

BEPS Action 7

A brazilian perspective

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- Personal opinion about what is BEPS Action Plan and its Action 7
- PE definition in brazilian DTCs - general features
- PE definition in brazilian DTCs - current rules similar to those proposed by Action 7
- Brazilian context and the potential impacts of Action 7

BEPS Action Plan

- Breaking paradigms?
- Creating a new international tax law?
- In my view: it's a matter of *reforming*, not *refounding* the current international tax law principles and rules

BEPS Action 7

- Objectives
- To some extent, it brings to the text of the treaty provisions some current OECD commentaries' views
- Criticism

PE definition in brazilian DTCs - main features

- ONU Model Features
- OECD Model Features
- The old ones and the new ones

PE definition in brazilian DTC's - current rules similar to those proposed by Action 7

- Test of economic agent independence:
 - Ecuador (1983), China (1991), Venezuela (2005).
 - Trinidad Tobago (2008).
 - India (1988)
 - Chile (2001), Mexico (2003)
 - Action 7 proposal

PE definition in brazilian DTC's - current rules similar to those proposed by Action 7

- Splitting-up of construction contracts
 - Chile (2001), Peru (2006)
 - Action 7 proposal
- Warehouses (bilateral relation)
 - Filipinas (1983), Venezuela (2005), Trinidad Tobago (2008)
 - Action 7 proposal

PE definition in brazilian DTC's - current rules similar to those proposed by Action 7

- Fixed place dedicated to purchase merchandise - selling business.
- Ecuador (1983)
- Action 7 proposal

Brazilian context and the potential impacts of Action 7

- Domestic legislation
- DTCs
 - Commissionnaire Arrangements
 - New anti-fragmentation rule
 - Technical services (royalty treatment according to most DTCs) : no impact