





Technical Services

Some treaties include a provision for fees for *technical services* under the Royalties Article or similar stand-alone article

- There have been a number of disputes regarding what exactly constitutes technical services for the purposes of this type of provision
- Can be a fine line wT0twa nu for



Services – Treaty nexus 3 main approaches:

3. Withholding tax - Article 12 or separate article applies (royalty approach)

- usually only applies to income from technical services or technical assistance
- interpretation 'supply of know-how', or extensions to royalties definition, or separate article
- source rule based on residence of payer or place where PE is situated

Services – UN Model – Art. 5(3)(b)

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Services - OECD-Alternative Services PE

The OECD Commentary now provides for a services PE alternative (para 42.11 to 42.47 of the commentary to Article 5). There are two main conditions:

- Services must be performed in the source state
- Minimum time period in the source state

Services must be rendered to a third party, not to the enterprise itself

Would apply irrespective of application of Art. 5(1), (2) or (3)

Services - OECD- Alternative Services PE



Services – UN work

The Committee of Experts on International Cooperation in Tax Matters





Services – UN work









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THANK YOU MUCHAS GRACIAS