OECD/G20 Base Erosion and Profit Shifting Project

INFORMATION BRIEF

2014 Deliverables

BETTER POLICIES FOR BETTER LIVES

Further information

To find out more about the BEPS Project, please visit our website www.oecd.org/tax/beps.htm, or contact:

- Pascal Saint-Amans, Director, OECD Centre for Tax Policy and Administration
  E-mail: Pascal.Saint-Amans@oecd.org

- Raffaele Russo, Head of the BEPS Project, OECD Centre for Tax Policy and Administration
  E-mail: Raffaele.Russo@oecd.org

Base Erosion and Profit Shifting

Globalisation has opened up opportunities for multinational enterprises to greatly reduce the taxes they pay, sometimes close to zero by moving their profits abroad. Gaps and mismatches in the current, outdated tax rules can make profits “disappear” for tax purposes, or allow the shifting of profits to no- or low-tax locations where the business has little or no economic activity. These activities are referred to as base erosion and profit shifting (BEPS). Moreover, the growing importance of services in the economy, and of digital products and services which can often be delivered over the internet has made BEPS much easier.

In most cases these strategies are legal. BEPS is not a problem created by one or more specific companies which are legally taking advantage of opportunities to reduce their overall tax liability. Apart from some cases of blatant abuses, the issues lie with the tax rules themselves.

These unintended effects of the interaction between domestic and international tax rules have raised serious issues – they are a source of distortion between taxpayers, affect trust in the integrity of the tax system, an issue particularly important at a time of fiscal consolidation and social hardship. They result in a loss of revenue for governments that could otherwise be invested to support resilient and balanced growth. In developing countries, where reliance on corporate tax as a source of revenue is generally higher, the potential impacts are particularly stark.

From Inception to Action

For decades, the OECD has been promoting the elimination of double taxation on cross border trade and investments. Eliminating double taxation remains a key objective of the Organisation as it is conducive to cross border trade and investments, which spur growth and create jobs.

However, with the current rules not keeping pace with modern business practices in a global economy, the rules aimed at eliminating double taxation, have also facilitated double non-taxation.

At the Los Cabos G20 Leaders Summit in November 2012, the OECD received a mandate to work on tackling BEPS issues. Following the Declaration on BEPS adopted at the 2013 OECD Ministerial Council Meeting and at the request of G20 Finance Ministers, the OECD launched the BEPS Action Plan, which was fully endorsed by G20 Leaders in Saint Petersburg in September 2013.

The BEPS Action Plan is designed to fix the current deficiencies of the international tax system, and identifies 15 specific actions needed to equip countries with the domestic and international instruments aligned with a principled approach, to address this challenge. The plan recognises the importance of addressing the borderless digital economy, and will develop a new set of standards to prevent BEPS issues such as double non-taxation through hybrid mismatch arrangements, base erosion via interest deductions, or artificial profit shifting through transfer pricing. This will require greater transparency, closer international co-operation and a coherent approach to implementation. It highlights the importance of more certainty and consistency for taxpayers as well as the need to establish more effective dispute resolution mechanisms between tax administrations.

Working Together

The BEPS Project marks a turning point in the history of international co-operation on taxation. The OECD Committee on Fiscal Affairs (CFA), which is the steering body for the BEPS Project, brings together 44 countries on an equal footing: all OECD members and the BEPS Associates (8-non-OECD G20 and OECD accession countries: Argentina, Brazil, China, Colombia, India, Indonesia, Latvia, Russia, Saudi Arabia, South Africa). The measures adopted by the CFA, such as the 2014 deliverables, are developed by technical working groups made up of expert officials from OECD and G20 members, as well as inputs from developing countries, and based on extensive consultations with business, trade unions, civil society organisations and academics. More than 85 low and middle income countries have participated in the BEPS consultation process (from a total of 142 jurisdictions which have been involved in the Project to date), more than 3 500 pages of comments on the discussion drafts were received and five public consultations were held. Three BEPS webcasts have also taken place which have attracted over 10 000 viewers.

2014 Deliverables

OECD members and the BEPS Associates have now agreed by consensus the first seven deliverables of the Action Plan. Implementation of the measures will go a long way in addressing some of the key BEPS challenges, with the 2014 deliverables including model rules to neutralise hybrid mismatches (Action 2), putting an end to costly multiple deductions for a single expense or deductions in one country without corresponding taxation in another. The work under Action 5 targets harmful tax practices, focusing on the distortionary influence of tax on the location of service activities with progress being made on the transparency of tax rulings and a methodology to assess substantial activity in intellectual property, and other, preferential regimes. Treaty shopping and other forms of treaty abuse have been targeted under Action 6, with all countries agreeing that anti-treaty abuse provisions should be included in tax treaties. Under Action 8, the work on ensuring that value creation is aligned with taxation under transfer pricing rules has begun with a focus on intangibles and a consensus was reached that the artificial shifting of profits to no or low-tax jurisdictions, for example through cash boxes, can no longer be tolerated. This work on the transfer pricing rules will continue to progress, including under Actions 9 and 10 as foreseen in the Action Plan, in 2015.

Major progress has been achieved in improving transparency for tax administrations while limiting compliance costs for businesses, with agreement reached on transfer pricing documentation, including country by country reporting of the profits, economic activity and taxes of multinational enterprises. More broadly, there has been a clarification of the tax challenges raised by the digital economy, which will see this work given further specific attention through 2015. Overall, the issue of implementation of the BEPS measures has seen countries agree on the feasibility of implementing BEPS measures through a multilateral instrument, under Action 15.

These measures across seven areas of the Action Plan are an important step forward in fighting BEPS. Viewed together with the 2015 deliverables, and once implemented to double tax treaties and domestic laws, the measures will ensure the *coherence* of corporate tax systems in a cross-border environment, introduce *substance* requirements in the area of tax treaties and transfer pricing, and ensure *transparency* while promoting certainty and predictability.

What's next

The delivery of the 2014 BEPS outputs shows how OECD and G20 members working together have brought a consensus approach to important reforms with a worldwide impact. Work on the remaining elements of the BEPS Action Plan will now continue, through technical working parties, enhanced and targeted engagement with developing countries focusing on their priority BEPS issues, as well as dialogue with business, civil society, academics and other international and regional organisations. This diversity of input assists policy makers as they continue to improve their understanding of the different perspectives on these challenging issues, and craft the most appropriate solutions.

The next outputs of the BEPS Project are due to be delivered in September and December 2015. In parallel, the 2014 deliverables will be further refined to ensure that any outstanding technical issues are addressed, including interaction with the 2015 deliverables, and that implementation and practical guidance is developed with regard to all issues.

The 2015 deliverables include work to develop recommendations on the following areas:

Action 3: on the design of effective controlled foreign company (CFC) rules, to provide countries with tools to tackle the large amounts of untaxed profits booked offshore.

Action 4: regarding rules that limit base erosion via interest deductions and other financial payments.

Action 5: to continue work on preventing harmful tax practices, with a specific focus on preferential intellectual property regimes.

Action 7: on preventing the artificial avoidance of permanent establishment (PE) status, an issue of particular importance for developing and emerging economies.

Actions 8-10: on ensuring outcomes from transfer pricing rules are in line with value creation, relating to intangibles, risks and capital and other high risk transactions.

Action 11: on methodologies to collect data and carry out economic analysis on BEPS, including its spillover effects across countries.

Action 12: on domestic rules requiring the disclosure of aggressive tax planning arrangements.

Action 14: to enhance the effectiveness of dispute resolution mechanisms among tax administrations

The CFA will also consider in January 2015, a draft mandate for an international conference for the negotiation of a multilateral convention to streamline the implementation of the BEPS Action Plan (**Action 15**).

The BEPS Project will result in an overall package which takes a comprehensive and principled approach to the shared goal of the OECD Members and BEPS Associates: a fairer international tax system, which will support sustainable and balanced growth.

Recommended reading

About BEPS

- **What the BEPS are we talking about?** ***(OECD, 2013)***
  www.oecd.org/tax/what-the-beps-are-we-talking-about.htm

- **Action Plan on Base Erosion and Profit Shifting** ***(OECD, 2013)***
  www.oecd.org/ctp/BEPSActionPlan.pdf

- **Addressing Base Erosion and Profit Shifting** ***(OECD, 2013)***
  www.oecd.org/tax/beps-reports.htm

About the 2014 BEPS Deliverables

- **Press release, Explanatory Statement, Reports**
  www.oecd.org/tax/beps-2014-deliverables.htm

- **Frequently asked questions**
  www.oecd.org/ctp/beps-frequentlyaskedquestions.htm