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By PwC Deutschland | 23 December 2025

2025 Update to the OECD Model Tax Convention

On 19 November 2025, the OECD published an update to the OECD Model Tax Convention and the corresponding commentary on Article 5 regarding permanent establishments. The new guidelines specify the circumstances under which a home office is considered as permanent establishment.

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In addition to numerous other measures, including comments on mutual agreement and arbitration procedures, the update focuses on the issue of establishing permanent establishments through teleworking or working from home. The purpose of the adjustments is to clarify the circumstances under which an employee's home office or other place of work abroad is considered as a permanent establishment of the company.

One significant change of the update concerns the explanations regarding the possible establishment of a permanent establishment by a company resident in one contracting state through the activities of employees working from home in the other contracting state in paragraphs 44.1 to 44.21 regarding Article 5 of the OECD Model Tax Convention. With these amends it is clarified that the general permanent establishment principles of Article 5 OECD- Model Tax Convention also apply when assessing home office situations. Accordingly, the existence of a fixed place of business in accordance with Article 5 (1) OECD Model Tax Convention is always required. In addition, the activities carried out there must not be exclusively preparatory or auxiliary in nature within the meaning of Article 5 (4) OECD Model Tax Convention.

As a further substantial change, the OECD is introducing a quantitative benchmark. According to this benchmark, a permanent establishment does not generally exist if, within any 12-month period beginning or ending during the relevant financial year, the person worked less than 50% of his or her total working time for the company in the home office. However, if the 50% threshold is reached or exceeded, this does not automatically mean that a permanent establishment exists.

Rather, an assessment of the overall circumstances of the individual case must be made to determine whether a permanent establishment has been established. The key factor here is whether there is an economic justification for carrying out the activity from a home office in connection with the company's business activities. Such an economic reason may exist, for example, if the physical presence of the person facilitates the business activities of the company, e.g., through regular personal meetings with customers or suppliers of the company or to initiate relationships with new customers and suppliers, or through cooperation with other companies in the country where the home office is located.

The complete document is available for download on the **OECD website**.

Keywords

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