



KPMG Tax Corporation

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KPMG Tax e-Tax News

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TAX UPDATES

OECD – RELEASE OF THE FIRST BEPS DELIVERABLES

On 16 September 2014, the OECD released its first deliverables for a co-ordinated international approach to combat tax avoidance by multinational enterprises, under the OECD/G20 Base Erosion and Profit Shifting (BEPS) Project designed to create a single set of international tax rules to end the erosion of tax bases and the artificial shifting of profits to jurisdictions to avoid paying tax.

This e-tax newsletter provides the main points from the 7 reports released as the first deliverables.

Action 1 Address the Tax Challenges of the Digital Economy

As potential options to address the tax challenges of cross-border e-commerce transactions, the expansion of the scope of a permanent establishment, the introduction of withholding tax on payments and the imposition of consumption tax in the jurisdiction of the consumer, etc. were discussed. The broader tax challenges of the digital economy, including these options, will be further discussed and a supplementary report will be finalised by December 2015.

Action 2 Neutralise the Effects of Hybrid Mismatch Arrangements

In order to address tax relief (e.g. double non-taxation, duplicate credits) resulting from differences in the tax treatment of hybrid instruments and entities between two or more tax jurisdictions, Part 1 of the report provides recommendations for domestic rules to neutralise the effect of hybrid mismatch arrangements. For example, it is recommended to deny dividend exemption for the relief of economic double taxation in respect of deductible payments made under financial instruments.

Furthermore, Part 2 of the report sets out recommended changes to the OECD Model Tax Convention to deal with dual resident entities and transparent entities.

Action 5 Counter Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance

In connection with combating harmful tax practices, this interim report focuses on the following points:

- Setting out a substantial activity requirement in the context of intangible regimes
- Improving transparency through compulsory spontaneous information exchange on rulings related to preferential regimes

The report also includes the OECD's review of 30 preferential regimes of OECD member countries and associated countries. Further work will continue and reports will be released in 2015 as well.

Action 6 Prevent Treaty Abuse

This report recommends that treaties include anti-treaty shopping provisions. It is proposed that countries adopt either of the following:

- (i) The LOB (Limitation on Benefits) and PPT (Principal Purpose Test) rules
- (ii) The PPT rule only
- (iii) The LOB rule with a mechanism that would deal with conduit arrangements not dealt with in tax treaties

Action 8 Transfer Pricing - Intangibles

This report includes the revised Chapter 6 (Special considerations for intangibles) of the 'OECD Transfer Pricing Guidelines' (fully replacing the current Chapter 6) and 33 examples to illustrate the guidance. Parts of this report are presented as interim drafts of the guidance that will be finalised in 2015 in connection with other related BEPS work.

Action 13 Re-examine Transfer Pricing Documentation

This report includes the revised Chapter 5 (Documentation) of the 'OECD Transfer Pricing Guidelines' (fully replacing the current Chapter 5). It recommends that a multinational enterprise (MNE) should file the following 3 types of documentation:

- (i) Master file (basic information of the MNE)
- (ii) Local file (information relating to specific intercompany transactions)
- (iii) Country-by-country report (aggregate tax jurisdiction-wide information relating to the revenue, the income and the taxes paid, etc. for the MNE)

As the mechanisms for filing and disseminating the master file and the country-by-country report will be considered further, the section entitled "E. Implementation and review" is still blank.

Action 15 Develop a Multilateral Instrument

Recommendations under the BEPS projects could require bilateral tax treaties to be amended, which potentially takes a significant amount of time since there are over 3,000 tax treaties globally. As a result of discussion on developing a multilateral instrument in order to solve this issue, this report concludes that such an instrument is 'feasible and desirable.' Also, it is recommended that international conferences to develop the multilateral instrument should be convened in 2015.

【OECD Release】

[OECD releases first BEPS recommendations to G20 for international approach to combat tax avoidance by multinationals](#)

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