



KPMG ASPAC Conference 2016 in Beijing:

New Tax Paradigm – Time to act
Observations

May 2016

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A General insights

1	Rate of change is dramatic. Pascal Saint-Amans compared what the OECD were doing in 2006 with 2016. Unprecedented momentum across the globe for increased transparency. Cooperation is being perceived as protection of sovereignty. Community concerns are driving the political agenda to ensure “fairness and integrity”.
2	Monitoring implementation is a high priority for G20 and OECD. After the 2016 deliverables of profit allocation, profit splits, multilateral instrument, finalisation of LOB rules, this will be the next phase.
3	Combined impact of BEPS Proposals not a single proposal that is producing dramatic change.
4	Rise of non-tax laws such as State Aid and EU accounting directives on transparent Country by Country Reporting will have substantial impact.
5	Many MNE structures are no longer optimal and should be revisited, particularly given the potential for taxation in multiple jurisdictions.
6	Countries are adopting a new type of legislation that looks at what happens outside the jurisdiction and not just within it (eg. DPTs).
7	Jumping the gun & beyond the Action Plan changes such as the UK and Australian MAAL & DPT are becoming prevalent. Also India's Equalisation Levy.
8	Impact on developing countries gaining greater political and technical attention.
9	Increasing role of the UN, IMF, World Bank on taxation matters. Much lobbying on re-opening the source residence debate.
10	EU-wide General Anti-Avoidance Rule (GAAR) is a real possibility.
11	Tax reform in the US is a critical question. Some thought this was inevitable in the immediate future. Starting to see increased focus in the US media on BEPS.
12	Reporting to the Board is now a permanent feature due to the BEPS agenda. Effective communication with key stakeholders is key. Media training is important.
13	Outsourcing models to reduce costs are increasingly prevalent. HR challenge for the tax function is to find people with dispute management and communication skills and a strong tax advisory background.
14	Tax departments need to be more involved in policy.

“I hope to make your job boring by 2026”

Pascal Saint-Amans reflecting on 2006, 2016 and 2026

B China's tax perspectives, own Action Plans & the future

1	International taxation constitutes an integral part of international economic cooperation. Taxation is moving from a world of competition to cooperation.
2	There is a world-wide campaign on “tax substance alignment.” Profits must be taxed in the jurisdiction where “economic activities occur” and “value is created”.
3	New transparency such as CbC means that no longer is the “blind man touching the elephant,” he now sees the elephant.
4	<p>15 China Action Plans (CAPs)</p> <p>CAP 1: China is adjusting its international tax policy goals from not simply safeguarding tax to also promoting economic development. (Unusually China has positive net foreign assets, but negative net income on foreign investments.)</p> <p>CAP 2: Apply the new GAAR where appropriate</p> <p>CAP 3: Rules to deal with indirect transfer of China assets</p> <p>CAP 4: Upgrade IT systems to monitor MNE profits</p> <p>CAP 5: Implement CbC Reporting</p> <p>CAP 6: Implement CRS Reporting</p> <p>CAP 7: Deal with intangibles (see below)</p> <p>CAP 8: Rules dealing with hybrid mismatches</p> <p>CAP 9: CFC rules to fit with broader economic policy</p> <p>CAP 10: Credit system reform for “One belt, One Road” strategy*</p> <p>CAP 11: Dealing with intra-group charges</p> <p>CAP 12: Drafting anti-abuse rules</p> <p>CAP 13: Revising the law of tax collection and administration</p> <p>CAP 14: Adding anti-avoidance rules in the law of individual taxation</p> <p>CAP 15: Helping developing countries build capacity</p> <p>* “One belt, One road” is a policy promoted by Xi Jinping in 2013 which promotes co-operation with countries of the original Silk Road in Eurasia and the Maritime Silk Road of South East Asia.</p>
5	<p>CAP 7: Dealing with intangibles</p> <p>China will conflate FASB's six categories of intangibles (market-related, customer-related, artistic-related, contract-related, technology-related and goodwill) into three: technology, market and other.</p>
6	<p>Technology-related intangibles: “Exploitation” is key. The market where the know-how or trade secret is applied or exploited is critical to the value contribution.</p>

Technology: the Innovation Lab demonstrated the following tools

KPMG Link 360
Oversight of all tax compliance & more

KPMG Link 360 Global Disputes Management Module

KPMG R&D Edge
Comprehensive R&D monitoring technology

C Other country & regional observations

7	Market-related intangibles: “Enhancing” is key. One needs to consider the contribution of specific market characteristics to value growth of a brand. Localisation of an international brand is remunerable. Local expenses should be taken into account when evaluating market-related intangibles.
8	The marketer/distributor be compensated not only for providing promotion and distribution services, but also for enhancing the value of marketing intangibles based on functions performed, assets used and risks assumed.
9	Four factors contribute to value: capital, labour, market and intangibles. Market has special significance. Growth of demand leads to growth of value.
10	Control and decision-making may or may not be the most important functions for value generation. Actual decision implementation can be equally important in some circumstances.
11	Contract R&D: compensation based on reimbursement of costs plus a modest mark-up will not reflect the anticipated value or the arm’s length price for the contributions of the research team in all circumstances.
12	By 2020 a modernised international tax system in line with international trends and China’s open policy, which welcomes “quality FDI”, will be in place.

The future: China’s rising economic and political power

13	The “economic miracle of China” which has seen millions of people rise from poverty has given rise to an economy filled with “puzzles, paradoxes and policy dilemmas”.
14	Low household income and savings relative to GDP reflects imbalance in the economy.
15	Poor correlation between economic growth and stock market returns which have been low/negative in China (also India). Stock market reform is key. Note poor performers do not delist compared to other countries.
16	From 1978 to 2007 state sector productivity growth was 1.5 percent, private sector productivity growth was 4.6 percent. Major shift from agriculture to manufacturing. Private sector absorbed about 420 million jobs from old agriculture.
17	Need to move investment from the state sector to the private sector. Now need to expand the services sector. First ideological shift in China was economic. A second ideological shift will involve institutions.
18	From Giuseppe Tomasi di Lampedusa in <i>The Leopard</i> : ‘If we want things to stay as they are, things will have to change.’

India	
1	Unprecedented period of proactivity, particularly in relation to treaties. Changes have been announced in relation to the India-Mauritius Tax treaty under which India could tax capital gains on investments routed through Mauritius, subject to transitional rules.
2	Government using social media on tax matters eg. Impact of new policy on India-Singapore treaty.
Japan	
3	Main concern is consistency in application of Action Plan initiatives. Japan is likely to stay with the pack.
US	
4	Concern for how BEPS changes will be applied with need to ensure rule of law prevails.
5	US fears the proliferation of disputes. Need strong framework to deal with this.
6	Note has recently joined the “ad hoc” group discussions on the Multilateral Instrument (Action 15).
Vietnam	
7	Policy from “isolation to integration” means a move to adopt international standards.
Australia	
8	New Diverted Profits Tax (following the second limb of the UK DPT) and significant additional funding for the ATO reflects community and political concerns for fairness and integrity.
ASEAN	
9	MNEs are being asked to develop a “SE Asia Strategy” due to high growth in the region with a rapidly growing middle class. Three main drivers of growth: labour costs, deep specialisation in some areas particularly financial services and biotechnology in Singapore and IT in Malaysia and progressive free trade environment.
10	But challenges abound. Cultural differences and systems of government make it difficult to expand across borders for successful local companies coupled with highly protective national competitive environments. In addition language, religion, income diversity in the region gives rise to significant complexity.

Detailed technical presentations covered a wide number of areas including:

- International structures under BEPS
- M&A “boosting the deal”
- Banking and Insurance in a post-BEPS environment
- Dealing with tax disputes and controversy
- Indirect tax and customs including the TPP impacts.

KPMG AEOI Reporting Converts data from core systems to correct reporting	Tax Intelligence Solution Analysing integrity of underlying data	TR ONESOURCE Global Trade Trade compliance & management tool
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May 2016. VIC N14095TAX