

# The Revised OECD Transfer Pricing Guidelines: Towards Convergence?

National Association of Business  
Economics

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# Topics

- Dimensions of “convergence”
- Background: OECD Model Tax Convention and Working Parties
- Interaction of projects relating to A5, A7, A9, A23
- TPG Chapters 1-3: Background
- TPG Chapters 1-3: Major changes
- TPG Chapter 9: Background
- TPG Chapter 9: Key points
- OECD Intangibles project

# Convergence

- Multi-dimensional
  - OECD TPG vis-à-vis US 482 regulations?
  - OECD Model Article 9 vis-à-vis Article 7?
  - OECD Model Article 9 and Article 7 vis-à-vis Article 5?
  - Tax authorities / Taxpayers?

# OECD Model Tax Convention

- Article 9 – Associated Enterprises  
(references OECD TPG)
- Article 7 – Business Profits (Attributing profits to permanent establishments – the revised Article 7 incorporating the AOA)
- Article 5 – Permanent Establishment  
Article 23 – Relief from Double Taxation

# OECD Working Parties

- Working Party 1: Tax Conventions and related
- Working Party 6: Taxation of Multinational enterprises
  - Transfer pricing group (Article 9, Article 7)

# Interaction of OECD Projects

## AOA

- Interaction(?) – Correlative adjustment requirement for Article 7?
- Interaction (?) Are ‘KERTs’ relevant for Article 5?

## Business Restructuring

- Interaction(?) – Are Article 7 principles relevant to Article 9?
- Interaction(?) – Do business restructuring arrangements lead to permanent establishments? (Article 5)

# Chapters 1 – 3: Background

- Survey of country experiences in applying TPG since 1995
- Taxpayer experiences

# Chapters 1-3: Major changes

- Hierarchy
- Process
- Best practices

# Chapter 9: Background

Concerns relating to business restructuring arrangements

- Taxpayers concerns
- Tax authority concerns

# Chapter 9: Key points

- Role of contracts
- Basis for remuneration
- Recharacterization and non-recognition
- Economic rationale
  - Group level
  - Individual level

# OECD Intangibles project