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## **A Fixed Place of Business (établissement stable) and a Veiled Real Estate Activity (activité immobilière occulte): the interesting details by the Council of State in the Frame of the French-Luxembourg convention**

By the two decisions of the 17 March 2017, the Council of State gave a ruling on the notion of a Fixed Place of business (établissement stable) in the frame of the operations of the real estate promotion, realized by the Luxembourg entity.

It results from this decision, that the organizational structure of the Real Estate Operators seem to be a determining factor on the characterization of the Fixed Place of Business (établissement stable) (allocation of roles between the Program Company and the Service Company and the link between them, drafting of the project ownership contracts (maîtrise d'ouvrage), a control of the carried out constructional operations by a foreign society).

Besides, the Council of State took an opportunity to remind its interpretation of a veiled activity (activité occulte).

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According to the High Jurisdiction, the notification of an exercise of the activity by the means of tax declaration does not prevent the Administration from considering that the other activity carried out by the same entity is veiled.

**CE, 8<sup>e</sup> et 3<sup>e</sup> ch., 31 mars 2017, n<sup>o</sup> 389573, SARL Estienne d'Orves (1<sup>re</sup> esp.), concl. R. Victor, note F. Lugand et P. Lucas**

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