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## Transfer Pricing Switzerland Insights

Special Issue November 2014



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Dear Sir or Madam,

We are pleased to present to you a special edition of Transfer Pricing Insights in light of the latest developments on the Base Erosion and Profit Shifting (BEPS) initiative.

### Latest news on the BEPS initiative

#### Action 7 - Prevent the artificial avoidance of PE status

On 31 October 2014, the OECD has released a discussion draft on Action 7 (Prevent the Artificial Avoidance of PE Status) of the BEPS Action Plan.

The discussion draft includes the preliminary results of the work undertaken regarding issues resulting from the artificial avoidance of PE status and includes proposals for changes to the definition of permanent establishment found in the OECD Model Tax Convention. Whilst the discussion draft does not represent the consensus view of the Committee on Fiscal Affairs (CFA) it is important to note that the presented proposals may create PEs for many multinational companies in a number of countries.

## Did you know?

### Upcoming Transfer Pricing seminars

Stay connected on the latest Transfer Pricing topics by joining our upcoming events in Zurich (24 November) and Geneva (26 November). Details will follow shortly.

[Pre-Register](#)

The key points of the discussion draft are as follows:

- Artificial avoidance of PE status through commissionaire structures
- Artificial avoidance of PE status through specific activity exemptions (e.g. warehousing or delivery of goods)
- Artificial fragmentation of operations (through contractual split-ups) to qualify for exceptions to PE status for preparatory and auxiliary activities
- Insurance specific considerations regarding how dependent agents operate

The discussion draft also acknowledges the link of Action 7 with Action 1 on Addressing the Tax Challenges of the Digital Economy. Further, the draft highlights the interaction between the attribution of profits to PEs and the BEPS Action Points on transfer pricing.

The Committee on Fiscal Affairs (CFA) invites interested parties to send their comments on this discussion draft by 9 January 2015. Please click [here](#) to access the discussion draft.

*Some further analysis on the proposed changes to the PE definition shall be addressed as part of the upcoming Transfer Pricing Seminars.*

## Other developments

On 3 November 2014, the OECD has released a discussion draft of proposed modifications to Chapter VII of the Transfer Pricing Guidelines relating to low value-adding intra-group services.

The discussion draft reduces the scope for erosion of the tax base through excessive management fees and head office expenses by proposing an approach which identifies a wide category of common intra-group services commanding a very limited profit mark-up on costs, applies a consistent allocation key for all recipients, and provides greater transparency through specific reporting requirements.

The discussion draft can be accessed by clicking [here](#). Interested parties are invited to submit written comments by 14 January 2015.

We hope you have enjoyed this special edition of Transfer Pricing Switzerland Insights. If you have questions in relation to one of the above topics or you would like to discuss your situation and receive a professional opinion on any transfer pricing related topics, please feel free to contact us directly via

phone or email.

Best regards,

**Hans Rudolf Habermacher**  
Transfer Pricing Practice Leader, Partner

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