

# BEPS ALERT

Briefings on Base Erosion and Profit Shifting (Tax)

## G20 and OECD take the first steps to implementing BEPS initiatives

### Summary

- *OECD to update G20 finance ministers on BEPS project implementation in Istanbul*
- *Key issues include the implementation of Country-by-Country reporting and determining whether preferential treatment regimes are harmful tax practices or not*

The OECD will report on the latest developments in the OECD/G20 Base Erosion and Profit Shifting (BEPS) Action Plan<sup>1</sup> during the G20 Finance Ministers meeting being held in Istanbul on 9-10 February 2015.

The G20 and OECD members have now agreed on three key matters that will facilitate implementation of the BEPS Action Plan:

### 1. Multilateral instrument addressing tax treaty-related BEPS measures

Implementing the BEPS Action Plan will ultimately require amendments to more than 3,000 bilateral tax agreements. The proposed multilateral instrument will enable countries to update their treaty networks quickly and effectively.

The agreement among G20/OECD members establishes an ad-hoc negotiating group open to all countries and hosted by the OECD. It will hold its first meeting by the end of July 2015 with the intention of concluding the drafting of the instrument by 31 December 2016.

### 2. Implementation of Country-by-Country reporting

A critical objective of the BEPS project is to increase transparency through enhanced standards of transfer pricing documentation including the use of Country-by-Country reporting. In this regard, a template has been devised that obliges multinational corporations to provide their tax administrations with information on revenues, profits, taxes, together with some key indicators of activity.

The proposed guidance requires Country-by-Country reporting by multinational corporations having a turnover in excess of EUR 750 million in their countries of residence. This will start in 2016 and national tax authorities will begin exchanging the Country-by-Country reports in 2017.

<sup>1</sup> The G20/OECD BEPS Action Plan addresses 15 key elements of international tax rules. The project aims to protect territorial tax bases, increase certainty and predictability for taxpayers and ensure that new domestic tax rules do not result in double taxation, unnecessary compliance or restrictions to legitimate cross-border trade.

The Country-by-Country guidance confirms that the primary method for sharing such reports between tax administrations will be through Automatic Exchange of Information, pursuant to mechanisms such as bilateral tax treaties, the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, or Tax Information Exchange Agreements.

### 3. Assessment of preferential tax regimes

Another key aspect of the BEPS Action Plan is determining whether intellectual property regimes (for example *patent boxes*) and other preferential tax regimes should be regarded as harmful tax practices. In Brisbane in 2014, G20 Leaders endorsed a proposed solution by Germany and the United Kingdom on how to properly assess if there is substantial activity related to an intellectual property regime. The proposal, based on a “nexus approach” (which makes a link between the expenditure incurred in a country (i.e. capturing the work or activity undertaken) and the amount of income that can benefit from a preferential regime) has subsequently been endorsed by all OECD and G20 member countries.

Transitional arrangements for existing preferential regimes, including a limit on new entrants after June 2016, have been agreed, and work on implementation is ongoing.

Over a dozen developing countries participated in the discussions regarding these BEPS implementation issues; part of the strategy, endorsed by the G20 in November 2014, of having greater developing country involvement.

The OECD has already presented seven deliverables of the Action Plan to the G20 in 2014, and is scheduled to present the remaining deliverables by the next G20 Leaders Summit in Antalya, Turkey in November 2015. Following this week’s meeting in Istanbul, the OECD will present a progress report in a webcast on 12 February 2015.

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