



HOME OFFICE PERMANENT ESTABLISHMENT SURVEY 2026

LAST UPDATED
ON 12TH
OCTOBER 2026

Your Global Tax Partner

CONTENTS

INTRODUCTION	3
AUSTRIA	4
BELGIUM	5
CANADA	6
CROATIA	7
CZECH REPUBLIC	8
DENMARK	9
FINLAND	10
FRANCE	11
GERMANY	12
GREECE	13
HUNGARY	14
INDONESIA	15
IRELAND	16
ITALY	17
MAURITIUS	19
MEXICO	20
NETHERLANDS	21
NORWAY	22
PORTUGAL	23
ROMANIA	24
SINGAPORE	25
SLOVAKIA	27
SLOVENIA	28
SOUTH AFRICA	29
SWEDEN	30
SWITZERLAND	31
UNITED KINGDOM	32

When might an employee's home become a taxable presence for their foreign employer? Taxand's Home Office Permanent Establishment Survey examines this risk.

The increase in remote and hybrid working makes this an issue for international employers. Employees now often perform their duties from home without being physically present at their employer's premises. Despite this prevalence, many questions remain in numerous jurisdictions. Can an employee's workplace at home be regarded as a fixed place of business "at the disposal" of the foreign employer? Alternatively, can the employee's activities otherwise satisfy the requirements needed for a dependent agent or management permanent establishment? If a permanent establishment is deemed to have been created, the employer may face corporate tax filing and wage tax withholding obligations in addition to the resulting compliance requirements.

Aims and focus

The survey focuses on employees who work from home in a jurisdiction different to the one where their employer is established. It examines whether, under domestic law and treaty practice of each participating country, such remote-working activities may give rise to a permanent establishment for corporate and/or wage tax purposes. The responses suggest that the main consideration is whether the employer has a fixed place of business at its disposal. Sales and distribution activities, as well as the activities

of a managing director working from home, may also increase the risk that a dependent agent or management permanent establishment is created. These risks may arise even in the absence of a fixed place of business.

The survey also investigates the impact of the 2025 revisions to the OECD Commentary on Article 5 of the Model Tax Convention. Several jurisdictions have not objected to these revisions, which are particularly relevant to outbound structures in which an employee works abroad for a domestic employer. In such cases, the jurisdiction in which the employer's home is found may have to recognise that a foreign permanent establishment exists. This would mean it must exempt the attributable profits or remuneration accordingly. The survey further looks into whether participating countries expect their domestic law to be amended so that the OECD's revised position can be formally adopted. Some jurisdictions have gone further. They have issued domestic guidance confirming that, in most cases, remote-working days alone are insufficient to result in the creation of a permanent establishment. However, they warn that a dependent agent analysis remains relevant whenever the remote employee exercises significant decision-making authority or habitually concludes contracts on the employer's behalf.

Practical application

The Home Office Permanent Establishment Survey provides an initial overview of the permanent establishment risks for international groups with employees who work from home in different countries to the employer. Its findings are intended to help employers identify arrangements that require closer scrutiny and a detailed case-by-case analysis. We hope this guide serves as a useful resource for identifying such cases. My colleagues and I are ready to assist anyone who needs further advice.

*Introduction by Christian Hick,
Flick Gocke Schaumburg, Taxand Germany*



❖ Does your country have a clear position on whether working from home for a foreign employer could result in a 'permanent establishment' for corporate and/or wage tax purposes?

According to a decree of the Austrian Ministry of Finance, a home-office can be regarded as a permanent establishment (PE) under Art. 5 (1) of the OECD Model Tax Convention if the following basic conditions are fulfilled.

Fixed place of business – The home-office must constitute a fixed business location that the enterprise uses on a continuous basis for a certain period. This requirement follows the OECD commentary (paragraphs 28-34 of paragraph 44). The exemptions in Art. 5 (4) for preparatory or auxiliary activities must not apply, and the location must actually be a business establishment of the enterprise, i.e. genuine business activities are carried out there.

Work-time indicator – A home-office will generally be deemed a PE when the employee spends at least 50 % of his or her working time in that office over a twelve-month period. Sporadic or occasional use does not satisfy this threshold.

Economic reason of the enterprise – Even if the work-time indicator is met, a PE will only exist if the enterprise has a genuine economic justification for the employee to work from that jurisdiction. An economic reason is present when the employee's physical presence in the state facilitates the enterprise's business – for example, when the employee regularly contacts customers, suppliers, related companies or other parties located in that state, and such contact would be less efficient otherwise.

In practice, therefore, a home-office constitutes a PE when both the quantitative condition ($\geq 50\%$ of work time in the office within 12 months) and the qualitative condition (economic reason for the enterprise to maintain a fixed place of business in that jurisdiction) are satisfied. When these criteria are met, the income attributable to the home-office can be taxed by Austria in accordance with the OECD Model and Austrian TP rules. Different rules apply if the person is the only or most important person.

If the employee performs sales and distribution activities for the foreign employer in Austria the requirements for the creation of a permanent representative may be satisfied even if no fixed place of business is given.

❖ Do the recent revisions to the OECD Commentary on Article 5 of the Model Tax Convention impact this position?

Austria has taken over the OECD Update published on Nov 19, 2025 in the Austrian decree published on January 4, 2026.

❖ Do you expect the national law to be amended to adopt the OECD's view?

Austria has taken over the OECD Update published on Nov 19, 2025 in the Austrian decree published on January 4, 2026. A change of law is not expected as this interpretation should be covered by existing law.



CONTACT

Harald Galla
LeitnerLeitner

harald.galla@
leitnerleitner.com
+43 1 71 89 890 - 2532



Andrea Rieser-Fruhmenn
LeitnerLeitner

andrea-rieser-fruhmann@
leitnerleitner.com
+43 1 71 89 890 - 2474



❖ Does your country have a clear position on whether working from home for a foreign employer could result in a 'permanent establishment' for corporate and/or wage tax purposes?

Belgium has adopted a relatively clear position regarding the potential creation of a material permanent establishment for corporate tax purposes through home working. In a parliamentary response issued on 19 July 2023, the Minister of Finance stated that where home working is performed on a continuous basis (i.e., more than 50% of the employee's working time), a home office will generally be considered to be at the employer's disposal only if the employee has no real possibility to work from another office made available by the employer or if that office is hardly used in practice. This approach was subsequently reflected in the Belgium-Netherlands agreement of 23 November 2023, under which no PE generally arises where teleworking represents 50% or less of the employee's working time, while a more detailed analysis is required if that threshold is exceeded. A PE is more likely to exist where the employer requires the employee to work from home and no alternative workplace is available, whereas teleworking driven by the employee's personal preference should generally not create a PE.

For wage tax purposes, Belgium does not appear to have adopted any specific domestic guidance linked to the PE analysis of home offices.

❖ Do the recent revisions to the OECD Commentary on Article 5 of the Model Tax Convention impact this position?

Yes. The revised OECD Commentary issued in November 2025 introduced a new two-step approach based on (i) a 50% home working threshold and (ii) the existence of a business reason justifying the employee's presence in the relevant jurisdiction. Belgium has confirmed that, as an OECD member state, it follows the OECD Commentary and that its tax authorities interpret tax treaties in light of the most recent version of the Commentary.

However, some uncertainty remains in the Belgian-Dutch context. Although the 2023 Belgium-Netherlands agreement remains binding on both states, it was based on OECD Commentary provisions that have since been replaced. The Belgian Minister of Finance has therefore acknowledged that domestic courts could opt to apply the revised OECD Commentary when interpreting permanent establishment issues.

❖ Do you expect the national law to be amended to adopt the OECD's view?

No. Belgium has expressly stated that it does not intend to incorporate the new OECD Commentary into its domestic legislation or bilateral tax treaties. The Belgian position is that the OECD Commentary should continue to be applied dynamically when interpreting tax treaties, without requiring legislative amendments.



CONTACT

Pierre-Olivier van Caubergh

Arteo

po.vancaubergh@arteo.law

00 32 2 477 17 56 63



❖ Does your country have a clear position on whether working from home for a foreign employer could result in a 'permanent establishment' for corporate and/or wage tax purposes?

Canada's tax treaties generally provide that the business profits of a non-resident corporation are not subject to Canadian tax unless the non-resident corporation carries on business in Canada through a permanent establishment ("PE") situated in Canada and the business profits are attributed to that PE.

The creation of a PE by a foreign employer in Canada is a fact-specific inquiry. A home office does not automatically constitute a PE merely because an employee works remotely from Canada. Generally, the following types of PE's can be found in Canada's tax treaties (the Canadian federal/provincial definitions generally mirroring the definition found in Canadian tax treaties): (i) a fixed place of business PE (including certain projects that exist for a specified period of time), (ii) a services PE; or a (iii) dependent agent PE.

(i) A fixed place of business PE generally requires that the employer have a fixed place of business in Canada through which its business is wholly or partly carried on, with the analysis focusing on whether the home office is sufficiently fixed, used for the employer's business, and at the employer's disposal.

(ii) A services PE may arise where services are rendered in Canada and certain requirements (e.g. relating to the duration of the services) are met. For example, certain of Canada's tax treaties deem there to be PE where an individual is present in Canada for a period or periods aggregating 183 days or more in any twelve-month period, assuming other conditions relating to gross revenues are met.

(iii) A dependent agent PE may arise where a dependent agent or employee (including an agent or employee working from home) has and habitually exercises an authority to conclude contracts in the name of a non-resident corporation.

For wage tax/withholding tax purposes, the existence of a home office PE determines whether Canada may tax the business profits of the non-resident. However, Regulation 102 and Regulation 105 withholding obligations operate independently and will generally apply where employment duties or services are performed in Canada, even in the absence of a PE. Where the non-resident is entitled to treaty protection (i.e.: there is no PE in Canada under the applicable tax treaty), the withholding requirement may be reduced or eliminated through the Canada Revenue Agency's ("CRA") waiver procedures. However, such relief is not automatic and must generally be applied for and obtained in advance. Absent an approved waiver or other specific relief, the applicable withholding obligations will generally remain in place notwithstanding the absence of a PE.

In the summer of 2025, the CRA conducted an external consultation on the Regulation 105 waiver process. While changes to the process for obtaining treaty-based waivers may be proposed as a result of the consultation, no such proposals have been announced as of the date of this questionnaire.

❖ Do the recent revisions to the OECD Commentary on Article 5 of the Model Tax Convention impact this position?

While the revised OECD Commentary is relevant to the fixed place of business PE discussed above, it does not affect the services PE or dependent-agent PE analysis.

With respect to a fixed place of business PE, the fact that the home office is not "at the employer's disposal" may no longer, in and of itself, be sufficient to preclude the existence of a fixed place of business PE. Following the updated commentary, where a Canadian based employee performs core sales activities from home on a regular and sustained basis, and where there is a commercial reason for those activities to be carried on in Canada, the risk that the home workspace could be viewed as constituting a fixed place of business PE has increased.

Finally, the recent revisions to the OECD commentary do not address the Regulation 102 and 105 withholding requirements and the CRA has not issued any commentary on their application to Regulation 102 and 105.

❖ Do you expect the national law to be amended to adopt the OECD's view?

There has been no indication that Canadian law will be amended to formally adopt the revised OECD commentary. The Government of Canada has not filed a reservation or observation objecting to the updates to the commentary on PEs. Historically, Canadian courts and the CRA have treated OECD Commentary as a persuasive, though not determinative, aid to treaty interpretation. As of the date of this questionnaire, the CRA has not issued a formal statement expressly confirming whether it will adopt or apply the revisions to the OECD Commentary on PEs.

CONTACT

Joelle Kabouchi
Borden Ladner Gervais
JKabouchi@blg.com
 416.367.6310





❖ **Does your country have a clear position on whether working from home for a foreign employer could result in a 'permanent establishment' for corporate and/or wage tax purposes?**

Croatian law does not contain a specific statutory rule or published tax authority guidance dealing with "home office permanent establishments". Therefore, Croatia does not currently have a clear, separate position confirming whether working from home in Croatia for a foreign employer would or would not, by itself, create a permanent establishment.

The analysis is based on the general PE rules under the applicable double tax treaty and the Croatian General Tax Act. Under domestic law, a PE may in principle arise as a fixed place PE, service PE or dependent agent PE.

❖ **Do the recent revisions to the OECD Commentary on Article 5 of the Model Tax Convention impact this position?**

Since Croatian law does not contain specific rules on home office permanent establishments, the updated OECD Commentary may be relevant as interpretative guidance when applying the general PE rules.

❖ **Do you expect the national law to be amended to adopt the OECD's view?**

Based on the information currently available, there are no indications that Croatia intends to introduce specific amendments to its domestic PE rules in response to the OECD 2025 Commentary on home office permanent establishments.



CONTACT

Pavo Djedovic

LeitnerLeitner

Pavo.Djedovic@leitnerleitner.com

+385 1 606 44 10



❖ Does your country have a clear position on whether working from home for a foreign employer could result in a 'permanent establishment' for corporate and/or wage tax purposes?

Under Czech law, a home office may constitute a permanent establishment (PE) of a foreign employer. There are no specific rules or exemptions for home office arrangements; the position is determined under the general PE provisions of the Income Taxes Act and the applicable double tax treaty. The Czech tax authorities interpret the requirement that a fixed place of business be at the disposal of the enterprise broadly, and the absence of a legal right of access to the employee's premises is not regarded as decisive. A PE may therefore arise where the home office is used with a sufficient degree of permanence and the employee carries out activities exceeding a preparatory or auxiliary nature, in particular core business or customer-facing activities. Depending on the facts, a service PE (where services are provided in the Czech Republic for more than six months in any twelve-month period) or an agency PE may also require consideration.

Where a foreign employer employs individuals in the Czech Republic, Czech employer wage tax obligations may also arise. In particular, where employees work in the Czech Republic for more than 183 days, the employer is generally required to register as a Czech wage tax payer and operate Czech payroll. Since 1 January 2026, employers are also subject to the single monthly employer reporting regime (JMHZ). Both the employer and each employee must be registered before employment commences in order to enable monthly reporting.

The analysis is based on the general PE rules under the applicable double tax treaty and the Czech Income Tax Act. Under domestic law, a PE may in principle arise as a fixed place PE, service PE or dependent agent PE.

❖ Do the recent revisions to the OECD Commentary on Article 5 of the Model Tax Convention impact this position?

The Czech Republic has reserved its position to the entirety of the 2025 OECD guidance on cross-border home office arrangements. In particular, it does not accept limiting the existence of a permanent establishment by introducing determinative criteria specific to home office arrangements, including the 50% working-time threshold and the commercial reason test. Accordingly, the Czech tax authorities will continue to apply the traditional treaty analysis based on a fixed place of business at the disposal of the enterprise, permanence and the nature of the activities performed, rather than the new OECD limiting criteria, including for open tax periods.

❖ Do you expect the national law to be amended to adopt the OECD's view?

No. As the Czech Republic has reserved its position on the 2025 OECD Commentary, no amendments to Czech domestic law are currently expected. The Czech tax authorities are expected to continue applying the existing domestic rules and the relevant double tax treaties when assessing home office permanent establishments.



CONTACT

Miroslav Král

LeitnerLeitner

Miroslav.Kral@leitnerleitner.com

+420 228 883 917



Markéta Čepelíková

LeitnerLeitner

Marketa.Cepelikova@leitnerleitner.com

+420 228 883 922



❖ Does your country have a clear position on whether working from home for a foreign employer could result in a 'permanent establishment' for corporate and/or wage tax purposes?

Danish tax practice shows that working from home for a foreign employer may create a permanent establishment (PE) for corporate tax purposes if the home office is considered to be at the foreign employer's disposal. Where a PE is established, the foreign employer will also become subject to Danish payroll reporting and withholding obligations in respect of remuneration attributable to that PE. The PE assessment is made on a case-by-case basis and depends primarily on whether the employee carries on the enterprise's business from the home office to a sufficient extent.

In practice, factors supporting the existence of a PE include that the employee has no other fixed place of work available; the employer accepts that the employee performs part of their work from home; the work from the home office is regular rather than occasional or sporadic; and, in particular, business activities are effectively carried out from Denmark. This may be the case where the employer has a business interest in the work being performed from Denmark, where the employee is involved in the day-to-day management of the enterprise, or where the employee performs sales functions. Conversely, it weighs against the existence of a PE if the employee works from Denmark solely for personal reasons.

Danish practice also demonstrates that, to date, no absolute safe-harbour threshold has been established for the amount of work that may be performed from a home office before it may give rise to a PE.

❖ Do the recent revisions to the OECD Commentary on Article 5 of the Model Tax Convention impact this position?

The revisions are expected to have a direct impact on Danish practice. However, the Danish tax authorities have not yet issued specific guidance on the 2025 update, and no recent practice on the matter has been published after the OECD revisions. It therefore remains unclear what exact impact the revisions will have on Danish practice. One expected change is that, going forward, a permanent establishment will, as a general rule, not arise where an employee performs less than 50% of their work from a home office. This has not necessarily been the position applied in Danish practice to date.

We do not expect Danish law to be amended. However, we expect Danish administrative practice to follow the guidelines going forward, and therefore expect the Danish Tax Agency's guidelines to be amended.



CONTACT
Birka Mouritzen
Bech-Bruun
bsa@bechbruun.com
+45 25 26 35 70



❖ **Does your country have a clear position on whether working from home for a foreign employer could result in a 'permanent establishment' for corporate and/or wage tax purposes?**

Under the Finnish Income Tax Act and guidance issued by the Finnish Tax Administration (FTA), a home office may constitute a permanent establishment (PE) in Finland for a foreign enterprise. A PE may arise where there is an objectively identifiable business rationale for the employee working from Finland, such as serving Finnish customers or targeting sales in Finland or its neighbouring countries. However, work performed from home solely at the employee's own request, with no business connection to Finland or its neighbouring area, is generally not considered to create a PE.

When assessing whether a PE has been formed, the employee's duties are considered as a whole, together with the relationship between the work performed from the home office and the enterprise's other activities and the work performed by the individual elsewhere. Moreover, only activities conducted from an employee's home that go beyond a merely preparatory or auxiliary character may constitute a PE in Finland for a foreign enterprise. Where a PE is found to exist for corporate tax purposes, this also triggers additional obligations in Finland for the employer, such as the duty to withhold advance tax on wages, remit those withholdings to the FTA, and report wage payments to the Finnish Incomes Register.

❖ **Do the recent revisions to the OECD Commentary on Article 5 of the Model Tax Convention impact this position?**

Finnish tax practice has consistently recognised the OECD Commentary as a relevant source for the interpretation of tax treaties in Finland. It is also anticipated that Finnish tax practice will recognise the 2025 update to the Commentary on Article 5 irrespective of when the treaty in question was concluded, rather than applying it only to treaties entered into after the Commentary update. However, the FTA's current administrative guidance on home office PEs reflects the OECD's position prior to the 2025 update, but it is expected that the FTA will revise its guidance to align with the 2025 OECD Commentary.

❖ **Do you expect the national law to be amended to adopt the OECD's view?**

No legislative amendment is anticipated, as Finland regards the OECD Commentary as an interpretive reference rather than a text to be incorporated into domestic law. It is, however, anticipated that the FTA will align its administrative guidance related to PEs to reflect the revisions to the OECD Commentary, though no formal announcement to this effect has been made.



CONTACT

Heikki Wahlroos
Borenium

heikki.wahlroos@borenium.com
+358 20 713 3589



Eveliina Ilonen
Borenium

eveliina.ilonen@borenium.com
+358 20 713 3131



❖ Does your country have a clear position on whether working from home for a foreign employer could result in a 'permanent establishment' for corporate and/or wage tax purposes?

About corporate tax purposes: Under French domestic law, neither legislation, administrative guidance nor case law specifically addresses whether remote working arrangements may create a permanent establishment (PE). The analysis must therefore be conducted on a case-by-case basis by reference to the traditional PE tests, taking into account the functions performed by the employee, the degree of permanence of the activity in France and the authority exercised on behalf of the foreign enterprise.

Likewise, French tax treaties based on the OECD Model do not contain specific provisions addressing remote working arrangements. The PE risk must therefore be assessed under the existing concepts of a fixed place of business and a dependent agent. In practice, the mere fact that an employee works from home in France does not automatically result in a fixed place PE. The analysis generally focuses on whether the home office is effectively at the disposal of the foreign employer and forms part of its business organization in France. Separate consideration must also be given to the possible existence of a dependent agent PE where the individual habitually concludes contracts, or plays the principal role leading to their conclusion. Although French case law does not specifically address ordinary remote working arrangements, French courts have recognized that a private residence may constitute a PE where it effectively serves as the place from which the foreign enterprise's business is managed or operated in France (French Administrative Supreme Court, 12 April 2012, No. 326514, Etis International; French Administrative Supreme Court, 2 November 2011, No. 312407, Pan Lux).

About wage tax purposes: As a preliminary comment, please note that wage tax is only applicable to enterprise generating more than 10% of turnover not subject to VAT. For wage tax purposes, French legislation, administrative guidance and case law do not specifically address remote working arrangements. However, the French tax authorities generally take a broader approach to the notion of an employer established in France than the concept of a PE for corporate income tax purposes. Accordingly, depending on the circumstances, a foreign employer may be regarded as established in France where it maintains a sufficiently permanent and autonomous operational presence in France, even in the absence of a corporate income tax PE.

❖ Do the recent revisions to the OECD Commentary on Article 5 of the Model Tax Convention impact this position?

France has not publicly expressed any disagreement with the revised OECD Commentary. However, the OECD Commentaries constitute interpretative guidance only and do not have binding legal force under French law. They may nevertheless be taken into consideration by

the French tax authorities and French courts when interpreting treaty provisions.

A ministerial response published in the French Senate Official Journal on 6 February 2025 states that, in the majority of situations, remote working days are not, by themselves, sufficient to give rise to a PE within the meaning of Article 5 of the OECD Model Tax Convention. The response nevertheless confirms that the existence of a PE is a factual question that must be assessed on a case-by-case basis, in accordance with the applicable treaty provisions and in light of the OECD Commentary. It also indicates that taxpayers may seek clarification from the French tax authorities through the tax ruling procedure (rescrit) where uncertainty remains (Ministerial Response to Written Question No. 01566, French Senate Official Journal, 6 February 2025, p. 447).

The ministerial response further states that France supports and participates in the OECD's work aimed at clarifying the circumstances in which remote working may create a PE. Nevertheless, where the remote worker exercises significant decision-making authority, habitually concludes contracts or plays the principal role leading to their conclusion, the dependent agent PE analysis remains relevant and should be carefully considered.

❖ Do you expect the national law to be amended to adopt the OECD's view?

There is currently no indication that France intends to introduce specific legislation dealing with the PE implications of cross-border remote working arrangements. The ministerial response of 6 February 2025 rather indicates that the French authorities intend to assess each situation under the applicable treaty provisions and in light of the OECD Commentary, while supporting further clarification at OECD level. Neither the French tax administration nor the French courts have yet developed a comprehensive body of guidance dedicated to remote working arrangements. Accordingly, the assessment is likely to continue to be based on the general PE principles, including the concepts of a fixed place of business and a dependent agent, and on the specific facts and circumstances of each case.



CONTACT

Brice Picard

Arsene

Brice.Picard@

arsene-taxand.com

+33 1 70 38 47 70



❖ **Does your country have a clear position on whether working from home for a foreign employer could result in a 'permanent establishment' for corporate and/or wage tax purposes?**

The creation of a permanent establishment (PE) by a foreign employer requires that the employer has a fixed place of business at its disposal in Germany. Since employers typically do not have the right to use or access their employees' premises, an employee working from home for a foreign employer does not usually result in the existence of a PE for corporate and wage tax purposes.

However, these principles do not apply if the employee performs sales and distribution activities for the foreign employer in Germany or acts as a managing director. In the case of sales and distribution activities, the requirements for the creation of a permanent representative may be satisfied. Additionally, if a managing director works from home, his or her activities could meet the requirements needed for a management PE. In both of these cases, the employer does not need to have a fixed place of business at its disposal in Germany for the creation of a PE.

❖ **Do the recent revisions to the OECD Commentary on Article 5 of the Model Tax Convention impact this position?**

Germany has not objected to revisions to the OECD Commentary. This is particularly significant in outbound structures, where an employee works from home in a foreign jurisdiction for his or her German employer. In such cases, Germany may be required to recognise that the requirements of a PE are met under foreign domestic law. Consequently, Germany may then be required to exempt relevant profits or the employee's remuneration from taxation in Germany.

❖ **Do you expect the national law to be amended to adopt the OECD's view?**

As the functions and risks attributable to a home-office PE are generally limited from a transfer pricing perspective, Germany is not expected to amend its domestic law by broadening the definition of a permanent establishment in the foreseeable future.



CONTACT
Christian Hick
Flick Gocke Schaumburg
christian.hick@fgs.de
+49 228 9594 - 227



❖ Does your country have a clear position on whether working from home for a foreign employer could result in a 'permanent establishment' for corporate and/or wage tax purposes?

In principle, there are limited administrative guidelines addressing permanent establishment (PE) in general and its interpretation. However, the Greek Tax Administration was among the first to issue detailed domestic administrative guidance on tax residency issues and permanent establishment issues in the context of the COVID-19 pandemic, through two dedicated circulars (E. 2113/2020 and E. 2130/2021). The respective circulars addressed cases where business activities were carried out by an employee through a home office situated in Greece, providing certain indications which were more generally useful in assessing whether working from home can result in a PE for a foreign employer. For example the circulars touched upon assessment factors such as: (i) whether a home office is used on a continuous basis for the business of the enterprise as per the enterprise's requirement, (ii) whether the relevant employment agreement explicitly requires the employee to provide services from home as an obligation, and (iii) whether the enterprise continues to maintain office premises available to the employee.

❖ Do the recent revisions to the OECD Commentary on Article 5 of the Model Tax Convention impact this position?

The domestic law PE definition, which is based on the OECD Model Tax Convention, is required to be interpreted in line with the Commentary to the OECD Model Tax Convention, where relevant to such definition. Where a Tax Convention between Greece and the state of the relevant enterprise exists, its wording, if different, prevails over the domestic definition and the Commentary to the OECD Model Tax Convention is used for interpretation where applicable. Therefore, except where contrary to the wording of an applicable Tax Convention, the recent revisions to the OECD Commentary on Article 5 of the Model Tax Convention would be particularly relevant in the interpretation of PE in a home office situation.

❖ Do you expect the national law to be amended to adopt the OECD's view?

At this time we do not expect that national law would need to be amended to adopt the OECD's view.



CONTACT

Filenia Andreadi

Zepos & Yannopoulos

f.andreadi@zey.com

+30 6944008806



❖ Does your country have a clear position on whether working from home for a foreign employer could result in a 'permanent establishment' for corporate and/or wage tax purposes?

There are no home office specific permanent establishment rules in Hungary. Based on Hungarian legislation, a fixed place permanent establishment means a fixed place of business through which an enterprise carries out its business activities, wholly or partly. Accordingly, both the temporal and physical presence requirements must be met for a fixed place PE to be created. In addition, the business activity must be carried out through individuals acting on behalf of the enterprise. Activities that are of a preparatory or auxiliary character do not create a permanent establishment.

An overseas employer with a permanent establishment in Hungary must register as a wage tax payer and operate Hungarian payroll.

In practice, therefore, a home-office constitutes a PE when both the quantitative condition ($\geq 50\%$ of work time in the office within 12 months) and the qualitative condition (economic reason for the enterprise to maintain a fixed place of business in that jurisdiction) are satisfied. When these criteria are met, the income attributable to the home-office can be taxed by Austria in accordance with the OECD Model and Austrian TP rules. Different rules apply if the person is the only or most important person.

If the employee performs sales and distribution activities for the foreign employer in Austria the requirements for the creation of a permanent representative may be satisfied even if no fixed place of business is given.

❖ Do the recent revisions to the OECD Commentary on Article 5 of the Model Tax Convention impact this position?

Although the Model Convention and its Commentary are not enacted law, Hungary generally considers their provisions to be binding, and bilateral tax treaties concluded on the basis of the OECD Model Convention are enacted legislative instruments.

The latest updates to the OECD Model Convention set out an additional two-part test: a temporal test based solely on the time the employee spends remote working in another country, and a commercial reason test to conclude whether the business has a commercial reason to be operating in the remote location.

According to the updated Commentary, an individual's home would generally not be considered a place of business of the enterprise if the individual worked from that home for less than 50 per cent of the total working time for that enterprise over the course of any twelve-month period commencing or ending in the fiscal year concerned. If this 50 per cent threshold is exceeded, all relevant facts and circumstances must be considered in determining whether the enterprise has a place of business at that location. It must then be assessed whether there is a commercial reason for the individual to perform business-related activities from that location. Where there is no commercial reason, the location would not be a 'place of business' unless other facts and circumstances indicated otherwise.

❖ Do you expect the national law to be amended to adopt the OECD's view?

As the Model Convention and its Commentary are not available in Hungarian language the Hungarian tax authority is expected to assist taxpayers through official guidance, which has not yet been issued on the interpretation of the latest updates of the Convention and the Commentary. During the interim period, according to the Hungarian Ministry for National Economy, the Hungarian tax authority should accept taxpayers applying either the previous or the updated approach when determining whether individuals working from home create a permanent establishment for their overseas employer.



CONTACT

Dr. Nóra Rác

LeitnerLeitner

Nora.Racz@leitnerleitner.com

+36 1 279 29-30



❖ Does your country have a clear position on whether working from home for a foreign employer could result in a 'permanent establishment' for corporate and/or wage tax purposes?

Under Indonesian tax law, an employee working from home for a foreign employer does not automatically create a Permanent Establishment (PE) in Indonesia. Whether a PE exists depends on the facts and circumstances and whether the foreign employer meets the conditions for a PE under Indonesian domestic law and applicable tax treaty.

A PE generally exists where a foreign enterprise has a fixed place of business in Indonesia through which it carries on its business. A home office used by an employee would generally not constitute a PE if the premises are not at the disposal of the foreign employer and are used solely for the employee's convenience.

Nevertheless, a PE may arise where the employee habitually exercises authority to conclude contracts on behalf of the foreign employer or habitually acts the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the foreign employer. In this case, the employee may constitute a dependent agent PE. In the case of a dependent agent PE, the employer does not need to have a fixed place of business at its disposal in Indonesia for the creation of a PE.

In addition, where key management and strategic decisions of the foreign enterprise are effectively made in Indonesia through the employee working from home, there is a possibility that the foreign enterprise could be regarded as having a place of management PE or even determined as domestic tax subject.

❖ Do the recent revisions to the OECD Commentary on Article 5 of the Model Tax Convention impact this position?

Indonesia has not issued specific domestic guidance adopting the recent revisions to the OECD Commentary on Article 5 of the OECD Model Tax Convention. While Indonesia generally refers to the OECD Commentary as an interpretative and supplementary aid when applying tax treaties that follow the OECD Model, the Commentary is not legally binding and cannot override the provisions of Indonesian domestic law or an applicable tax treaty.

Therefore, the recent revisions to the OECD Commentary do not change Indonesia's domestic position on whether an employee working from home for a foreign employer creates a PE. The existence of a PE continues to be determined based on the provisions of the Indonesian Income Tax Law and the relevant tax treaty.

❖ Do you expect the national law to be amended to adopt the OECD's view?

Indonesia has already amended certain aspects of its PE rules through the implementation of the OECD Multilateral Instrument (MLI). Currently, there is no indication that Indonesia intends to introduce a specific rule on home office PE or to formally adopt the OECD Commentary's interpretation on this issue.

Nevertheless, should Indonesia decide to incorporate the OECD's view into its domestic law or administrative guidance in the future, this would provide greater legal certainty for taxpayers by establishing clearer criteria for determining the circumstances in which home office arrangements may give rise to a PE.



CONTACT

Henrietta Kristanto

PB Taxand

henrietta.k@pbtaxand.com

+6221-8356363



❖ Does your country have a clear position on whether working from home for a foreign employer could result in a 'permanent establishment' for corporate and/or wage tax purposes?

Ireland does not have specific legislation or Revenue guidance dealing expressly with home-office permanent establishments. Irish law provides that a non-resident company may be subject to Irish corporation tax where it carries on a trade in Ireland through a "branch or agency", which Revenue considers synonymous with a permanent establishment ("PE"). Revenue guidance refers to the OECD Article 5 definition of a PE as a "fixed place of business through which the business of an enterprise is wholly or partly carried on". Whether a PE exists is a question of fact and depends on the particular circumstances. Accordingly, an employee working from home in Ireland for a foreign employer would not automatically create an Irish PE; however, a PE could arise where the facts support the existence of a fixed place of business through which the employer's business is carried on.

❖ Do the recent revisions to the OECD Commentary on Article 5 of the Model Tax Convention impact this position?

The recent OECD Commentary revisions have not, to date, resulted in any explicit change to Irish domestic law or published Revenue practice. Ireland does not have specific legislation or Revenue guidance dealing with home-office permanent establishments and the existence of a permanent establishment continues to depend on the facts and circumstances of the particular case. Whilst the revised OECD Commentary is relevant in interpreting treaty concepts where applicable, there is no clear indication that it has altered the Irish position regarding home-office permanent establishments.

❖ Do you expect the national law to be amended to adopt the OECD's view?

At present, there is no indication that amendments are planned specifically to address home-office permanent establishments or to incorporate the recent OECD Commentary revisions.



CONTACT

Colin Bolger

William Fry

Colin.Bolger@williamfry.com

+353 1 639 5048



❖ Does your country have a clear position on whether working from home for a foreign employer could result in a 'permanent establishment' for corporate and/or wage tax purposes?

The issue is not specifically addressed in Italian domestic tax law.

Although the Italian tax authorities have acknowledged that working from home for a foreign employer may, in principle, result in a permanent establishment of the latter in Italy (see Circular Letter No. 25/E of 18 August 2023), neither Italian tax authorities nor Italian courts appear to have addressed the issue in a comprehensive manner. In particular, no specific guidance has been provided so far on the criteria that should be met for this purpose and, with respect to the fixed place of business permanent establishment, on the interpretation of the "at the disposal" requirement in a remote-working context.

That said, if a permanent establishment of the foreign employer is found to exist in Italy, the permanent establishment would generally be required to tax in Italy the taxable income referable to the permanent establishment and to act as a withholding tax agent with respect to the employee's remuneration that is subject to Italian taxation.

❖ Do the recent revisions to the OECD Commentary on Article 5 of the Model Tax Convention impact this position?

In the absence of official positions, it is currently difficult to predict the extent to which Italian tax authorities and courts will rely on the amendments introduced in the 2025 OECD Commentary on Article 5.

A recent first-instance tax court decision (Milan lower-tier tax court, Decision No. 1894 of 11 May 2026) referred to the 2025 OECD Commentary and the newly introduced paragraphs dealing with home-office permanent establishments. However, the reference to the revised Commentary appears to be merely incidental, as the case did not concern the existence of a permanent establishment and the court did not explicitly address the interpretative relevance of the revised Commentary in relation to pre-existing tax treaties.

Although Italy did not enter any observation on the revised Commentary, this point should be approached with caution. The absence of an observation may support the view that the updated guidance should be taken into account by the Italian tax authorities. However, it should not be regarded as conclusive, given that disagreement with positions reflected in the OECD Commentary may arise even where no formal observation has been entered.

Accordingly, given the limited Italian administrative practice and case law on this specific issue so far, it remains uncertain whether Italian courts and tax authorities will attribute significant weight to the new guidance or will, instead, rely primarily on the principles reflected in paragraphs 18 and 19 of the pre-2025 OECD Commentary on Article 5. Nor can it be ruled out that different criteria may be developed or given particular relevance in the specific context of home office permanent establishments.



❖ Do you expect the national law to be amended to adopt the OECD's view?

The Italian domestic definition of permanent establishment already substantially mirrors Article 5 of the OECD Model Tax Convention. Therefore, we do not expect Italian domestic tax legislation to be amended specifically to incorporate the OECD's revised position on home office permanent establishments.

It may also be noted that, to implement the general principles of Italy's 2023 Delegation Law for Tax Reform (Law No. 111/2023), the tax residence rules for individuals were revised by, inter alia, introducing a separate criterion based on the mere physical presence in Italy, with the declared aim of aligning residence rules with the performance of work under agile/remote-working arrangements. However, no corresponding revision of the permanent establishment definition was contemplated.

As mentioned, the OECD's updated guidance could still influence Italian judicial interpretation and administrative practice even without formal legislative changes.



CONTACT

Marco Valdonio

Maisto

m.valdonio@maisto.it

+390277693356



Francesco Cardone

Maisto

f.cardone@maisto.it

+390277693305



Teresa Galluccio

Maisto

t.galluccio@maisto.it

+390277693339



- ❖ **Does your country have a clear position on whether working from home for a foreign employer could result in a 'permanent establishment' for corporate and/or wage tax purposes?**
Mauritius does not have a clear position stated in our domestic laws regarding same. In such instances we shall analyse the work done by the employee and see if a permanent establishment is created as per OECD guidelines
- ❖ **Do the recent revisions to the OECD Commentary on Article 5 of the Model Tax Convention impact this position?**
No
- ❖ **Do you expect the national law to be amended to adopt the OECD's view?**
We do not expect the domestic law to be amended.



CONTACT
Feroz Hematally
Taxand Mauritius
feroz.hematally@iqeq.com
+ 230 5255 11 10



Faraaz Jauffur
Taxand Mauritius
faraaz.jauffur@iqeq.com
+230 405 0226



❖ Does your country have a clear position on whether working from home for a foreign employer could result in a 'permanent establishment' for corporate and/or wage tax purposes?

Currently, neither Mexican tax legislation nor the criteria issued by Mexican courts provide specific rules or guidance on whether working from home for a foreign employer could result in a 'permanent establishment', thereby triggering Mexican income tax or other tax obligations.

Notwithstanding the foregoing, pursuant to the provisions related to permanent establishments in Mexico, working from home activities performed from Mexico for a foreign resident company could, under certain circumstances, be deemed to constitute a permanent establishment, including when:

- ❖ The place where home office activities are performed constitutes a place of business at the disposal of the foreign resident in which business activities are carried out, in whole or in part, or independent personal services are rendered.
- ❖ The employee habitually concludes contracts or habitually plays the principal role leading to the conclusion of contracts by the foreign resident, provided that such contracts are concluded on behalf of the foreign resident, provide for the transfer of ownership of property, the granting of the use or enjoyment of property owned by, or in respect of which the foreign resident has the right to use or enjoy, or require the foreign resident to provide services.
- ❖ The employee acts in Mexico as an ostensibly independent agent but does not act in the ordinary course of his or her business or activities.

Accordingly, if any of the circumstances described above are met, a permanent establishment could be deemed to exist under Mexican tax law.

❖ Do the recent revisions to the OECD Commentary on Article 5 of the Model Tax Convention impact this position?

According to various precedents issued by Mexican courts, the Model Tax Convention Commentaries may be used as an interpretative source for the provisions of the Model Tax Convention. In this regard, although the amendments to the Commentary on Article 5 of the Model do not constitute a formal source of Mexican tax law, they may nevertheless serve as persuasive interpretative guidance influencing the application and interpretation of Article 5 of the Treaty.

❖ Do you expect the national law to be amended to adopt the OECD's view?

As of the date hereof, there are no legislative initiatives to amend the Mexican Income Tax Law in order to align it with the criteria and recommendations issued by the OECD. Likewise, we do not believe there is a high likelihood that such amendments will be proposed or enacted in the short to medium term.



CONTACT

Luis Monroy

Mijares, Angoitia, Cortés y Fuentes

lmonroy@macf.com.mx

+52 (55) 5201-7466



❖ Does your country have a clear position on whether working from home for a foreign employer could result in a 'permanent establishment' for corporate and/or wage tax purposes?

Under Dutch tax law, a permanent establishment (PE) generally exists if the following conditions are met: there is a fixed place of business, the business of the enterprise is wholly or partly carried on through that fixed place of business, the place of business is at the disposal of the enterprise, and the activities carried out are not merely of a preparatory or auxiliary nature.

When assessing whether a home office constitutes a permanent establishment, the "at the disposal" criterion is particularly relevant. This requires that the home office is at the employer's disposal, for example because the employer has unrestricted access to the premises or can effectively use the premises as its own place of business. In our experience, this is a relatively stringent requirement and, in practice, it is uncommon for a home office to qualify as a permanent establishment.

For Dutch wage tax purposes, the qualification of a permanent establishment follows the qualification adopted for Dutch corporate income tax purposes.

❖ Do the recent revisions to the OECD Commentary on Article 5 of the Model Tax Convention impact this position?

To date, the Dutch Tax Authorities have not taken an official position on the revised OECD Commentary. However, Dutch tax literature generally suggests that the revised Commentary should be regarded as more than a mere clarification of the existing interpretation. As a result, it appears that the revised OECD Commentary is not considered relevant for the interpretation of tax treaties concluded before the update to the Commentary. We are unable to assess at this stage whether the Dutch Tax Authorities will take the same view.

For tax treaties concluded after the revised OECD commentary was published, the revised OECD commentary is relevant. When assessing whether a permanent establishment exists under these tax treaties, the revised commentary should be taken into account.

❖ Do you expect the national law to be amended to adopt the OECD's view?

This is currently not applicable.



CONTACT

Sander Michaël

Borgen Tax

Sander.michael@borgentax.nl

+31 (0)20 435 64 00



❖ Does your country have a clear position on whether working from home for a foreign employer could result in a 'permanent establishment' for corporate and/or wage tax purposes?

The creation of a PE by a foreign employer requires that the employer has a fixed place of business at its disposal in Norway. The Norwegian Tax Administration's position has been that a home office may constitute a PE, e.g. where the employer does not provide alternative premises, the arrangement is permanent, and the employer has accepted or required it. Previous practice has also indicated that it is irrelevant whether the employee wishes to work from home for personal reasons. In addition, an employee acting as a dependent agent who habitually concludes contracts on behalf of the foreign employer may give rise to a PE.

As regards wage tax, foreign employers with employees working in Norway are obliged to register as employers, report salaries and withhold tax for work performed in Norway, regardless of whether a PE exists. In addition, employer's national insurance contributions must be paid for employees who are members of the Norwegian National Insurance scheme.

❖ Do the recent revisions to the OECD Commentary on Article 5 of the Model Tax Convention impact this position?

The revised OECD Commentary introduces a more nuanced "at the disposal of" test that differs from the Norwegian tax authorities' previous practice. In particular, where employees work in Norway for personal rather than commercial reasons, the new guidelines imply that the home should generally not be considered at the disposal of the enterprise. In other respects as well, the guidelines set out more distinct criteria for when a home office may constitute a PE, which differ from previous practice. We expect that the Norwegian tax authorities will look to and apply the new guidelines when determining future cases, though no specific updated guidance has been published by the authorities to date.

❖ Do you expect the national law to be amended to adopt the OECD's view?

Norway does not have a domestic-law definition of PE; the concept is determined through Norway's tax treaties, based on OECD Model Article 5 and its Commentary. Accordingly, the home office PE question is primarily a matter of treaty interpretation rather than domestic legislative reform. Hence, Norway is not expected to amend its domestic legislation to broaden or narrow the PE definition.



CONTACT

**Petter Aasrum Bjørklund
Selmer**

p.bjorklund@selmer.no
922 59 188



**Are Fagerhaug
Selmer**

a.fagerhaug@selmer.no
982 67017



❖ **Does your country have a clear position on whether working from home for a foreign employer could result in a 'permanent establishment' for corporate and/or wage tax purposes?**

Portugal does not have specific rules or administrative guidelines regarding whether an employee working from home in Portugal for a foreign employer creates a PE. The issue must therefore be assessed under the general Portuguese domestic rules and applicable double tax treaties, taking especially into account the new guidance provided by the OECD Commentaries.

❖ **Do the recent revisions to the OECD Commentary on Article 5 of the Model Tax Convention impact this position?**

The recent revisions to the OECD Commentary on Article 5 do not impact the Portuguese Tax Authority's position since no guidance has been issued on this matter as mentioned above.

❖ **Do you expect the national law to be amended to adopt the OECD's view?**

There is currently no indication that Portugal intends to amend its domestic PE rules specifically to address home-office arrangements.



CONTACT

**Isabel Vieira dos Reis
Garrigues**

isabel.vieira.reis@garrigues.com

+351 213 821 200



❖ Does your country have a clear position on whether working from home for a foreign employer could result in a 'permanent establishment' for corporate and/or wage tax purposes?

Romania does not currently have detailed domestic guidance specifically addressing whether and when an employee's home office may create a permanent establishment (PE) for a foreign employer. In practice, the analysis is based on the general PE provisions in the Romanian Fiscal Code, the applicable tax treaty (where relevant), and the OECD principles. Typically, based on the domestic law and treaty provisions, the key considerations taken into account so far by the Romanian tax authorities could generally be focused on whether the home office is effectively at the disposal of the foreign employer and whether the activities performed there are core business activities rather than preparatory or auxiliary in nature.

From a wage tax perspective, foreign employers should also assess the potential registration, withholding and payroll compliance obligations that may arise in Romania separately from the PE analysis, as these specific payroll compliance obligations do not necessarily follow the outcome of the PE assessment.

❖ Do the recent revisions to the OECD Commentary on Article 5 of the Model Tax Convention impact this position?

Although Romania is not yet an OECD member (being currently in the final stages of its technical evaluations to join the OECD), the OECD Commentary regarding the home-office PE may definitely impact the future PE assessments, as Romania's Fiscal Code ties its PE concept directly to the OECD Commentary.

As such, in absence of specific Romanian guidance on the home-office PE assessment, the revisions of the OECD Commentary are likely to remain an influential reference point for both taxpayers and the Romanian tax authorities when assessing increasingly common remote-working arrangements.

❖ Do you expect the national law to be amended to adopt the OECD's view?

At this stage, there is no indication that Romania intends to introduce specific legislative provisions addressing home office PE assessments. Given that the existing PE definition is already broadly aligned with the OECD Model Tax Convention, it is more likely that an evolution regarding the home-office PE assessments will occur through tax audits, administrative practice and judicial interpretation rather than through a direct legislative amendment.



CONTACT

Adrian Deaconu

Taxhouse

adrian.deaconu@taxhouse.ro

+40 21 316 06 45



Georgiana Matei

Taxhouse

georgiana.matei@taxhouse.ro

+40 21 316 06 45



❖ Does your country have a clear position on whether working from home for a foreign employer could result in a 'permanent establishment' for corporate and/or wage tax purposes?

The concept of a permanent establishment ("PE") is contained in all of Singapore's double taxation agreements ("DTAs"), which are generally based on the OECD Model Tax Convention ("OECD MTC").

Singapore also has a domestic law definition of PE under the Income Tax Act 1947 ("ITA"). While not identical to the OECD MTC definition, it is broadly similar and is used for various purposes under the ITA (for example, in determining when interest or royalties are treated as sourced in Singapore). Although there is no specific guidance from the Inland Revenue Authority of Singapore ("IRAS") on whether a home office may constitute a PE for domestic law purposes, it is arguable that a similar interpretation should apply.

On 30 Jan 2026, IRAS amended its e-Tax Guide, Avoidance of Double Taxation Agreements (DTAs) (4th Edition) (the "DTA e-Tax Guide"), specifically to address home-office situations. IRAS stated that these amendments were intended to reflect the 2025 updates to the OECD MTC and Commentary.

In particular, paragraph 6.15 of the DTA e-Tax Guide now provides that a PE may exist where:

"Work [is] performed from a home or other informal location, where the enterprise used that location on a continuous basis for carrying on its business and the location had effectively been placed at the disposal of the enterprise."

This statement makes clear that working from home for a foreign employer may give rise to a PE for the purposes of Articles 5 and 15 of Singapore's DTAs.

❖ Do the recent revisions to the OECD Commentary on Article 5 of the Model Tax Convention impact this position?

Although the 30 Jan 2026 amendments to the DTA e-Tax Guide were said to reflect the 2025 OECD updates, curiously the wording adopted by IRAS appears, at least on its face, to be more closely aligned with paragraphs 18 and 19 of the 2017 OECD Commentary on Article 5, which focused primarily on whether a home office was "at the disposal" of the enterprise.

The 2025 OECD Commentary took a materially different approach. Paragraphs 18 and 19 of the earlier Commentary were removed and replaced with a substantially more detailed framework contained in paragraphs 44.1 to 44.21 of the revised Commentary on Article 5.

While the revised Commentary to Article 5 does not abandon the "at the disposal" concept altogether, in relation to home offices it has significantly altered its practical importance by introducing:

- ❖ a 50% working-time safe harbour; and
- ❖ an analysis of the commercial reasons for the home-working arrangement.

In many ordinary employee home-office cases, the 2025 framework is narrower and less likely to result in a PE than the approach reflected in the 2017 Commentary.

Notably, however, the amended DTA e-Tax Guide does not expressly refer to either of these new concepts.

One possible explanation is that IRAS deliberately adopted a more conservative general formulation in order to preserve flexibility when assessing the facts of individual cases.

That being said, IRAS' DTA eTaxGuide also states that:

"Reference may generally be made to the OECD's commentary on the OECD MTC ("OECD Commentary") (which may be updated or revised by the OECD from time to time) for information on the interpretation of the provisions of Singapore's DTAs. However, it should be noted that there are some differences between Singapore's DTAs and the OECD MTC. Singapore has reflected the main areas of differences in the "Non-OECD economies' positions on the OECD Model Tax Convention" of the OECD MTC."



We also note that Singapore has not entered any reservation in relation to the 2025 OECD revisions concerning home-office permanent establishments.

Accordingly, we would expect taxpayers to be able to rely on the 2025 Commentary when arguing that a home office does not constitute a PE. In our view, IRAS is likely to give significant weight to the revised Commentary. Nevertheless, the wording adopted in the DTA e-Tax Guide suggests that IRAS may have intended to retain a degree of flexibility in applying the PE analysis to particular fact patterns

❖ **Do you expect the national law to be amended to adopt the OECD's view?**

No



CONTACT
Stacy Choong
Withers KhattarWong
Stacy.Choong@
withersworldwide.com
+65 6535 6844



Zenzel Chew
Withers KhattarWong
Zenzel.Chew@
withersworldwide.com
+65 6535 6844



Yeoh Lian Chuan
Withers KhattarWong
LianChuan.Yeoh@
withersworldwide.com
+65 6535 6844



❖ Does your country have a clear position on whether working from home for a foreign employer could result in a 'permanent establishment' for corporate and/or wage tax purposes?

Slovakia does not currently have specific legal provisions or an official guidance addressing whether employee's home office automatically creates a permanent establishment (PE) for a foreign employer. Instead, the issue is assessed under the general PE provisions in Section 16 of the Slovak Income Tax Act together with the applicable double tax treaty, if there is one. Under Section 16, a permanent establishment generally arises where a non-resident has a fixed place or facility through which it wholly or partly carries on its business activities in Slovakia, such as an office, workplace or other place of business. The Slovak Financial Administration takes the position that the existence of a PE must be determined in accordance with both domestic law and the relevant tax treaty, meaning that each case requires an individual assessment. These obligations must therefore be assessed separately on a case-by-case basis.. Consequently, an employee working from home in Slovakia does not, by itself, create a PE; however, a PE may arise where the home office effectively constitutes a fixed place of business of the foreign company or where the employee habitually concludes or plays the principal role in concluding contracts in Slovakia. In principle, the main practical risk typically relates to the company's statutory bodies, in particular the Board of Directors, as they hold the highest level of decision-making authority on behalf of the employer.

If a foreign employer is considered to have created a permanent establishment in Slovakia, this has also implications for its Slovak payroll tax obligations. To date, there is no Slovak case law specifically addressing whether cross-border home office arrangements give rise to a PE. As a result, both taxpayers and the Slovak tax authorities

primarily rely on the wording of the Income Tax Act, the applicable tax treaty and the OECD Commentary when assessing PE risks. Nevertheless, until official guidance or case law becomes available, some uncertainty will remain and each case will continue to require a fact-specific analysis.

❖ Do the recent revisions to the OECD Commentary on Article 5 of the Model Tax Convention impact this position?

Yes. Although the revised OECD Commentary is not legally binding, it is expected to have significant interpretative value in Slovakia because Slovak tax treaties generally follow the OECD Model Convention and the Slovak tax authorities regularly rely on the OECD Commentary when interpreting treaty provisions. The updated Commentary provides substantially greater certainty for cross-border remote working arrangements by clarifying that a home office generally does not constitute a fixed place of business where an employee works there for less than 50% of their working time during a 12-month period. Even where this threshold is exceeded, a PE is not created automatically; the decisive factor is whether the employee's presence in the relevant jurisdiction serves a genuine commercial purpose of the enterprise rather than merely accommodating the employee's personal preferences. As Slovakia has not adopted any domestic rules departing from the OECD interpretation, the revised Commentary is likely to become the principal reference point when Slovak tax authorities assess PE risks arising from cross-border home office arrangements.

❖ Do you expect the national law to be amended to adopt the OECD's view?

At present, there is no indication that Slovakia intends to amend its Income Tax Act specifically to incorporate the new OECD Commentary on remote working and permanent establishments. Such an amendment does not appear necessary because the existing definition of a permanent establishment in the Slovak Income Tax Act is broad enough to accommodate an interpretation consistent with the OECD Commentary and the relevant tax treaties. In practice, Slovakia has traditionally implemented developments in OECD guidance through administrative interpretation and treaty application rather than through frequent legislative amendments to the domestic definition of a PE.



CONTACT

Eva Kusá

BMB Partners

eva.kusa@bmb.sk

+421 2 2129 9000



❖ Does your country have a clear position on whether working from home for a foreign employer could result in a 'permanent establishment' for corporate and/or wage tax purposes?

The creation of a permanent establishment (PE) by a foreign employer requires that the employer has a fixed place of business at its disposal in Slovenia. According to established administrative tax practice before the recent revisions to the OECD Commentary on Article 5 of the Model Tax Convention, an employee working from home for a foreign employer does not usually result in the existence of a PE for corporate and wage tax purposes. This was because employers typically lack the right to use or access their employees' premises, with the result that a home office is generally not considered to be at the employer's disposal.

However, these principles do not apply if the employee performs sales and distribution activities for the foreign employer in Slovenia or acts as a managing director. In the case of sales and distribution activities, the requirements for the creation of a permanent representative may be satisfied under the Agency PE clause. Additionally, if a managing director works from home, his or her activities could meet the requirements needed for a management PE. In both cases, the employer does not need to have a fixed place of business at its disposal in Slovenia for the creation of a PE.

❖ Do the recent revisions to the OECD Commentary on Article 5 of the Model Tax Convention impact this position?

On 4 March 2026, the Financial Administration published amendments to its Permanent Establishment Brochure on its official website, incorporating a translated version of the recent revisions to the OECD Commentary on Article 5 of the Model Tax Convention on home offices and PEs. The amendment clearly reflects the Financial Administration's adoption of the OECD's revised approach, even in the absence of any corresponding changes to domestic corporate income tax legislation or the relevant double tax treaties.

❖ Do you expect the national law to be amended to adopt the OECD's view?

No, it is not expected that the national legislation will be amended to formally incorporate the OECD's revised approach. Rather, the Financial Administration intends to apply this approach when assessing the existence of a home office PE, taking the view that the current wording of the national legislation is sufficiently broad to accommodate such an interpretation.



CONTACT

Jure Mercina

LeitnerLeitner

jure.mercina@leitnerleitner.com

+386 1 563 67 50



❖ Does your country have a clear position on whether working from home for a foreign employer could result in a 'permanent establishment' for corporate and/or wage tax purposes?

South Africa does not have specific domestic legislation addressing whether an employee's home office constitutes a permanent establishment ("PE") of a foreign employer. The general PE definition in the Income Tax Act, 1962 largely mirrors Article 5 of the OECD Model Tax Convention, requiring a "fixed place of business" through which the business of an enterprise is wholly or partly carried on. No guidance has been issued by the South African Revenue Service ("SARS") on the PE implications of an employee's home office.

South African case law applies a physical occupation and control test for determining whether a fixed place of business PE exists. Our Tax Court established this factual test in a case where a US consulting firm's staff had access to a client's boardroom during business hours. The Tax Court held that the client's boardroom constituted a fixed place PE because it was "at the disposal" of the US firm, and that it was irrelevant that access was not possible after working hours. Critically, the taxpayer's motivation for choosing a particular work mode was held to be irrelevant; the test is universal and factual. It should be noted, however, that this was a decision of our lowest court which has not been tested in a higher court and has therefore not created any binding precedent.

Applying these principles, however, where a foreign employer's employee works from home in South Africa on a continuous basis, there is a risk that the home could be regarded as a fixed place PE of the foreign employer, particularly where the employer requires the use of that location or where no alternative office is provided. For wage tax purposes, the existence of a PE triggers employees' tax (PAYE) registration and withholding obligations for the foreign employer.

Additionally, service PE clauses appear in 33 of South Africa's tax treaties (including those with China, the USA, Nigeria, Kenya, New Zealand, Mexico, and Malaysia), which may deem a PE to exist where services are furnished through employees for more than 183 days in any 12-month period, independent of the home office PE analysis.

A dependent agent PE can be created if an enterprise has a person acting in South Africa on its behalf (other than an agent of independent status) who has, and habitually exercises, in South Africa an authority to conclude contracts in the name of the enterprise, even if the requirements for a fixed place of business PE are not met.

❖ Do the recent revisions to the OECD Commentary on Article 5 of the Model Tax Convention impact this position?

The practical impact of the 2025 revisions to the OECD Commentary on South Africa's position is limited in the absence of any legislative amendment or interpretive guidance from SARS. The 2025 update effectively replaces the established "at the disposal" test with

temporal and functional assessments. The new tests (the 50% threshold and commercial reason test) are not aligned with existing South African treaty interpretation as developed by the South African courts, and there is no change to the Article 5(1) wording. South African case law focuses on the factual question of physical occupation and control, and the taxpayer's motivation for working arrangements is irrelevant.

Furthermore, the new Commentary framework offers limited certainty in practice. South Africa has not entered a specific reservation on the new paragraphs 44.1 to 44.21, but the OECD Commentary remains a persuasive (but non-binding) interpretive aid in South African treaty application.

❖ Do you expect the national law to be amended to adopt the OECD's view?

South Africa is not expected to amend its domestic PE definition to codify the OECD's revised Commentary guidance on home offices. The current statutory definition in the Income Tax Act is already broadly aligned with Article 5, and the Commentary revisions do not represent changes to the treaty text itself. South Africa's approach has typically been to rely on the OECD Commentary as a persuasive interpretive tool rather than incorporating commentary-level guidance into domestic legislation.

Moreover, from a South African legal perspective, the new tests introduced by the 2025 update present challenges on the basis that the deletion of former paragraphs 18 – 19 (the "at the disposal" test for home offices) was done without clear policy justification, and the wording of Article 5(1) has not changed. South Africa rejected the OECD's 2010 Report on the Attribution of Profits to Permanent Establishments ("AOA") and adheres to the 2008 OECD guidance on this point. Given these factors, and that the functions and risks attributable to a home-office PE are generally limited from a transfer pricing perspective, there is no impetus for legislative broadening of the PE definition.



CONTACT
Janke Gouws
ENS, Taxand South Africa
jgouws@ensafrica.com
 +27798607196



❖ Does your country have a clear position on whether working from home for a foreign employer could result in a 'permanent establishment' for corporate and/or wage tax purposes?

Under Swedish tax law, a permanent establishment (PE) is defined as a fixed place of business through which the business of an enterprise is wholly or partly carried on. The circumstances in which a home office constitutes a PE are not further specified in the legislation. However, the Swedish Supreme Administrative Court has stated in its case law that the relevant provisions of Swedish tax law should be interpreted in light of the OECD Model Tax Convention and its Commentary. Amendments to the OECD Commentary should be taken into account insofar as they are considered clarifying in nature.

An employee working from home for a foreign employer may give rise to a PE for corporate tax purposes. Since Swedish case law establishes that considerable weight should be given to the OECD Commentary when interpreting the PE provision, the current legal position should be regarded as consistent with the revised Commentary. Accordingly, a PE should arise if there is a commercial reason, as further explained in the revised OECD Commentary, for the employee to work from home in Sweden, or if the employee working from home in Sweden is the primary person who conducts the enterprise's business, provided that the relevant individual works from home for more than 50 percent of their working time.

❖ Do the recent revisions to the OECD Commentary on Article 5 of the Model Tax Convention impact this position?

As described above, the Swedish PE provision should be interpreted in light of the OECD Commentary. In guidance issued in May 2026, the Swedish Tax Agency described the revised Commentary as a clarification of the previous OECD Commentary on Article 5. On this basis, we expect the revised OECD Commentary to influence the Swedish Tax Agency's approach going forward.

In this context, it may be noted that, in previous guidance withdrawn earlier in 2026, the Swedish Tax Agency had already outlined its view that an employee working from home for a foreign employer could give rise to a PE. In our view, the revised Commentary differs from the previous guidance in two important respects. First, the revised Commentary places greater emphasis on the requirement that more than 50 percent of the employee's work be performed in the state of residence before a PE may arise. Second, the revised Commentary more clearly highlights the importance of there being a commercial reason for the employee to perform the work in the state of residence, particularly where the employee is not the primary person conducting the enterprise's business. Compared with the Tax Agency's previous guidance, this factor appears to carry greater weight in the revised Commentary.

Furthermore, in May 2026, the Swedish Tax Agency issued new guidance on the interpretation of Article 5. The guidance specifically addresses situations in which an individual who is the sole or primary person conducting an enterprise's business works from home. It clarifies that, in such cases, whether there is a commercial reason for the individual's choice of workplace is irrelevant to the PE assessment. Accordingly, in these specific circumstances, paragraphs 44.11–44.19 of the Commentary on Article 5, which address commercial reasons, should not be taken into account.

❖ Do you expect the national law to be amended to adopt the OECD's view?

No. Given the well-established position in Swedish case law that the statutory PE provision should be interpreted in light of the OECD Commentary, revisions to the Commentary are unlikely to require legislative amendments.



CONTACT

Maria Norlin

Skeppsbron Skatt AB

maria.norlin@skeppsbronskatt.se

+46 73 640 91 95



Axel Harrysson

Skeppsbron Skatt AB

axel.harrysson@skeppsbronskatt.se

+46 70 929 13 74



❖ Does your country have a clear position on whether working from home for a foreign employer could result in a 'permanent establishment' for corporate and/or wage tax purposes?

Under Swiss federal tax law, a permanent establishment requires a fixed place of business through which the enterprise's activity is carried on. PE are branches, manufacturing facilities, workshops, sales outlets, permanent representatives, mines and other sites for the extraction of natural resources as well as the construction or installation sites lasting at least twelve months.

For a home office to qualify as a PE, the location must be at the legal or factual disposal of the enterprise, and the activities carried on must be relevant both in quality and quantity. Under prevailing Swiss doctrine, disposal over a private home is generally denied where the home office is optional, the employer has no access rights, no compensation is paid, and the enterprise has no external presence at that location. The Swiss Tax Conference confirmed this position in its analysis which has been consistently applied by cantonal tax authorities. When there is a business reason for the work performed in the home office (like sales representative for the local market) then the risk for the set-up of a PE would be increased.

When there is no PE for corporate income tax purposes, it is clear from a Swiss point of view that there is no remittance duty for the foreign employer to withhold / remit wage tax.

❖ Do the recent revisions to the OECD Commentary on Article 5 of the Model Tax Convention impact this position?

Swiss tax authorities are expected to apply this updated Commentary both to new and existing double tax treaties, in line with general Swiss practice on dynamic treaty interpretation. Taxation in Switzerland is only possible if a taxable event is established under domestic law, even if the DTT allocates the taxation right to Switzerland. In outbound structures, Switzerland may be required to recognise that the requirements of a PE are met under foreign domestic law and to exempt relevant profits or the employee's remuneration from Swiss taxation.

❖ Do you expect the national law to be amended to adopt the OECD's view?

Switzerland does not plan to amend the tax legislation or tax practice to adopt home office PE rules as per the revised OECD Commentary in the foreseeable future.



CONTACT

Deborah Schwarz

Tax Partner AG

deborah.schwarz@taxpartner.ch

+41 44 215 77 77



Peter Vogt

Tax Partner AG

peter.vogt@taxpartner.ch

+41 44 215 77 77



❖ Does your country have a clear position on whether working from home for a foreign employer could result in a 'permanent establishment' for corporate and/or wage tax purposes?

Under UK domestic law, an individual working from home for a foreign employer can create a permanent establishment (PE) for corporate tax purposes for that foreign employer if it is a fixed place of business through which the business of the company is wholly or partly carried on. A permanent establishment can also be created where an agent, acting on behalf of the company, has exercised and habitually exercises authority to carry out the company's business in the UK.

The UK tax authority's (HMRC) guidance on the characteristics of a fixed place of business are that (i) there must be a place of business which is at the disposal of the non-UK company, (ii) it must be fixed at a distinct place and with a certain degree of permanence, and (iii) the business of the non-UK company must be carried on through that place of business.

HM Revenue & Customs (HMRC) and the courts generally do not consider an employee's private home office to be at the disposal of the foreign employer where the employee works from home as a matter of personal choice.

Consequently, an employee choosing to work from home in the UK for an overseas employer does not usually result in a fixed place of business PE.

However, this general principle does not apply if:

- ❖ **The home office is an objective requirement of the job:** If the employer requires the employee to work from home (for example, by not providing office space where it would be practically needed to perform the role) and the home office is considered to be at the disposal of the company.
- ❖ **A dependent agent PE is created:** If the employee has, and habitually exercises, the authority to conclude contracts in the UK on behalf of the foreign employer, or performs key sales, distribution, or senior executive activities that satisfy the dependent agent conditions.

- ❖ **Value and permanence:** The homeworking employee is engaged in work that generates value (e.g. income or intellectual property) for the overseas employer and there is an element of permanence. This would introduce not only a permanent establishment corporate tax exposure but potentially also transfer pricing issues (including assessment of unassessed transfer pricing profits), corporate tax residency under the "central management and control" test, and (for accounting periods starting before 1 January 2026) the Diverted Profits Tax ("DPT").

Whether an individual working from home will create a fixed place of business PE will therefore depend on particular facts and can be difficult to establish.

From a wages tax perspective, a non-UK employer will have an obligation to operate wages tax withholding under the Pay As You Earn (PAYE) collection system if it has sufficient "presence" in the UK.

This test is based on case law (following the landmark House of Lords decision in *Clark v Oceanic Contractors Inc*) and simply requires there to be enough of a presence for HMRC to collect PAYE effectively from the non-UK employer (irrespective of whether it also creates a PE for corporate tax purposes). In most cases, however, an employee working in the UK through a home office is unlikely, in itself, to create sufficient PAYE presence for the non-UK employer.

Therefore, if the foreign employer has no UK branch, agency, or office where HMRC can contact the employer, there is generally no obligation to operate PAYE. Separate consideration should be given if employees are performing any services for the benefit of another entity with a tax presence in the UK.



❖ Do the recent revisions to the OECD Commentary on Article 5 of the Model Tax Convention impact this position?

With effect for chargeable periods beginning on or after 1 January 2026, the UK domestic law definition of a PE was changed so that it more closely aligns with the OECD Model Tax Convention.

The UK's tax treaties generally follow Article 5 of the OECD Model. It has been enacted into law that UK provisions that are in substantially the same terms as Article 5 should, so far as possible, be given effect in a way that is consistent with the OECD commentary on that Article as approved by the OECD Council on 18 November 2025 (as amended or replaced from time to time), subject to any reservation, declaration or election made by the UK government.

The OECD Commentary on Article 5 clarifies that a home will generally not be a place of business of a company if the individual works from that home for less than 50 per cent of their total working time for that company (measured across a 12-month period). Even

where the 50 per cent threshold is met, whether the home is a place of business of the company will be determined by the facts and circumstances, with prominent (albeit not determinative) consideration being given to whether there is a commercial reason linking the individual's presence at the home and the carrying on of the business of the company. Enabling an individual to work from home solely to obtain or retain the services of that individual will not constitute a commercial reason and so, without more, will mean a home office will not constitute a PE in those circumstances.

The UK has not objected to, or reserved its position in respect of, the 2025 update to the OECD Commentary on Article 5 of the Model Tax Convention. The revisions do not fundamentally change the UK's domestic approach but reinforce the existing consensus. Note that the test of PAYE presence for wage tax purposes has not changed.

❖ Do you expect the national law to be amended to adopt the OECD's view?

Please see above.

CONTACT

Hannah Manning

Travers Smith LLP

hannah.manning@traverssmith.com

+44 20 7295 3372

Carlos Yugcha

Unity Advisory

carlos.yugcha@unity-advisory.com

Dean Farthing

Unity Advisory

Dean.Farthing@unity-advisory.com

+44 (0) 7739873164

ABOUT TAXAND

Taxand is a global organisation comprising top tier local independent tax advisory firms who together provide high quality, integrated tax advice to clients worldwide.

Overall there are more than 700 tax partners and over 3,000 tax advisors across 55 countries, focussed on understanding you and your business needs; collaborating to deliver tailored, practical local and international tax advice, in consideration of your strategic goals.

Your Global Tax Partner