



SETTING THE CONTEXT Permanent establishment (PE) evaluation, as we are aware, is a factual and legal exercise. While the PE concept has been there in tax law since years, with business models varying across industries and changing over time, no one standard formula applies to all. Broadly, PE evaluation encompasses fixed place PE, service PE, installation PE, supervisory PE, agency PE, etc. and is typically found in Article 5 of tax treaties. Typically, while Article 5(1) contains the basic rule for constitution of a PE, i.e. fixed place PE, Article 5(2) lists the examples which can constitute a fixed place PE; Article 5(3) would cover installation and service PE, which deem certain situations in which a taxpayer would have a PE. In some cases, installation and service PE may be covered under Article 5(2) itself [for example Article 5(2) of the India- UK tax treaty]. It is pertinent to note that the s.....