OECD commentary on home office

Why you should be following it closely



The OECD has recently updated its guidance on Permanent Establishment (PE) in the context of remote working from home offices, reflecting today's cross-border work realities. The revised commentary clarifies when an employee's home office—or another location not linked to the company, such as a holiday home—may be considered a fixed place of business for the employer. It introduces a 50 percent working-time threshold over 12 months: working remotely below 50 percent generally does not trigger a PE, while exceeding 50 percent warrants closer examination but does not automatically result in one.

It emphasizes the permanence of the arrangement and the commercial significance of the employee's activities in that country—such as managing client relationships and building a customer base. Conversely, downsizing office space or adopting a work-from-home policy for cost-saving or convenience purposes does not itself constitute a commercial reason to trigger a PE.

According to the OECD, this guidance will help organizations better assess their PE risk in foreign jurisdictions. It is intended to help multinationals modernize workforce policies while managing compliance and tax risks in an increasingly flexible work environment.

Notably, the guidance does not address dependent agent rules, executives with authority, or what constitutes habitually exercising authority—areas that may be subject to future revisions.



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This marks a significant shift in how organizations must approach their global workforce strategies. As remote and hybrid work become the standard, organizations need to proactively review and adapt their talent policies, structures, and processes to manage risk and maintain compliance while keeping in line with their business and talent strategy. Here's how to move forward:

01 Strategic alignment

Reevaluate your talent strategy

This is a critical moment to reconsider where you source talent, the degree of flexibility your organization is willing to offer, and your core talent priorities. Use these insights to shape your future policies and processes, ensuring they align with both business objectives and evolving regulatory landscapes.

02 Structural review

Explore alternative employment models

Assess the viability of structures such as a global workforce company or other similar viable structures. These models can help isolate and manage the risks associated with remote employees, while still providing the flexibility that today's workforce expects. This approach allows you to support remote talent without exposing the organization to unnecessary compliance burdens.

03 Policy review

Update and refine remote work policies

Conduct a thorough review of your remote, hybrid, and workation policies. The goal is to establish clear guidelines and guardrails that are consistent with OECD guidance, thereby protecting the organization from risk and ensuring predictable employee behavior. Well-defined policies can help you manage compliance and mitigate the risk of inadvertently creating a taxable presence in new jurisdictions.

The clarifications and examples in the updated guidance can help further strengthen existing guardrails or policies for remote work within the context of the company's business and can also support the development of new policies where none currently exist.

04 Process realignment

Automate and enhance location tracking

Implement or upgrade technology solutions (such as Human Resources Information System (HRIS) platforms) to accurately identify employee locations. Automating data collection reduces reliance on self-reporting and provides real-time visibility into your global risk landscape. This enables timely adjustments and helps ensure you remain compliant as your workforce evolves.



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Why these actions matter

Regulatory clarity is still evolving

Countries interpret home office PE rules differently, leading to inconsistent risk profiles. Harmonizing your internal approach can help you navigate this uncertainty.

Consistent policy application is challenging

Without unified legislation, organizations often choose between a one-size-fits-all policy (with carve-outs for high-risk scenarios) or a tailored, case-by-case approach—each with its own risks and benefits.

Face-to-face interaction remains valuable

While remote work offers flexibility, in-person collaboration drives business outcomes and employee well-being. Updated guidance can support balanced return-to-office strategies.

Downstream compliance is complex

A fixed-place PE can trigger multiple compliance obligations. Understanding and tracking where you have a taxable presence enables better planning and risk management.



What to prioritize

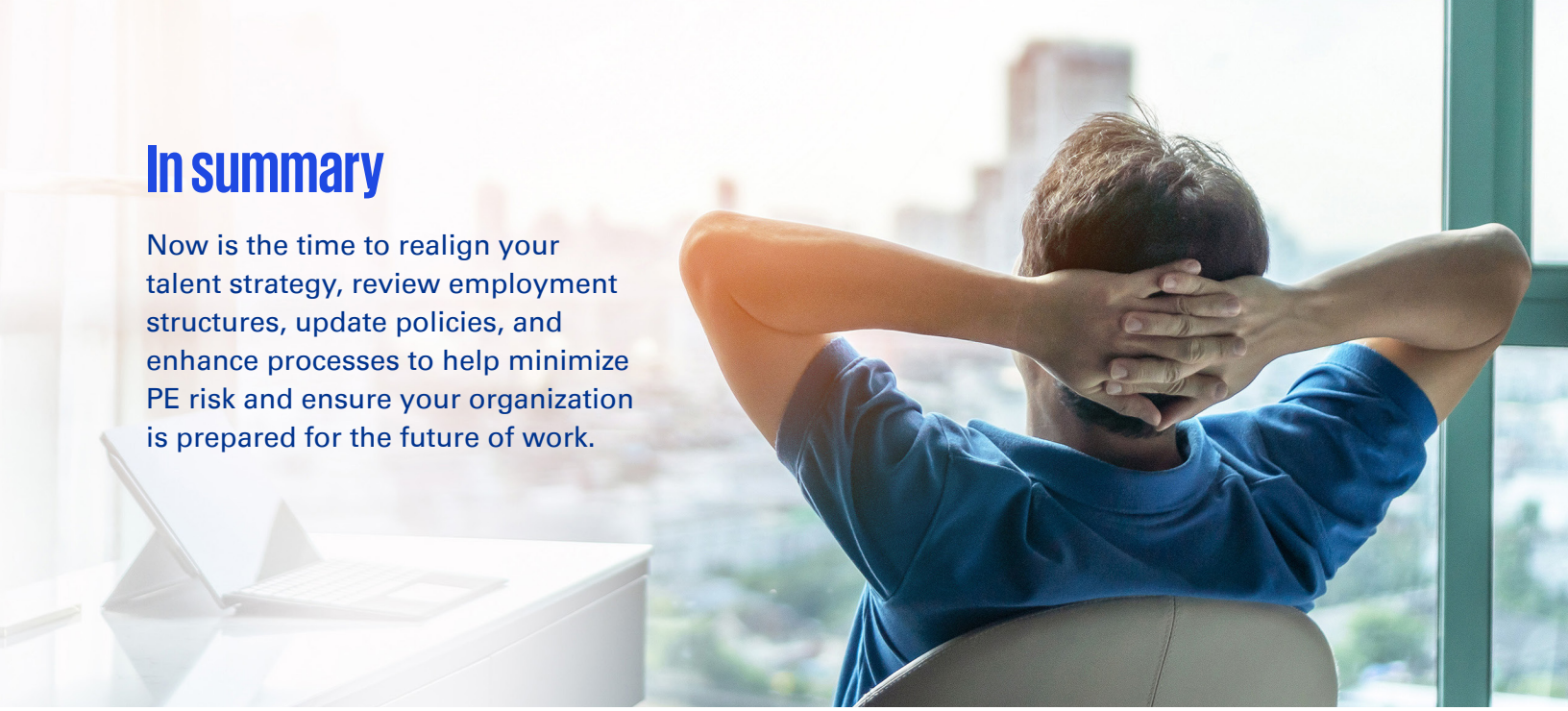
Focus on workforce segments most likely to trigger PE risk, such as cross-border commuters, employees working in countries without a local entity, remote specialists in emerging markets, and those engaged through third-party employment structures. If a home office does create a PE, consider efficient alternatives such as a Global Employment Organization to manage compliance without establishing a full subsidiary.

Looking ahead

The updated guidance does not apply globally, and few local tax authorities have made their positions to the revised commentary known or indicated whether these updates will affect their own processes. Further developments are expected in the coming months.

The OECD is anticipated to provide further guidance on areas such as personal income tax, tax residence, transfer pricing, and board activities. Staying informed and agile will be key as the global mobility landscape continues to evolve.

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In summary

Now is the time to realign your talent strategy, review employment structures, update policies, and enhance processes to help minimize PE risk and ensure your organization is prepared for the future of work.

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