


TR 2002/5A3 - Addendum - Income tax: Permanent establishment - What is 'a place at or through which [a] person carries on any business' in the definition of permanent establishment in subsection 6(1) of the Income Tax Assessment Act 1936?

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Addendum

Taxation Ruling

Income tax: Permanent establishment – What is ‘a place at or through which [a] person carries on any business’ in the definition of permanent establishment in subsection 6(1) of the *Income Tax Assessment Act 1936*?

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Taxation Ruling TR 2002/5 to include an example of when a period of six months or more might not constitute temporal permanence.

TR 2002/5 is amended as follows:

1. Paragraph 35

Omit the paragraph; substitute:

It is also conceivable that in some limited circumstances, a period of six months or more might not constitute temporal permanence, however the Commissioner considers this would be likely to occur in only the most extraordinary of circumstances. For example, the international travel restrictions and government-mandated lockdowns globally during the COVID-19 pandemic resulted in many businesses having employees present in Australia when they would ordinarily have been located outside of Australia, and many employees were typically required to continue their employment under ‘working from home’ arrangements. While temporal permanence remained a question of fact and degree in each case, the extraordinary circumstances of the COVID-19 pandemic presented some situations in which a forced presence in Australia for more than six months was considered temporary.

This Addendum applies on and from 1 March 2020.

Commissioner of Taxation
12 May 2021

ATO references

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