



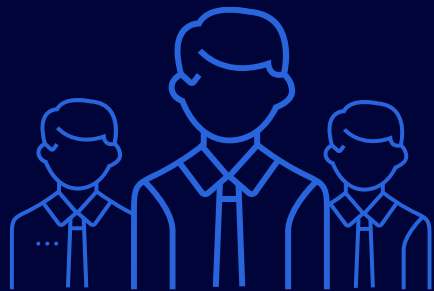
**GRATA**  
INTERNATIONAL

# TAX

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# Taxation of Permanent Establishment in Georgia

**Today, at a time when tax legislation is subject to frequent and continues changes, it is quite hard to attend to all changes of the Georgian tax legislation. Certain wordings of the tax legislation are differently comprehended and interpreted by the tax authorities and taxpayers.**

**This presents a considerable risk for any company doing business in Georgia. Tax consulting is a reliable way to secure your personal rights and business interests.**

# Permanent Establishment (PE) Definition (Tax Code)

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- Tax Code of Georgia – a fixed place of business through which the economic activity of a non-resident entity or individual wholly or partly is carried out, including the activity of the authorized agent.
- Tex Following = PE:
  - Construction site, installation, construction project; related controlling activities;
  - Installations, constructions, drilling vessels for prospecting minerals; related controlling activity;
  - Non-resident individual's permanent base, through which economic activity is carried out;
  - Place of management, branch, office
- PE is taxed in the source state (CIT, VAT, tax agent, etc.)
- CIT – Estonian model
- Registration requirement either in the State RS or Entrepreneur Registry (Registry of Entrepreneurial and Non-entrepreneurial (Non-commercial) Legal entities) applicable

# PE General Definition – OECD MC

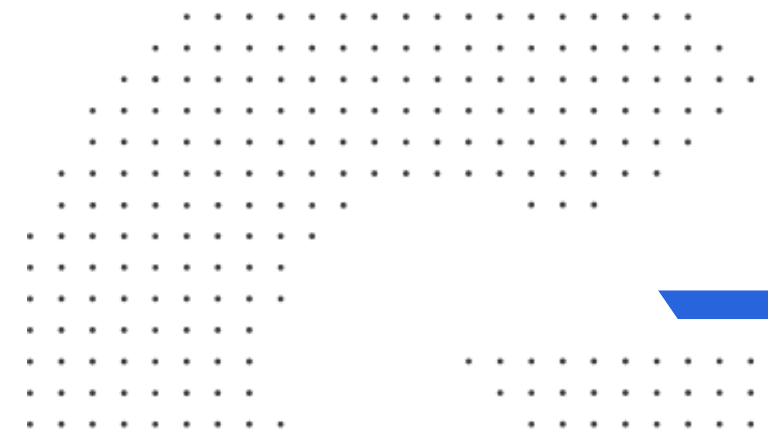
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- General Elements (Art. 5.1):
  - Text
    - Existence of place of business – facility, premises, machinery or equipment
    - The place of business must be fixed – established at a distinct place with a certain degree of permanence
    - Carrying on the business through the fixed place of business – person dependent on the enterprise (e.g., personnel) conduct the in the State, where the fixed place is situated.

# Fixed

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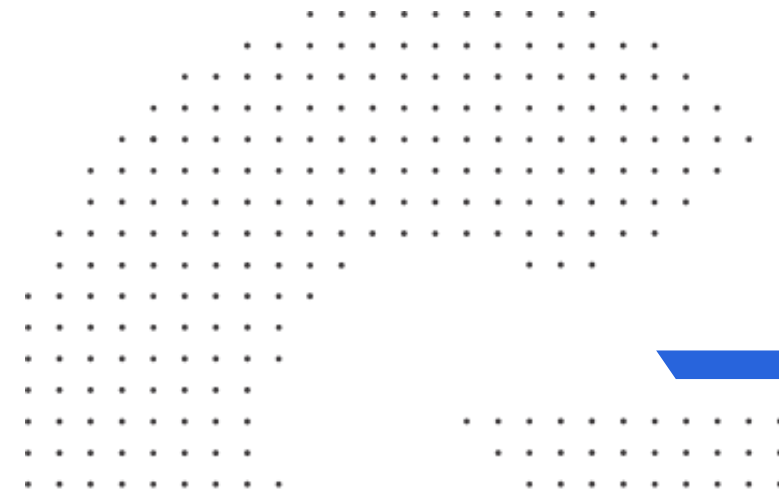
- Place linked to a specific geographical point
- Activities moved may be identified as fixed if constitute a coherent whole
- Certain degree of permanence – more than 6 months
- Actual vs. intended duration – retroactive permanence
- Permanence from its inception even ended prematurely
- Business exclusively carried on in the other state – stronger connection with the country



# Business carried on

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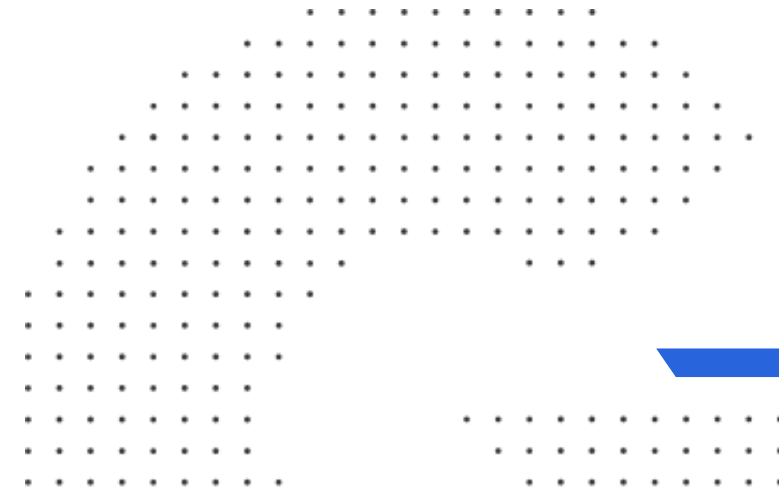
- By persons dependent on the enterprise
- Entrepreneur or a person in a paid-employment relationship (personnel)
- Tex Representative powers irrelevant
- Business carried on through automatic equipment if personnel maintain, set up, control and operate it; ecommerce, when presence of personnel is not necessary.



# Negative List (Art. 5.4)

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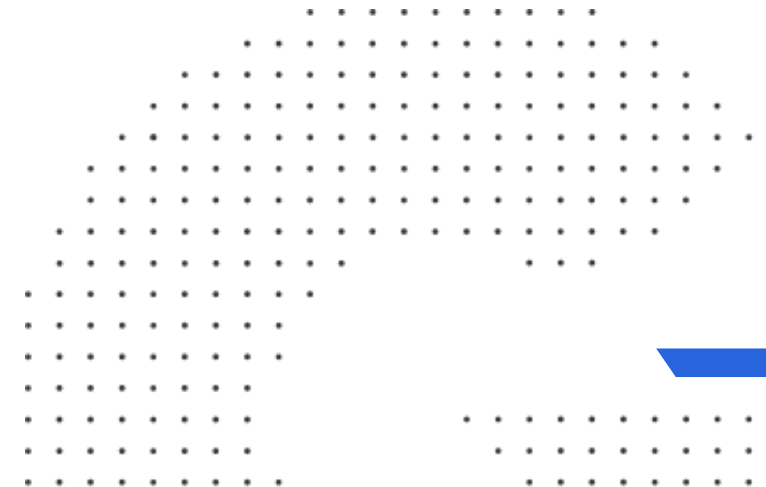
- Auxiliary activities
- Not core businesses:
  - Text
    - Facilities used for storage of, display and delivery of goods
    - Stock maintenance for storage, display and delivery
    - Purchasing goods; collecting information; scientific research



# Agency PE (Art. 5.5)

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- Person – individual or company (under Art. 3.1)
- Having no independent status (under Art. 5.6)
- Tex May not be residents
- Acting on behalf of an enterprise – authorized to enter contracts
- Using representative power repeatedly and not merely in isolated cases
- In the name of the enterprise
- Negative list exemptions apply

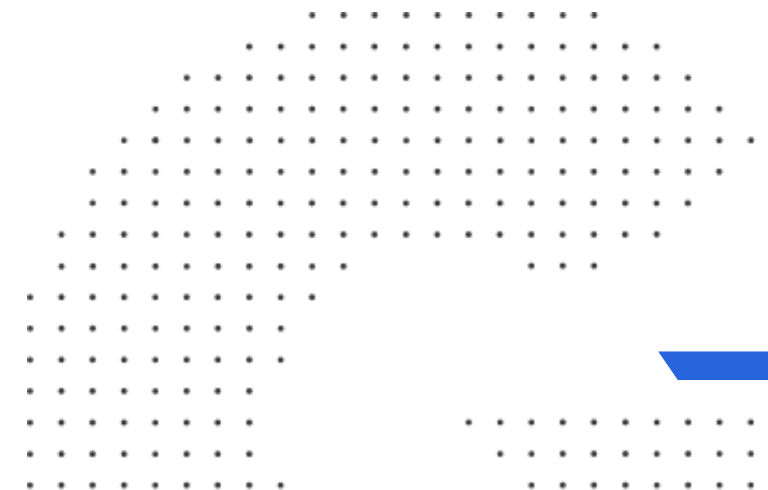




# Construction PE (Art. 5.3)

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- A building site or construction or installation project constitutes a PE only if it lasts more than 12 months (OECD model convention threshold)
- Construction of roads, bridges, canals, pipelines, renovation, excavating
- 12-month test applicable to each project individually
- On-site planning and supervision
- Start – the contractor begins work
- End – work completed or permanently abandoned





**THANK YOU!**

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