

VII Permanent establishments (PEs)

A	Article 5 Permanent Establishments (OECD and UN Models)	1 Point
B	Article 7 Business Profits (OECD and UN Models)	2 Points
C	Understanding the importance of PEs in transfer pricing	3 Points



VII Permanent establishments (PEs) - Introduction

OECD Model tax convention 2017, article 5'1:

1. For the purposes of this Convention, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

OECD Model tax convention 2017, article 7'1:

1. Profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a PE situated therein. If the enterprise carries on business as aforesaid, the profits that are attributable to the PE in accordance with the provisions of paragraph 2 may be taxed in that other State.

OECD Model tax convention 2017, article 7'2:

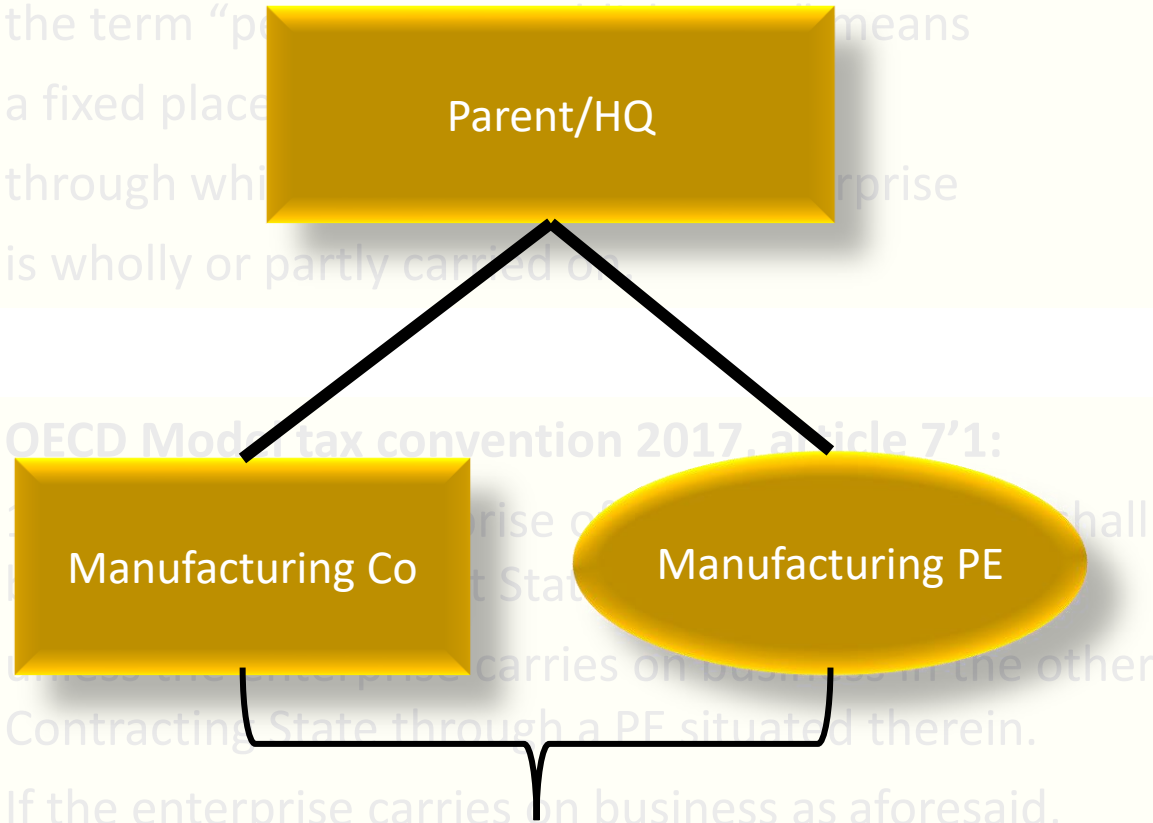
2. For the purposes of this Article and Article [23A/B], the profits that are attributable in each Contracting State to the PE referred to in paragraph 1 are the profits it might be expected to make, in particular in its dealings with other parts of the enterprise, if it were a separate and independent enterprise engaged in the same or similar activities under the same or similar conditions, taking into account the functions performed, assets used and risks assumed by the enterprise through the PE and through the other parts of the enterprise.



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Logically ... 2017, article 5'1:

(ignore Action 7 PEs for now)



Same FARs = same reward

E.g. Comparability
Analysis => Cost+ 5%

=> comparability
Analysis => Cost+ 5%

OECD Model tax convention 2017, article 7'2:

2. For the purposes of this Article and Article [23A/B], the profits that are attributable in each Contracting State to the PE referred to in paragraph 1 are the profits it might be expected to make, in particular in its dealings with other parts of the enterprise, if it were a separate and independent enterprise engaged in the same or similar activities under the same or similar conditions, taking into account the functions performed, assets used and risks assumed by the enterprise through the PE and through the other parts of the enterprise.



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