

1st International IFA Czech Branch
Transfer Pricing Conference
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TP and Digital Transformation

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www.kdpcr.cz/ifa2018

Recent Developments

PEs



- *Digital*
- *Deemed PE*
- *Digital Services Tax*
- *Unilateral measures (EU, India, Italy, Israel, ...)*
- *Domestic law definitions*
- ...

Violation of the ALP

- *HTVI*
- *Financial transactions – recharacterization loan to equity*
- *CCA*
- ...

LOBs & PPT


- *Treaties*
- *Domestic*
- *GAAR – SAAR*
- ...

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Taxation of the DE... Fundamental principles under pressure?

Residency:


- *Action 3* – **Controlled Foreign Company Rules**





Source:

- *Action 6* – Preventing the Granting of **Treaty Benefits** in Inappropriate Circumstances
- *Action 7* – Preventing the Artificial Avoidance of **Permanent Establishment Status**

- *Action 2* – Neutralising the Effects of **Hybrid Mismatch Arrangements**
- *Action 4* – Limiting Base Erosion Involving **Interest Deductions** and Other Financial Payments
- *Action 5* – Countering **Harmful Tax Practices** More Effectively, Taxing into Account Transparency and Substance
- *Action 8-10* – Aligning **Transfer Pricing** Outcomes With Value Creation




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Taxation of the DE... Fundamental principles under pressure? Are gross sales thresholds the answer?



Residency



Source

MIT Sloan Management Review, Winter 2017:
 - Business model scalability
 - Beware the Network-Effects Fetish

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Trends

Access to MAP denied?
Arbitration?

- *Only for double taxation*
- *Extending to taxation not in accordance with the treaty? (or just wishful thinking)*



Treaty overrides?

- *TCJA*
- *EU DST*

Digital


- *Interim becoming permanent?*
- *Unilateralism*

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Q&A

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