EXPERT INSIGHTS

What is a Permanent Establishment?

Corporate Tax Risks and International Remote Working

→ www.abbisscadres.com → + 44 (0) 203 051 5711 → info@abbisscadres.com

As international remote working continues to become more commonplace across industries, so do the related legal, tax and regulatory compliance issues.

If a home office or other location qualifies as a **Permanent Establishment**, part of the employer's profits may become taxable in the country where the employee carries out their duties. This can trigger corporate income tax liabilities, potential double taxation and reporting obligations.

Here, we take a closer look at what qualifies as a **Permanent Establishment** for employers where their employees are involved in international remote working.

What does 'Permanent Establishment' mean?

The activities of one or more employees in the Host Country may create a corporate tax presence (also known as a **Permanent Establishment**) for the employer in that country. These activities may include an employee working from home or other 'informal' environment, such as a hotel.

Broadly speaking, there are two key ways in which a Permanent Establishment may be created for an employer:

1. When the employee habitually exercises an authority to conclude contracts for the employer (but note that this can include simply participating in the negotiation of contracts without entering into them). The risk is more likely to arise over periods of around six months.
2. When the employee carries out the business of the employer from a fixed place for periods approximating six months or more. The fixed place could be a hotel room or private home. It should also be noted that, depending on local rules, where an employee is said to be "working from home" intermittently and such working is not continuous, a **Permanent Establishment** may not be created. This could include situations in which the employer maintains the employee's desk space in their Home Country and the employee's Home cannot be said to be at the disposal of the employer for work.

If a Permanent Establishment is created in the Host Country, a number of consequences may follow:

1. The Host Country may seek taxing rights over the profits of the employer which are attributed to its activities in the Host Country. This can lead the employer to need to seek relief from double taxation of its profits in the Home Country. In some cases, this can involve the employer in disputes between taxing authorities in the Home and Host Countries.
2. The creation of a **Permanent Establishment** may also oblige the employer to formally register a branch in the Host Country and/or to account for payroll withholding.

If you have any questions or concerns over **Permanent Establishment** risks or want advice on how to minimise your company's compliance risk exposure associated with international remote working or global mobility more generally then please do get in touch with a member of our team.

Please note that local laws should always be checked when considering local compliance issues, including issues around permanent establishment risk and corporate residence issues.

You can **find important details of other key aspects of International Remote Working** in our country-specific guides.

GET IN TOUCH WITH ONE OF OUR SPECIALISTS TO FIND OUT MORE.

Regulatory identification
The CELIA Alliance website and related newsletters are administered and published by Abbiss Cadres LLP. Abbiss Cadres is the trading name of Abbiss Cadres LLP, a limited liability partnership registered in England, authorised and regulated by the Solicitors Regulation Authority. The Firm's SRA ID is 571596. We use the word "Partner" to refer to a member of the LLP. A list of the members of the LLP is available at our registered office: 4th Floor (South), 14 Austin Friars, London, EC2N 2HE. Registered Number: OC339497