



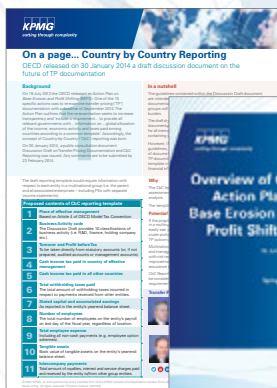
cutting through complexity

Base Erosion and Profit Shifting - BEPS

KPMG Luxembourg



Frequently asked questions



Base Erosion and Profit Shifting (BEPS) is a worldwide project to modernize the international tax system. It will likely have an impact on the majority of multinational enterprises.



What is BEPS?

BEPS refers to **tax planning strategies** resulting in little or no overall corporate tax being paid, due to the use of gaps and mismatches in tax rules.

At the request of G20 Finance Ministers, in July 2013, the Organization for Economic Co-operation and Development (OECD) launched an Action Plan on BEPS in order **to fight tax evasion and aggressive tax planning**.

Are BEPS strategies illegal?

In most cases, BEPS strategies merely **take advantage of current rules**. These rules, however, are not always in line with today's global environment, where there is an increasing focus on intangibles and risk management.

From the OECD's perspective, BEPS strategies, although legal, should be fought for several reasons. First, because such strategies are said to **distort competition**. Second, they could in certain circumstances lead to **inefficient allocation of resources** by influencing investment decisions by favouring activities that have lower pre-tax rates of return, but higher after-tax returns. Finally, it is an issue of **fairness**: when taxpayers (including ordinary individuals) see multinational corporations legally avoiding income tax, it undermines voluntary compliance of all taxpayers.

What does the BEPS Action Plan say?

As many BEPS strategies take advantage of the interactions of cross border tax rules, the OECD Plan sets forth **15 actions to address BEPS** in a comprehensive international and coordinated way. These actions recognize the importance of setting new international tax standards based on three core principles: **coherence, substance, and transparency**.

A coordinated action plan from the OECD against Base Erosion and Profit Shifting



What actions will be carried out in the context of BEPS?

Basically, the idea is to amend the prevailing international tax standards with a new set of tax rules (that will close unintentional loopholes that previously allowed organizations to benefit from **double non taxation**) through an international **comprehensive and coordinated approach**.

The BEPS project will possibly impact both the domestic law of each state and the provisions of the double tax treaties.

The **timeline** of the BEPS Action Plan is extremely **ambitious**, with the first outputs released in September 2014 and the completion of the project expected by the end of 2015, depending on the various actions (see below).

September 2014

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|------------------|---|
| Action 1 | (Report tax challenges of the digital economy) |
| Action 2 | (Neutralize the effects of hybrid mismatch arrangement) |
| Action 5 | (Review of country regimes to counter harmful tax practices) |
| Action 6 | (Prevent treaty abuse) |
| Action 8 | (Change on transfer pricing regarding intangibles – step 1) |
| Action 13 | (Change on transfer pricing regarding documentation requirements) |
| Action 15 | (Report on development of the multilateral instrument) |

September 2015

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|---------------------------|---|
| Action 3 | (Strengthen controlled foreign companies (CFC) rules) |
| Action 4 | (Limit base erosion via interest deduction and other financial payments) |
| Action 5 | (Expand participation of non-OECD members to counter harmful practices) |
| Action 7 | (Tax Treaty to prevent artificial avoidance of permanent establishment (PE) status) |
| Action 8 | (Change on transfer pricing regarding intangibles – step 2) |
| Actions 9 & 10 | (Change on transfer pricing regarding risks and capital and other high risk transactions) |
| Action 11 | (Recommendations regarding data on BEPS to be collected and analyzed) |
| Action 12 | (Require taxpayers to disclose their aggressive tax planning arrangements) |
| Action 14 | (Tax treaty measures to make dispute resolution mechanisms more effective) |

December 2015

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| Action 4 | (Change on transfer pricing to limit base erosion by interest deduction and other financial payments) |
| Action 5 | (Revision of existing criteria to counter harmful practices) |
| Action 15 | (Development of the multilateral instrument) |

What should I do to anticipate BEPS?

In such a constantly evolving tax environment, it is crucial for businesses not only to fully understand the current tax debate, but also to **consider and anticipate** any potential impact on existing structures or on future transactions.

What are the **key questions** to which multinational enterprises should seek answers?

- How are the various countries reacting to BEPS?
- How might BEPS affect my business?
- Are the transactions and structures in place or in progress “BEPS compliant”?
- What is the best possible tax strategy for my company in the future?
- Am I prepared to communicate on these tax strategies?

In order to help you answer these questions and address this challenge in the most timely and efficient way, KPMG has put together **a dedicated BEPS team** (both in Luxembourg and at KPMG Global level).

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Be prepared.

**Let's talk about
BEPS together**

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