

EC and International Tax Law Series

Volume 17

New Trends in the Definition of Permanent Establishment

and achieve uniformity in the allocation of taxing rights between countries in cross-border situations. overlap of different tax systems, and in particular

Tax Law

The main international sources of tax law are bilateral or multilateral treaties and on important source for the interpretation of the taxing rights on income arising within the jurisdiction of the two countries involved.

Guglielmo Maisto / Series Editor

IBFD

New Trends in the Definition of Permanent Establishment

Why this book?

New Trends in the Definition of Permanent Establishment, comprising the proceedings and working documents of the annual seminar held in Milan in November 2018, is a detailed and comprehensive study on the definition of permanent establishment (PE). It begins with an overview of article 5 of the OECD Model Convention, focusing on the history of that provision and on recent amendments and upcoming challenges thereto. It next deals with the “physical” PE, examining the open issues under pre- and post-BEPS OECD Models, with a particular emphasis on (i) geographic and temporal issues, (ii) problems of interpretation of article 5(3) and (iii) the negative list and fragmentation of activities within groups of companies.

The book then analyses the “agency” PE, similarly examining the open issues under pre- and post-BEPS OECD Models and, in particular, (i) the requirement of concluding contracts and playing the principal role in concluding contracts, (ii) the relevance of the conclusion of those contracts “in the name of” the foreign enterprise and (iii) the independent agent exception. Special attention is also devoted to the question whether, within the current international framework, the PE concept should be expanded, particularly with regard to the digital economy.

Individual country reports provide an in-depth analysis of the domestic tax regimes and actual tax treaty application and practices by several states, namely Australia, Belgium, Brazil, China (People’s Rep.), France, Germany, India, Italy, Luxembourg, the Netherlands, Norway, South Africa, Spain, Sweden, Switzerland, the United Kingdom and the United States.

This book presents a unique and detailed examination of the PE definition in an international context and is therefore an essential reference source for international tax students, practitioners and academics.

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Notes

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