



Maastricht University



University of Aruba

Permanent Establishments and Attribution of Profits thereto

Jacques Sasseville

Rainer Prokisch

August 22nd until the 26th



2016

Sponsored by



Dear Colleague,

We are currently experiencing a time of great changes in the area of taxation. Permanent Establishments and attribution of profits thereto may appear just as one more. However, the tax presences of enterprises as well as its tax liability in a jurisdiction depend in many occasion of the existence of a Permanent Establishment (hereinafter PE). Its role in international business is paramount. Current approaches to this figure are sometimes confusing, giving way to significant unintended consequences; furthermore, the topic involves highly specialized knowledge not easy to access or to apply, making things more complicated.

Due to the above and the expectation of a new approach to the topic, actually open for comments by the OECD, the University of Maastricht and the University of Aruba decided to embark on this joint project to, on the one hand, provide training and updates in this crucial field of international taxation and, on the other, to encourage the debate on the topic. We kindly invite you to join us in this venture. At the end of the course participants will be able to clearly identify Permanent Establishments (for tax treaty purposes), its activities, risks, legal obligations, and to understand the background and current approaches to the issues related to the attribution of profits to PEs and interaction with Action Points on Transfer Pricing (BEPS).

Furthermore, as already mentioned, participants will have opportunity to follow and to contribute to the debates on current PE's issues affecting Latin American and Caribbean countries, together with experts from practice, enterprises and academia, in the following panels:

- ✓ PE's and digital economy in Latin America and the Caribbean
- ✓ PE's services – short term
- ✓ Oil, gas and mining industries and commodity trading entities

Rainer Prokisch (Director of the MCT) and Jacques Sasseville (head of the Tax Treaty Unit of the Centre for Tax Policy and Administration, at the Organization for Economic Co-operation and Development) will guide participants in this exciting and challenging learning experience.

It is possible to engage in the full five days training or to follow either the first two days on the concept of PE's (two days) or the last three on Attribution of Profits. Different fees apply for each option.

A number of cases and practical examples will be discussed and knowledge will be built interactively in order to enable participants to apply successfully the skills acquired during the course. Students are expected to prepare and participate actively during the course.

This summer course provides participants with the theoretical and practical background required to make good use of the knowledge acquired during the course in their practice. It is suitable for practitioners in tax advisory firms or in-house, tax specialists in general, government officials, PhD and LLM students of tax law or international tax law.

Last, but not least, this summer course may help participants to make the next step in a career on Tax Law. In case you would like to pursue a master in the area, you may consider the Double Degree LL.M Programme in International and European Tax Law – American specialization as well as the LL.M in Aruban law – International Comparative Tax Law specialization, while earning 2 Tax LL.Ms in 1 Year in Aruba! The two titles are granted by the Universities of Maastricht and Aruba, respectively. The approval of the course on PE's and Attribution of Profits thereto releases the student of the admission's exam in 2017. Applicants may need to meet other requirements, however.

We look forward to welcome you in Aruba!

Dr. Esperanza Buitrago

Academic Programme

Day 1 The concept of permanent establishment (OECD and UN Model)

- I. Overview
- II. Territorial scope of tax treaties and PEs
- III. The regular permanent establishment
 - 1. place of business
 - 2. fixed
 - a. territorial link
 - b. time requirement
 - 3. power of disposition
 - 4. auxiliary and preparatory functions (5-IV)
 - a. the activities mentioned must be of a preparatory and auxiliary nature
 - b. Delivery and sale of goods
 - c. Carrying on various activities of preparatory and auxiliary nature
 - d. Negotiation of contracts
 - e. Changes through BEPS

Day 2: Cont. The concept of permanent establishment

- IV. Special Issues
 - 1. Transparent entities
 - 2. Place of management
 - 3. Leasing of equipment
 - 4. Usage of a place of another person
 - 5. Home office
 - 6. Secondment of personal
 - 7. Shops on ships
 - 8. Physical presence
 - 9. Subcontracting
 - 10. E-Commerce
 - V. Construction and Installation Sites
 - 1. Determination of time limit
 - 2. Several projects
 - 3. Planning and supervision
 - 4. Mobile projects
 - 5. Subcontracting
 - VI. Service PE's
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- VII. Dependent Agents
 - 1. Authority to conclude contracts
 - 2. Acting on behalf of the enterprise
 - 3. Exercised habitually
 - 4. Independent agents acting in the ordinary course of their business
 - 5. Independent agents and abuse
 - 6. Fund managers
 - 7. Insurance agents
- VIII. Artificial Avoidance of PEs

Day 3 ATIBUTION OF PROFITS TO PEs

- IX. Introduction
- X. Tax policy issues in the design of domestic tax rules for the determination of taxable profits of non-resident taxpayers operating through branches
- XI. Domestic tax rules applicable to the determination of the domestic profits of a non-resident enterprise
- XII. Historical background to the treaty rules on attribution of profits to PEs
- XIII. General example on the application of domestic rules and treaty rules

Day 4 ATIBUTION OF PROFITS TO PEs

- XIV. Detailed analysis of the treaty rules: paragraph 1 of Article 7
- XV. Detailed analysis of the treaty rules: paragraph 2 of Article 7
- XVI. Detailed analysis of the treaty rules: paragraphs 3, 4, 5 and 6 of the pre-2010 version of Article 7
- XVII. The new Article 7 and the Authorized OECD Approach (AOA)
- XVIII. Step 1 of the AOA
- XIX. Step 2 of the AOA
- XX. Case study illustrating the AOA

Day 5 ATIBUTION OF PROFITS TO PEs

- XXI. Impact of the new Article 7 on other treaty articles – Notional payments
- XXII. Attribution of profits to a dependent agent PE
- XXIII. Interaction between Article 7 and Article 9
- XXIV. Attribution of profits to PEs in the case of banks, global trading and insurance companies
- XXV. Attributing assets and rights to PEs for the purposes of other Articles
- XXVI. Relief of double taxation issues
- XXVII. Interaction of treaty and domestic tax rules for the determination of the profits of a PE
- XXVIII. Conclusion

Rainer Prokisch

Prof. Dr. Rainer Prokisch studied law at the University of Munich, Germany. After some years in practice in Germany and abroad, he became assistant lecturer for public law and tax law at the chair of Prof. Dr. Klaus Vogel at the University of Munich where he finished his doctoral thesis in 1992. After that he became deputy head of the Research Institute for International and Foreign Tax Law and was responsible for the project of a commentary on Double Taxation Treaties in German und English language. During these years he was, inter alia, General Reporter on behalf of the International Fiscal Association and consultant of the OECD, Paris. In 1998, he joined the International Bureau of Fiscal Documentation, Amsterdam, where he was responsible for the department Europe I and later for the International Tax Academy. Since 1 April 2000 he is full time professor for International and European tax law at the University of Maastricht.

Jacques Sasseville

Jacques Sasseville is Head of the Tax Treaty Unit of the Fiscal Affairs Division at the OECD. From 1990 to 1993, he was Principal Administrator and subsequently Deputy Head of the Fiscal Affairs Division at the OECD. He previously worked as a Professor in the Department of Accounting Sciences at the University of Quebec in Montreal, as researcher and lecturer at the University of Montreal, and as a tax lawyer in a Canadian law firm. He is currently a member of the Permanent Scientific Committee of the International Fiscal Association and has worked with the federal government of Canada as counsel in the Tax Counsel Division and as Head of Tax Treaties.

Panel Members

Information will be available soon in our [website](#).

Registration

If you are interested in registering please send a message to e.buitragodiaz@maastrichtuniversity.nl providing evidence of your knowledge or experience on taxation. You will receive a message with all information to complete your registration.

Participants should be familiar with: 1) the structure and allocation rules of double taxation conventions, 2) the domestic tax law of at least one country, especially in aspects related to cross-border situations.

Fees and payment

Five days training	€1800	Tax/accounting related knowledge or experience is necessary
2 days training on the Concept of PE	€800	Tax/accounting related knowledge or experience is necessary
3 days training On Attribution of Profits to PE's	€1200	Tax/accounting related knowledge or experience is necessary
PhD and LLM students Five days training	€900	Only of tax/accounting related programs
Tax law professors Five days training	€1000	Full attachment to an academic institution
Tax law professors admitted to present a poster and to participate in the panels	€500	
Translation into Spanish	€400	Translation is available upon request, for candidates admitted to the programme

Materials. Available online, free of cost.

Certificates. Upon attendance to the Course, participants receive a certificate of completion from Maastricht University. A certificate of achievement is available for participants passing a final online exam, taking place around 45 days after the course ends.

Direction of the course and Contact

Esperanza Buitrago

Dr. Esperanza Buitrago is associate professor of the Maastricht Centre for Taxation at Maastricht University. Amongst other, she previously worked as associate professor in the Department of Tax Law at the University of Rosario in Colombia and has been visiting professor of a number of universities in Latin America, Europe and Asia. She also served as Director of the Research Centre at the Colombian Tax Institute (ICDT) and head of the Academic Committee of the Colombian branch of the International Fiscal Association. She authored several publications on International taxation, including some IFA national reports. Alumni of the Max Planck Institute for Tax law and Public Finance.

Coordinates

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Registration Form

Permanent Establishments and Attribution of Profits thereto

Date: August 22 to August 26, 2016

Venue: Europe House Aruba,
Italiestraat 46, Oranjestad, Aruba

Name:

Academic Title(s):

Gender: **Male** **Female**

Profession:

Organization:

Phone:

E-mail:

Mark the	_____	5 days training
applicable tuition	_____	2 days training on PE's
fee according to	_____	3 days training on Attribution of Profits to PE's
the following	_____	Tax law professors
classification	_____	PhD and LLM students
	_____	Tax law professors admitted to present a poster and to participate in the panels
	_____	Translation into Spanish (if required)

Please return this form by e-mail to e.buitragodiaz@maastrichtuniversity.nl. For further information or queries please do not hesitate to contact Dr. Buitrago.

Date:

Signature:

The daily schedule is as follows:

8:00	Class
10:30	Break
11:00	Class
12:30	Lunch time
14:00	Class
15:30	Break
16:00	Panels of discussion
17:00	End of the day

Venue

Europe House Aruba, Italiestraat 46, Oranjestad, Aruba
T (297) 582 3190 / 582 3177, F (297) 582 3030

The Europe House Aruba is part of the Office of the European Union and Kingdom relations (BEUK). Europe House Aruba assists us in connecting business communities from Aruba, Europe and Latin America with the purpose of identifying, initiating and further develop transatlantic trade opportunities. Aruba can fulfill an important role as a strategic outpost of the EU and the establishment of the European House has been a significant step towards this goal. To find more about the Europe House [click here](#).

More known as a one happy island, Aruba offers a unique opportunity for a great academic activity and wonderful holidays. Do not miss it! To find more info about the island [click here](#).

Accommodation

There are a good number of hotels in the island fitting all wishes and budgets. Accommodation is not included in the tuition fee.

