

## IBFD Online Course: Permanent Establishments

### Learning objectives

After completing this course you will be able to:

- Explain the importance of the PE concept in the attribution of taxation rights on profits derived from cross-border business activities
- Identify the variety of ways in which states define equivalent concepts in their domestic law
- Categorize the various types of PE dealt with in both the OECD and the UN Model
- Determine whether cross-border business activities of an enterprise constitute a PE
- Identify the consequences of finding a PE in a state

### Pre-requisites

This course provides an in-depth analysis of the concept of permanent establishments in the context of tax treaties. Participants should be familiar with the structure of tax treaties and their allocation rules in addition to the domestic law of at least one state, in particular as it relates to cross-border situations. Participants, particularly those with limited knowledge of tax treaties, are recommended to first complete the course ITA101 Fundamentals of Tax Treaties.

### Study time

Audio lessons: 4 hours  
 Self study: 19.5 hours  
 Further reading (optional): 44 hours  
 Extra: video interview with international tax expert

### Advanced preparation

No advanced preparation is necessary. All required study material is provided in the online course.

### Course program

Lessons	Topics Covered
Lesson 1: <b>Introduction to the PE Concept</b>	<ul style="list-style-type: none"> <li>· When does domestic law allow the taxation of a non-resident enterprise? – domestic law thresholds</li> <li>· When do treaties allow the taxation of a non-resident enterprise?                             <ul style="list-style-type: none"> <li>- General treaty threshold – PE concept (Art. 5)</li> <li>- Specific treaty threshold for independent professionals – fixed base concept (Art. 14 – now only in UN Model)</li> </ul> </li> <li>· Differences between the PE definitions in the OECD and UN Models</li> <li>· What happens when the treaty threshold is different from the domestic law threshold?</li> <li>· When do treaties not apply the PE threshold? – specific types of income</li> </ul>
Lesson 2: <b>Basic Rule PE</b>	<ul style="list-style-type: none"> <li>· Essential elements of the Basic PE definition</li> <li>· Some grey areas</li> <li>· A controversial example</li> </ul>
<i>Revision quiz</i>	<ul style="list-style-type: none"> <li>· Revise key concepts covered in Lessons 1 &amp; 2</li> <li>· Apply the Basic PE definition to a wide number of cases</li> </ul>
Lesson 3a: <b>Construction Site PE</b>	<ul style="list-style-type: none"> <li>· Construction Site PE in the OECD Model                             <ul style="list-style-type: none"> <li>- Relationship with Basic PE definition</li> <li>- What is construction?</li> <li>- Identification of a single project</li> <li>- Timing issues</li> <li>- Subcontractors and partnerships</li> <li>- Anti-avoidance</li> </ul> </li> <li>· Construction Site PE in the UN Model</li> <li>· Case Study</li> </ul>
Lesson 3b: <b>Services PE</b>	<ul style="list-style-type: none"> <li>· The allocation of taxing rights regarding the rendering of services</li> <li>· Main approach of the OECD Model</li> <li>· Optional approach in the OECD Commentary</li> <li>· Approach of the UN Model</li> <li>· Taxation of service fees outside the PE context – international controversy</li> <li>· Case Study</li> </ul>

## IBFD Online Courses Program

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Lesson 3c: <b>Agency PE</b>	<ul style="list-style-type: none"><li>· Introduction to Agency PE issues</li><li>· Notion of dependent agent</li><li>· Notion of independent agent</li><li>· UN approach to agents</li><li>· OECD Model 2017 update</li><li>· Amended notion of dependent agent</li><li>· Amended notion of independent agent</li></ul>
Lesson 3d : <b>Special Cases</b>	<ul style="list-style-type: none"><li>· Leasing</li><li>· Electronic commerce</li><li>· Natural resources</li><li>· PEs within a corporate group</li><li>·</li></ul>
Lesson 4: <b>PE Exceptions</b>	<ul style="list-style-type: none"><li>· Exceptions to the PE concept in the OECD and UN Models<ul style="list-style-type: none"><li>- General principle</li><li>- Specific examples</li></ul></li><li>· Anti-fragmentation rule</li><li>· Automated equipment</li></ul>
<i>Revision quiz</i>	<ul style="list-style-type: none"><li>· Revise key concepts</li><li>· Applying concepts to a wide number of cases</li></ul>
Lesson 6a: <b>Consequences of finding a PE</b>	<ul style="list-style-type: none"><li>· Profit allocation (Art. 7)</li><li>· Consequences for other allocation rules (Arts. 10, 11, 12, 13,15, 21, 22 and 24)</li><li>· Entitlement to treaty benefits</li></ul>
<i>Further reading</i>	<ul style="list-style-type: none"><li>· Core OECD and UN Texts (Articles 5 and 14 and Commentaries)</li><li>· Articles further exploring PE issues</li></ul>



**Also included in this course:** *Carlos Gutiérrez Puente interviews Prof. Jan de Goede on a number of important and relevant PE issues:*

- The relevance of the PE concept, including also disputes arising with respect to it in practice
- Differences between the OECD Model and the UN Model: Policy issues
- Amendments to Article 5 and its Commentaries in the 2017 updates of the OECD Model and the UN Model, resulting from policy issues
- The relevance of these changes in practice (OECD/G20 BEPS Action 7 recommendations)
- The PE concept: Compromises and their sustainability in a digitalized business environment

### **How to register:**

To register for an IBFD online course, please visit [www.ibfd.org](http://www.ibfd.org) or contact [onlinecourses@ibfd.org](mailto:onlinecourses@ibfd.org)