) in order to compare those adopted by each jurisdiction. As it will be shown there is some degree of coincidence in the tax measures adopted during the first wave from a procedural perspective, while material tax measures show, as expected, greater disparities. In the report, I will first focus on procedural tax measures adopted as a result of the COVID pandemic, secondly, I will deal with some direct and indirect tax measures, thirdly, I will address some international tax aspects that have been raised by the measures adopted and, finally, I will make reference to some of the new initiatives that have been adopted or proposed to overcome the economic crisis created by the COVID pandemic.

Before commencing, I would like to outline the huge effort made by the national reports and express my gratitude. Additionally, the work carried out by the external reviewers who helped improve the reports must be also highlighted.

## **II. Procedural tax measures adopted due to the COVID pandemic**

As stated before, since there was no effective medical treatment nor vaccines when the global pandemic started, the only effective solution relied on confining the population in order to reduce the transmission of the virus. As a consequence, most countries opted for locking down their population and putting a halt to some non-essential economic activities. That was the case in the eight countries covered by this report where Governments made use of specific powers granted by emergency legislation to confine the population

and halt economic activities in order to avoid the rapid spread of the virus among the population<sup>3</sup>.

Due to the lockdowns most administrative and judicial procedures were totally or partially suspended. Therefore, most countries opted for suspending tax procedures, including tax audits, and extending deadlines for the submission of tax returns and other reporting obligations<sup>4</sup>, these extensions also affected the statute of limitations with respect to tax debts and liabilities<sup>5</sup>. Actions to ensure the collection of taxes through embargoes and other collection methods were also postponed in most countries<sup>6</sup>.

At the same time, most governments have promoted the digitalization of tax procedures, encouraging citizens to use electronic means to communicate with the tax administration or receive official notifications, as on-site assistance was cancelled or reduced significantly during the emergency period<sup>7</sup>. An interesting case of digitalization was that of Colombia, where the Government passed an Order which allowed virtual tax and accounting audits

<sup>3</sup> This is the case for example of Argentina (M. Solange Screpante and N. Rubiolo, *Tax measures and COVID-19: Argentina* (2021) OJC. Special issue 2020 – Covid 19, § II); Germany (M. von Jähnichen, *Fiscal measures to counteract the economic consequences of the COVID-19 pandemic in Germany* (2021) OJC. Special issue 2020 – Covid 19, § I); Portugal (J.F. Pinto Nogueira, *Tax reactions to the SARS-CoV-2/COVID-19 pandemic in Portugal* (2021) OJC. Special issue 2020 – Covid 19, §§ I-II.1); or Spain (F.D. Martínez Laguna, *Taxation and COVID-19: Spanish Report* (2021) OJC. Special issue 2020 – Covid 19, § D). Brazil constitutes a special case as these measures were within the local and regional authorities' jurisdiction and not the federal Government's. See M. Seabra de Godoi and F. de Oliveira Silveira, *National tax measures adopted in Brazil in response to the COVID-19 pandemic crisis* (2021) OJC. Special issue 2020 – Covid 19, § I. Additionally, Uruguay, which was the country that saw the lesser impact in the first wave, seemingly imposed no lockdown, although there was a general stay-at-home recommendation and compulsory isolation was imposed in some cases. Nevertheless, some economic sectors were put on halt during the emergency (A. Laura Riccardi Sacchi, *National tax measures adopted in response to COVID-19 crisis: Uruguay* (2021) OJC. Special issue 2020 – Covid 19, § I.2).

<sup>4</sup> There are examples of this trend in all countries. See the cases of Germany (M. von Jähnichen, *Fiscal measures to counteract the economic consequences of the COVID-19 pandemic in Germany* (2021) OJC. Special issue 2020 – Covid 19, § IV); Argentina (M. Solange Screpante and N. Rubiolo, *Tax measures and COVID-19: Argentina* (2021) OJC. Special issue 2020 – Covid 19, § V); Brazil (M. Seabra de Godoi and F. de Oliveira Silveira, *National tax measures adopted in Brazil in response to the COVID-19 pandemic crisis* (2021) OJC. Special issue 2020 – Covid 19, §§ IV.1-IV.3); Canada (K. Haghgouyan, *Canada and Covid-19: Canadian tax measures adopted in response to the COVID-19 crisis* (2021) OJC. Special issue 2020 – Covid 19, § IV); Colombia (C.C. Rodríguez Peña and O.S. Cabrera Cabrera, *Tax measures implemented in Colombia during the health and economic emergency triggered by COVID-19* (2021) OJC. Special issue 2020 – Covid 19, §§ VI-VII); Portugal (J.F. Pinto Nogueira, *Tax reactions to the SARS-CoV-2/COVID-19 pandemic in Portugal* (2021) OJC. Special issue 2020 – Covid 19, §§ IV.3-IV.5); Spain (F.D. Martínez Laguna, *Taxation and COVID-19: Spanish Report* (2021) OJC. Special issue 2020 – Covid 19, § IV); and Uruguay (A. Laura Riccardi Sacchi, *National tax measures adopted in response to COVID-19 crisis: Uruguay* (2021) OJC. Special issue 2020 – Covid 19, § II.3).

<sup>5</sup> See the example of Spain (F.D. Martínez Laguna, *Taxation and COVID-19: Spanish Report* (2021) OJC. Special issue 2020 – Covid 19, § IV).

<sup>6</sup> Argentina, Portugal, and Brazil, for example, adopted interesting provisions in this field. See M. Solange Screpante and N. Rubiolo, *Tax measures and COVID-19: Argentina* (2021) OJC. Special issue 2020 – Covid 19, § V; J.F. Pinto Nogueira, *Tax reactions to the SARS-CoV-2/COVID-19 pandemic in Portugal* (2021) OJC. Special issue 2020 – Covid 19, § IV.5; and M. Seabra de Godoi and F. de Oliveira Silveira, *National tax measures adopted in Brazil in response to the COVID-19 pandemic crisis* (2021) OJC. Special issue 2020 – Covid 19, § IV.4.

<sup>7</sup> See, for example, the cases of Uruguay (A. Laura Riccardi Sacchi, *National tax measures adopted in response to COVID-19 crisis: Uruguay* (2021) OJC. Special issue 2020 – Covid 19, § II.3) and Portugal (J.F. Pinto Nogueira, *Tax reactions to the SARS-CoV-2/COVID-19 pandemic in Portugal* (2021) OJC. Special issue 2020 – Covid 19, § IV.7).

during the period of national emergency. However, this Order was struck down by the Colombian Constitutional Court due to its lack of justification<sup>8</sup>.

From the taxpayers' perspective, most countries allowed taxpayers to comply with their obligations at a later date without incurring additional penalties or fines or to split or fraction their payments<sup>9</sup>. In some cases, e.g., in Germany, the legislator has exempted those taxpayers who had suffered serious effects as a result of the pandemic from making advance payments or reduced their amount accordingly<sup>10</sup>. Other countries, such as Portugal, opted to anticipate tax reimbursements as a mechanism for providing businesses and taxpayers with some liquidity to counter the economic effects of the pandemic<sup>11</sup>. Interestingly, in the case of Portugal, the Government passed a decree which set out specific cases of force majeure in order to justify non-compliance with tax obligations<sup>12</sup>.

### III. Direct taxes

#### III.1. Corporate income tax

Most countries did not adopt significant changes on their corporate income taxes due to the COVID-19 pandemic. As in the case of individuals, Governmental support has not been articulated using the tax system, instead subsidies and other direct payments have been introduced<sup>13</sup>. Additionally, some countries approved exemptions from social security contributions by enterprises whose activities were affected by the halt on economic activities<sup>14</sup>. An extraordinary measure approved by some countries, such as Germany or Argentina, provided for a subsidy of some salary payments to employees of enterprises affected

<sup>8</sup> C.C. Rodríguez Peña and O.S. Cabrera Cabrera, *Tax measures implemented in Colombia during the health and economic emergency triggered by COVID-19* (2021) OJC. Special issue 2020 – Covid 19, § VII.

<sup>9</sup> See, for instance, the cases of Canada (K. Haghgouyan, *Canada and Covid-19: Canadian tax measures adopted in response to the COVID-19 crisis* (2021) OJC. Special issue 2020 – Covid 19, § IV.1) or Uruguay (A. Laura Riccardi Sacchi, *National tax measures adopted in response to COVID-19 crisis: Uruguay* (2021) OJC. Special issue 2020 – Covid 19, § II.3) as examples of this approach.

<sup>10</sup> M. von Jähnichen, *Fiscal measures to counteract the economic consequences of the COVID-19 pandemic in Germany* (2021) OJC. Special issue 2020 – Covid 19, § IV.2.

<sup>11</sup> J.F. Pinto Nogueira, *Tax reactions to the SARS-CoV-2/COVID-19 pandemic in Portugal* (2021), OJC. Special issue 2020 – Covid 19, § IV.6.

<sup>12</sup> J.F. Pinto Nogueira, *Tax reactions to the SARS-CoV-2/COVID-19 pandemic in Portugal* (2021), OJC. Special issue 2020 – Covid 19, § IV.2.

<sup>13</sup> The best examples of this approach are found in Germany (M. von Jähnichen, *Fiscal measures to counteract the economic consequences of the COVID-19 pandemic in Germany* (2021) OJC. Special issue 2020 – Covid 19, § II.3.1) and Canada (K. Haghgouyan, *Canada and Covid-19: Canadian tax measures adopted in response to the COVID-19 crisis* (2021) OJC. Special issue 2020 – Covid 19, §§ I-II).

<sup>14</sup> This is the case of Argentina (M. Solange Screpante and N. Rubiolo, *Tax measures and COVID-19: Argentina* (2021) OJC. Special issue 2020 – Covid 19, § III.3) or Brazil (M. Seabra de Godoi and F. de Oliveira Silveira, *National tax measures adopted in Brazil in response to the COVID-19 pandemic crisis* (2021) OJC. Special issue 2020 – Covid 19, § II.2).

by the pandemic<sup>15</sup>. Nonetheless, some countries have adopted specific tax measures aimed at providing specific support for small and medium sized enterprises in the context of corporate taxation. Most countries provided for a deferral or fractioning of advance payments by enterprises in economic difficulties due to the pandemic<sup>16</sup>.

Nonetheless, some countries have implemented specific tax measures for enterprises to overcome the crisis. In Portugal, Brazil, and Spain, for instance, donations to public or private health institutions and the public treasury were promoted via an increased deduction of the donation on the donor's corporate income tax<sup>17</sup>. Similarly, investment in research activities was promoted through an extraordinary tax credit in Portugal<sup>18</sup>. In the case of Argentina, a subjective exemption for the Argentinean Red Cross on its payments aimed at promoting development in the context of the pandemic was adopted<sup>19</sup>. Some countries set out some benefits for specific economic activities that were especially affected by lockdowns. This is the case of the aeronautical sector in Colombia that benefited from a specific investment regime when making large investments<sup>20</sup>. Again, Germany has implemented some extraordinary measures in this field, such as incrementing the limit of deductible financial expenses or widening the scope of loss carryback and carryforward rules<sup>21</sup>.

### III.2. Personal income taxes

As in the case of corporate income taxes, personal income taxation has not been significantly modified because of the pandemic. Most measures adopted due to the pandemic imply deferral or fragmentation of advance payments or other prepayments. Some examples of extraordinary measures imply the exemption of some salary payments, as in the

<sup>15</sup> M. von Jähnichen, *Fiscal measures to counteract the economic consequences of the COVID-19 pandemic in Germany* (2021) OJC. Special issue 2020 – Covid 19, § II.2.1; M. Solange Screpante and N. Rubiolo, *Tax measures and COVID-19: Argentina* (2021) OJC Special issue 2020 – Covid 19, § III.4.

<sup>16</sup> Colombia and Spain have implemented interesting (temporary) rules in this respect. C.C. Rodríguez Peña and O.S. Cabrera Cabrera, *Tax measures implemented in Colombia during the health and economic emergency triggered by COVID-19* (2021) OJC. Special issue 2020 – Covid 19, § I.1; F.D. Martínez Laguna, *Taxation and COVID-19: Spanish Report* (2021) OJC. Special issue 2020 – Covid 19, § II.

<sup>17</sup> See M. Seabra de Godoi and F. de Oliveira Silveira, *National tax measures adopted in Brazil in response to the COVID-19 pandemic crisis* (2021) OJC. Special issue 2020 – Covid 19, § II.3; J.F. Pinto Nogueira, *Tax reactions to the SARS-CoV-2/COVID-19 pandemic in Portugal* (2021), OJC. Special issue 2020 – Covid 19, § II.3; or F.D. Martínez Laguna, *Taxation and COVID-19: Spanish Report* (2021) OJC. Special issue 2020 – Covid 19, § II.

<sup>18</sup> J.F. Pinto Nogueira, *Tax reactions to the SARS-CoV-2/COVID-19 pandemic in Portugal* (2021), OJC. Special issue 2020 – Covid 19, § II.3.

<sup>19</sup> M. Solange Screpante and N. Rubiolo, *Tax measures and COVID-19: Argentina* (2021) OJC. Special issue 2020 – Covid 19, § III.3.

<sup>20</sup> C.C. Rodríguez Peña and O.S. Cabrera Cabrera, *Tax measures implemented in Colombia during the health and economic emergency triggered by COVID-19* (2021) OJC. Special issue 2020 – Covid 19, § I.1.

<sup>21</sup> M. von Jähnichen, *Fiscal measures to counteract the economic consequences of the COVID-19 pandemic in Germany* (2021) OJC. Special issue 2020 – Covid 19, §§ II.3.2-II.3.3.

case of Germany or Brazil<sup>22</sup>. In both cases, a limited salary payment is exempted from the personal income tax of the employees but remain deductible at an enterprise level. A specific measure to exempt income earned by healthcare and other essential workers on extraordinary shifts was approved in Argentina<sup>23</sup>. Some subsidy payments as in the case of Canada are also exempt from income tax<sup>24</sup>. The Portuguese Government made pension plan withdrawals that were justified by needs derived from the pandemic exempt from tax. These withdrawals would otherwise be taxed ordinarily<sup>25</sup>.

In the case of Colombia, a specific tax on public servants and other public employees' salaries was created to contribute to the fight against COVID-19. This tax, however, was considered contrary to the equality principle by the Colombian Constitutional Court and the payments made by public servants and public employees were considered as advance payments of their personal income tax<sup>26</sup>. On the other hand, a similar tax was imposed on Uruguayan public employees and public servants as well as on pension holders in order to contribute to a specific fund to fight against COVID-19<sup>27</sup>. Finally, the Spanish Government also approved some measures to adapt taxation on self-employed individuals and entrepreneurs to the halt on economic activities derived from the lockdown<sup>28</sup>. Interestingly, Spanish tax authorities have issued some rulings on the effects of lockdowns on current tax rules<sup>29</sup>.

### III.3. Other direct taxes

Only a few countries have wealth taxes. This is the case in Colombia, Argentina, and Spain. Only Argentina has issued specific rules in the context of this tax due to the pandemic. In this case, the Argentinean Government decided to postpone the application of a specific

<sup>22</sup> M. Seabra de Godoi and F. de Oliveira Silveira, *National tax measures adopted in Brazil in response to the COVID-19 pandemic crisis* (2021) OJC. Special issue 2020 – Covid 19, § II.1; M. von Jähnichen, *Fiscal measures to counteract the economic consequences of the COVID-19 pandemic in Germany* (2021), OJC. Special issue 2020 – Covid 19, § II.2.1.

<sup>23</sup> M. Solange Screpante and N. Rubiolo, *Tax measures and COVID-19: Argentina* (2021) OJC. Special issue 2020 – Covid 19, § III.3.

<sup>24</sup> K. Haghgouyan, *Canada and Covid-19: Canadian tax measures adopted in response to the COVID-19 crisis* (2021) OJC. Special issue 2020 – Covid 19, § I.

<sup>25</sup> J.F. Pinto Nogueira, *Tax reactions to the SARS-CoV-2/COVID-19 pandemic in Portugal* (2021), OJC. Special issue 2020 – Covid 19, § II.2.

<sup>26</sup> C.C. Rodríguez Peña and Omar Sebastián Cabrera Cabrera, *Tax measures implemented in Colombia during the health and economic emergency triggered by COVID-19* (2021) OJC. Special issue 2020 – Covid 19, § I.2.

<sup>27</sup> A. Laura Riccardi Sacchi, *National tax measures adopted in response to COVID-19 crisis: Uruguay* (2021) OJC. Special issue 2020 – Covid 19, § II.1.

<sup>28</sup> F.D. Martínez Laguna, *Taxation and COVID-19: Spanish Report* (2021) OJC. Special issue 2020 – Covid 19, § II.

<sup>29</sup> F.D. Martínez Laguna, *Taxation and COVID-19: Spanish Report* (2021) OJC. Special issue 2020 – Covid 19, § II.

regime to the repatriation of foreign assets held abroad<sup>30</sup>. Other countries, such as Colombia, only postponed the deadline for the submission of wealth tax returns<sup>31</sup>.

#### IV. Value added taxes and other indirect taxes

Measures in the field of indirect taxation have also been diverse among countries. Some countries have reduced or exempted the purchase of some goods related to the health-care and medical sector. In addition to this, other countries have also adopted specific measures to facilitate the importation of some medical equipment and goods exempting them from custom duties. Nonetheless, there is no clear pattern in this field aside from the postponement of tax return submissions and the eventual extension of payment periods<sup>32</sup>, except for Argentina<sup>33</sup>. Only Germany adopted a general rule in the case of VAT, reducing the VAT rate for a limited period with the objective of reducing costs for final clients or customers in the purchase of goods and services<sup>34</sup>.

For instance, Spain and Portugal reduced the VAT rate for some individual protection masks and lowered this tax rate to zero for some medical equipment purchases made by public and private hospitals, as well as other sectors in the case of Portugal. This measure reduced the costs of purchasing these pieces of equipment while it maintained the deductibility of output VAT<sup>35</sup>. Brazilian and Uruguayan Governments also reduced the VAT and other import tax rates on medical and healthcare goods. This reduction also applied, in the case of Brazil, to the Tax on Financial Transactions that was lowered to zero in some cases to facilitate the access to credit<sup>36</sup>. In the case of Uruguay, the Government approved the extension of the suspension regime on duties to support the export sector<sup>37</sup>. Other sectors

<sup>30</sup> M. Solange Screpante and N. Rubiolo, *Tax measures and COVID-19: Argentina* (2021) OJC. Special issue 2020 – Covid 19, § III.2.

<sup>31</sup> C.C. Rodríguez Peña and O.S. Cabrera Cabrera, *Tax measures implemented in Colombia during the health and economic emergency triggered by COVID-19* (2021) OJC. Special issue 2020 – Covid 19, § VI.1.

<sup>32</sup> See, for instance, the cases of Colombia (C.C. Rodríguez Peña and O.S. Cabrera Cabrera, *Tax measures implemented in Colombia during the health and economic emergency triggered by COVID-19* (2021) OJC. Special issue 2020 – Covid 19, § II.1) or Uruguay (A. Laura Riccardi Sacchi, *National tax measures adopted in response to COVID-19 crisis: Uruguay* (2021) OJC. Special issue 2020 – Covid 19, § II.2).

<sup>33</sup> M. Solange Screpante and N. Rubiolo, *Tax measures and COVID-19: Argentina* (2021) OJC. Special issue 2020 – Covid 19, § IV.

<sup>34</sup> M. von Jähnichen, *Fiscal measures to counteract the economic consequences of the COVID-19 pandemic in Germany* (2021) OJC. Special issue 2020 – Covid 19, § III.1.

<sup>35</sup> F.D. Martínez Laguna, *Taxation and COVID-19: Spanish Report* (2021) OJC. Special issue 2020 – Covid 19, § III; J.F. Pinto Nogueira, *Tax reactions to the SARS-CoV-2/COVID-19 pandemic in Portugal* (2021), OJC. Special issue 2020 – Covid 19, § III.2.

<sup>36</sup> M. Seabra de Godoi and F. de Oliveira Silveira, *National tax measures adopted in Brazil in response to the COVID-19 pandemic crisis* (2021) OJC. Special issue 2020 – Covid 19, § III.

<sup>37</sup> A. Laura Riccardi Sacchi, *National tax measures adopted in response to COVID-19 crisis: Uruguay* (2021) OJC. Special issue 2020 – Covid 19, § II.2.

affected by the COVID-19 emergency were also supported through the reduction of VAT, such as tourism in the case of Portugal<sup>38</sup>.

A special case was Colombia, whose Government adopted measures to reduce the impact of COVID-19, including the reduction or exemption of VAT on the purchases of medical supplies and equipment<sup>39</sup>, and measures aimed at restarting the economy. Among these measures, there are exemptions on VAT for internet and other communication services, donations of clothing and other products for people in need, as well as the exemptions on the electrical surcharge applicable to some businesses related to tourism and the banking tax on some withdrawals<sup>40</sup>.

## V. International taxation

The international tax consequences of measures adopted in the fight against COVID-19 have not been specifically addressed by most countries, even though the OECD has issued some guidance on the implications of lockdowns and restrictions on tax treaties based on the OECD Model Tax Convention<sup>41</sup>. In this respect, from the national reports, there are three main aspects that might be primarily affected by lockdowns: the computation of presence in a country for the purposes of tax residence, whether the presence of workers in a country due to the lockdown might create a permanent establishment and the taxation of cross-border workers confined due to the lockdown.

The main trend among OECD member states, such as Canada, Germany, and Portugal, is to accept OECD's guidance<sup>42</sup>. Non-OECD members, such as Argentina, would seemingly accept the OECD's view when applying tax treaties<sup>43</sup>. Nevertheless, Spanish tax authorities, for the purposes of the domestic concept of residence, departed from the OECD's view and paid attention to the physical presence of individuals in Spanish territory irrespective

<sup>38</sup> J.F. Pinto Nogueira, *Tax reactions to the SARS-CoV-2/COVID-19 pandemic in Portugal* (2021), OJC. Special issue 2020 – Covid 19, § III.2.

<sup>39</sup> C.C. Rodríguez Peña and O.S. Cabrera Cabrera, *Tax measures implemented in Colombia during the health and economic emergency triggered by COVID-19* (2021) OJC. Special issue 2020 – Covid 19, § II.1.

<sup>40</sup> C.C. Rodríguez Peña and O.S. Cabrera Cabrera, *Tax measures implemented in Colombia during the health and economic emergency triggered by COVID-19* (2021) OJC. Special issue 2020 – Covid 19, §§ II.2-III.

<sup>41</sup> OECD, *OECD Policy Responses to Coronavirus (COVID-19). OECD Secretariat analysis of tax treaties and the impact of the COVID-19 crisis* (updated 3 April 2020) (2020) <<https://www.oecd.org/coronavirus/policy-responses/oecd-secretariat-analysis-of-tax-treaties-and-the-impact-of-the-covid-19-crisis-947dcb01/>> accessed 25 February 2021.

<sup>42</sup> K. Haghgouyan, *Canada and Covid-19: Canadian tax measures adopted in response to the COVID-19 crisis* (2021) OJC. Special issue 2020 – Covid 19, § III; M. von Jähnichen, *Fiscal measures to counteract the economic consequences of the COVID-19 pandemic in Germany* (2021) OJC. Special issue 2020 – Covid 19, § V.2; J.F. Pinto Nogueira, *Tax reactions to the SARS-CoV-2/COVID-19 pandemic in Portugal* (2021), OJC. Special issue 2020 – Covid 19, § V.

<sup>43</sup> M. Solange Screpante and N. Rubiolo, *Tax measures and COVID-19: Argentina* (2021) OJC. Special issue 2020 – Covid 19, § VI.

of their intention to be in Spain due to the lockdown<sup>44</sup>. Although not necessarily linked to the COVID-19 crisis, Uruguay adopted a new concept of tax residence and a specific tax regime for in-patriate workers<sup>45</sup>.

On the other hand, domiciles of workers of a nonresident company who are confined and, therefore, working from there, will not likely constitute a permanent establishment of their enterprises in Canada, Argentina, or Germany<sup>46</sup>. Finally, taxation of cross-border workers has only been addressed specifically in the case of Germany, which has signed specific temporary agreement with neighboring countries to address the tax consequences of lockdowns and restrictions on cross-border workers<sup>47</sup>.

## VI. Prospective taxes and proposed tax measures in the post-COVID-19 age

Adoption of new taxes due to the COVID-19 crisis is a reality in some countries. The best examples of this approach are found in Spain and Portugal whose Governments have recently adopted new taxes after the pandemic. Nonetheless, it should be noted that these taxes might have been adopted in absence of the pandemic, specifically in the case of Spain as the new taxes have their origin in European Commission proposals<sup>48</sup>. In the case of Portugal, the new tax is a surcharge on banks justified by solidarity<sup>49</sup>. On the other hand, Spain has approved two new taxes after the pandemic started: a Financial transaction tax and a digital services tax<sup>50</sup>. The adoption of these taxes was debated before the pandemic started, but it might have been the decisive point for their adoption.

Other countries are currently debating the adoption of new taxes, such as a tax on large fortunes in Argentina and a financial transaction tax in the case of Brazil<sup>51</sup>. It is worth not-

<sup>44</sup> F.D. Martínez Laguna, *Taxation and COVID-19: Spanish Report* (2021) OJC. Special issue 2020 – Covid 19, § V.

<sup>45</sup> A. Laura Riccardi Sacchi, *National tax measures adopted in response to COVID-19 crisis: Uruguay* (2021) OJC. Special issue 2020 – Covid 19, § II.4.

<sup>46</sup> M. von Jähnichen, *Fiscal measures to counteract the economic consequences of the COVID-19 pandemic in Germany* (2021) OJC. Special issue 2020 – Covid 19, § V.2; K. Haghgouyan, *Canada and Covid-19: Canadian tax measures adopted in response to the COVID-19 crisis* (2021) OJC. Special issue 2020 – Covid 19, § III.1; M. Solange Screpante and N. Rubiolo, *Tax measures and COVID-19: Argentina* (2021) OJC. Special issue 2020 – Covid 19, § VI.2.

<sup>47</sup> M. von Jähnichen, *Fiscal measures to counteract the economic consequences of the COVID-19 pandemic in Germany* (2021) OJC. Special issue 2020 – Covid 19, § V.3.

<sup>48</sup> European Commission, *Proposal for a Council Directive implementing enhanced cooperation in the area of financial transaction tax (COM (2013) 71 final)* (2013); European Commission, *Proposal for a Council Directive on the common system of a digital services tax on revenues resulting from the provision of certain digital services (COM (2018) 148 final)* (2018).

<sup>49</sup> J.F. Pinto Nogueira, *Tax reactions to the SARS-CoV-2/COVID-19 pandemic in Portugal* (2021), OJC. Special issue 2020 – Covid 19, § III.4.

<sup>50</sup> F.D. Martínez Laguna, *Taxation and COVID-19: Spanish Report* (2021) OJC. Special issue 2020 – Covid 19, § VI.

<sup>51</sup> M. Solange Screpante and N. Rubiolo, *Tax measures and COVID-19: Argentina* (2021) OJC. Special issue 2020 – Covid 19, § VII; M. Seabra de Godoi and F. de Oliveira Silveira, *National tax measures adopted in Brazil in response to the*

ing that in Canada there is a debate on the adoption of new taxes and modifying existing taxes to raise revenue to face the increased public expenses derived from the COVID-19 crisis. In this regard, there is an open debate on the adoption of a wealth tax or modifying tax rates and the tax treatment of some items of income<sup>52</sup>. Nonetheless, as the Canadian reporter points out, in this scenario this might be the opportunity to go further into the OECD proposals on the fight against international tax avoidance and international tax planning<sup>53</sup>.

## VII. Concluding remarks

Tax systems have not been extensively modified by the pandemic, at least in the first wave. The main tax measures adopted by countries after the outbreak of the pandemic were related to the postponement of tax returns and payments due to lockdowns and restrictions. Also, tax procedures and other timing issues, such as the computation for the statute of limitations, were suspended during lockdowns.

From a material perspective, there is no clear trend in the adoption of tax measures in the context of the fight against COVID-19 or the restarting of economies. Although some countries have implemented some limited tax benefits for specially affected sectors, such as tourism or the healthcare sector, there is no clear pattern in the adoption of direct or indirect tax measures. Neither are examples of general tax measures, apart from the temporary reduction of the VAT rate in Germany.

The international tax consequences of lockdowns and restrictions have not sparked the attention of Governments, at least in the present situation. Nonetheless, the OECD guidance in this field might provide a more homogeneous approach to these issues.

Finally, the COVID-19 crisis has also created the opportunity for legislators and Governments to approve new taxes and to modify their approaches and interpretation of some rules. However, this has been done in the context of specific powers granted to Governments and, in some cases, the approval of specific rules in the context of the emergency might have led to a violation of our basic principles of tax legislation<sup>54</sup>.

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*COVID-19 pandemic crisis* (2021) OJC. Special issue 2020 – Covid 19, § V.

<sup>52</sup> K. Haghgouyan, *Canada and Covid-19: Canadian tax measures adopted in response to the COVID-19 crisis* (2021) OJC. Special issue 2020 – Covid 19, § V.

<sup>53</sup> K. Haghgouyan, *Canada and Covid-19: Canadian tax measures adopted in response to the COVID-19 crisis* (2021) OJC. Special issue 2020 – Covid 19, § V.

<sup>54</sup> See the critical approach to some of the measures adopted in the context of the emergency by the Portuguese Government in J.F. Pinto Nogueira, *Tax reactions to the SARS-CoV-2/COVID-19 pandemic in Portugal* (2021), OJC. Special issue 2020 – Covid 19, § VII.