

2019 WU Transfer Pricing Symposium

Attribution of Profits to Permanent Establishments: Current Developments, Relevant Issues and Possible Solutions



October 14, 2019 • Vienna (Austria)



Institute for Austrian and
International Tax Law **Vienna**
WU Transfer Pricing Center

Content and Structure

8.30 – 9.00 **Registration and welcome coffee**

9.00 – 9.15 **Introduction**

9.15 – 10.45 **Session 1: Art 7 AOA vs Art 9 OECD/UN Models**

The OECD's work under the Authorised OECD Approach (AOA), BEPS Action 7 as well as under BEPS Actions 8-10 have minimized the gap between the principles of profit attribution under article 7 and article 9 of the OECD Model. This session will examine, with the use of practical case studies, what is identical and what is different in the structure, content and purposes of both articles in the post-BEPS world. In particular, it will address the notions of "significant people functions", for the purposes of article 7, and "conduct of the parties" as well as "significant functions", for the purposes of article 9, as well as the characterization of "transactions" vs "dealings".

11.15 – 12.45 **Session 2: Profit Attribution to PEs and PE Exemptions (Art 5 para 4)**

The OECD work on BEPS Action 7 has aimed to modify the PE definition to prevent its circumvention by taxpayers. The changes to the PE concept as an outcome of this work were incorporated into article 5 of 2017 OECD Model Convention. Later on, the OECD released an additional guidance on how the existing rules of Article 7 would apply to PEs resulting from these changes. In this respect, this session will first focus on the amended content of article 5(4) of the OECD Model and how the threshold of core activities should be defined. Further, the session will explore how to deal with the anti-fragmentation rule in the new paragraph 4.1 of Article 5. Finally, it will be demonstrated, by means of practical case studies, how profits should be attributed to PEs in these situations.

12.45 - 14.00 **Lunch**

14.00 – 15.30 **Session 3: Profit Attribution to Agency PEs (Art 5 para 5 and 6)**

The BEPS related changes to the PE definition also covered the Dependent Agent PE (DAPE) concept. As a result of the OECD work under BEPS Action 7, the DAPE definition has been broadened to include commissionaire arrangements, namely contracts concluded by an agent on behalf of, but not necessarily in the name of, its principal, for the transfer of the principal's property. The Additional Guidance on Attribution of profits to a PE also illustrated the different rules on profit allocation to a DAPE resulting from the changes in the definition of the concept. The session will explore, in particular, whether the differences in application of Articles 7 and 9 of the OECD Model will have an impact on the result of profit allocation. Practical case studies will demonstrate how profits should be allocated to a DAPE in view of the underlying functionalities.

16.00 – 17.30 **Session 4: Profit Attribution to Significant Economic Presence**

The recent introduction into the tax legislations of some countries (e.g. India, Israel and Italy) of the definitions of "digital" PEs, whereby a PE of a non-resident company is deemed to exist in a country when that non-resident company has a significant and continuous economic presence in that country without having any physical presence, will necessarily generate the issue of assessing how much profits to attribute to a digital PE. This significant issue is still open to discussions and different interpretations. This session aims at illustrating the recent OECD and EU developments on the issue by means of practical case studies, as well as by providing some preliminary solutions to the issue.

17.30 – 17.40 **Concluding remarks**

Speakers

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* pending IRA authorization

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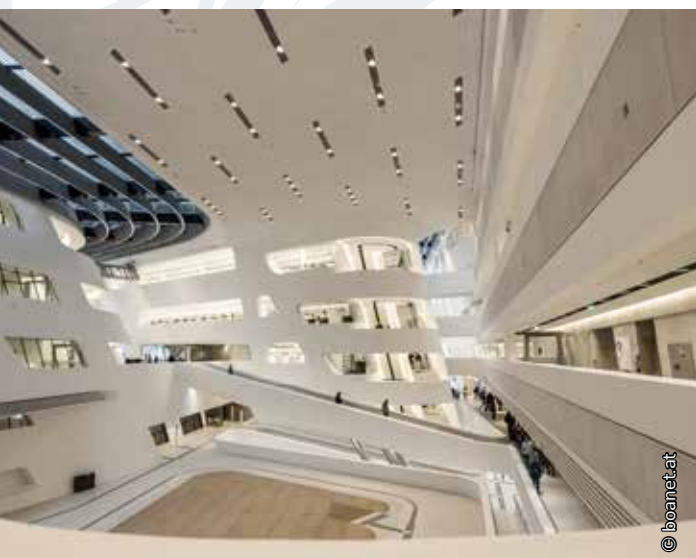
Associate Director Taxes EECAR/TCAU/European Governance, **Procter & Gamble**

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WU TRANSFER PRICING CENTER

The increasing global trade and the role of multinational enterprises in the global economy have boosted the relevance of transfer pricing topics. The number of countries having transfer pricing legislation in place has increased from a mere four in 1994 to more than 100 in 2016. Therefore, transfer pricing is **one of the most relevant and challenging topics** in the international tax environment.

The **Institute for Austrian and International Tax Law** (www.wu.ac.at/en/taxlaw), part of WU (Vienna University of Economics and Business), is among the largest academic institutions in the world carrying out research and teaching about tax law. Its main fields of activities are corporate tax law, international tax law, and European tax law. Staff also participate in numerous national and international tax projects and have developed an impressive network with contacts to over 90 countries over the years.

The Institute's staff currently comprises of 60 academic staff members, 16 administrative staff members as well as many visiting professors and guest researchers from around the world.

The **WU Transfer Pricing Center** (www.wu.ac.at/taxlaw/institute/wutpc) at the Institute for Austrian and International Tax Law aims at researching, analysing, debating, and teaching transfer pricing topics. Through its activities, it positions itself as a global institution providing the missing nexus between theory and practice in approaching transfer pricing topics. The center combines both the academic and practical perspectives and its approach is highly international and interdisciplinary.

Organisation

PARTICIPATION FEE

The participation fee is **EUR 550.-**

This includes all materials, lunch, coffee breaks and refreshments. Costs of travel and accommodation are not included.

A **20% “early bird discount”** is applicable to applications sent by **August 15, 2019**.

A **full waiver** on the registration fee may be granted to a limited number of applications from full-time academics who are employed by a University or other academic institutions.

PAYMENT

You will receive an invoice for the participation fee of EUR 550.- (or of EUR 440.- in case of the “early bird discount”). We kindly ask you to transfer your payment within three weeks of the date of the invoice.

CANCELLATION

Any **notification of cancellation** of registration must be sent in writing to Christina Sudrat (christina.sudrat@wu.ac.at). In case of cancellation before September 14, 2019, the participation fee will be refunded. No refund can be made for cancellations received after September 14, 2019.

PHOTOS

We would like to inform you that photos will be taken at this event. Should you not wish to be photographed, we kindly ask you to avoid the camera and/ or inform Ms. Christina Sudrat (christina.sudrat@wu.ac.at). Photos will be used to inform the public about the activities of the Institute.

VENUE

WU (Vienna University of Economics and Business)

Welthandelsplatz 1

1020 Vienna, Austria

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CONTACT DETAILS

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Registration form

I hereby submit my application for the **Transfer Pricing Symposium** on October 14, 2019 in Vienna (Austria).

Please write clearly using block letters and submit to: **christina.sudrat@wu.ac.at**

First name _____

Surname _____

Academic Title (e.g. BA, MA, LL.M., Dr.) _____

Gender male female

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Current position and company / organisation _____

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BILLING ADDRESS

Please indicate the exact name and address to be shown on the invoice. You will receive the invoice by email only unless you specifically request a hard copy by post.

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Please tick the boxes as appropriate:

I am happy for my personal details to be included in the **list of participants** which I understand will be distributed to all registered course participants:

- Yes (Name Email Country Affiliation)
 No

I consent to being informed about the activities of the WU Transfer Pricing Center / Institute for Austrian and International Tax Law (**e-mail newsletter/post**). For this purpose, I allow the Institute for Austrian and International Tax Law to file and process my data (name, address, e-mail address). I can revoke my consent at any time, whereby the legality of the data storage and processing on the basis of the prior consent until the point of the revocation is not affected. My revocation may be declared at any time in writing to the Institute for Austrian and International Tax Law or by e-mail to officetaxlaw@wu.ac.at.

- Yes (WU TPC Institute)
 No

Date, Signature _____



Information and Contact

For further information about the WU Transfer Pricing Center at the Institute for Austrian and International Tax Law please visit:

wu.ac.at/taxlaw/institute/wutpc/

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