

INTERNATIONAL
TAX BULLETIN

LATEST OECD BEPS DEVELOPMENTS



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OECD organised 5th Tax Talks on 28th of March 2017. In this session, OECD Centre for Tax Policy and Administration (CTPA) shared with public the latest tax update on recent and upcoming developments in the OECD's international tax work about following topics:

- ◆ G-20 Baden-Baden Meeting
- ◆ Inclusive Framework on BEPS
- ◆ Tax Transparency
- ◆ Tax Certainty
- ◆ VAT/GST

1. G-20 Baden-Baden Meeting

In the last OECD Tax Talk, OECD representatives mentioned that Finance Ministers and Finance Minister Deputies of G-20 countries discussed following issues during Baden-Baden Meeting:

- ◆ G-20 countries remain committed to BEPS project.
- ◆ G-20 countries decided to implement the commitment to automatic exchange of information and to sign multilateral convention.
- ◆ G-20 countries acknowledge the report on tax certainty submitted by OECD and IMF.

According to Pascal Amans, Director of the Center for Tax Policy and Administration, most of the G-20 Finance Ministers highlighted their will to see further work in the area of tax and digitization of economy. Amans stated that they emphasized that an interim report about tax digitization of economy should be written until 2018.

2. Update on the Inclusive Framework on BEPS

OECD representatives reported following: Second meeting about inclusive framework has been made in January 2017. 94 jurisdictions have joined the inclusive frame work, and they committed to implement BEPS actions. %25 of these jurisdictions are OECD member countries, %21 of them are G-20 countries and %54 of them are from other countries.

2.1. Activities within Inclusive Framework

It was emphasised during the OECD webcast that these jurisdictions committed to apply

minimum standards and accept peer review; they had a consensus at political level for Action 5, 6, 13 and 14. OECD representatives provided the details about the certain BEPS Actions as follows:

- ◆ **Action 5:** The minimum standard for countering harmful tax practices was established. In this regard, country reviews were conducted on 90 preferential tax regimes. Transparency review has started in January 2017. It is related with the exchange of tax rulings in particular categories. Over 6,000 exchanges on rulings have been made so far.
- ◆ **Action 6:** The minimum standard for counter harmful tax practices is expected to be established in 2017.
- ◆ **Action 13:** The minimum standard for Country-by-country Reporting (CbCR) was established. Peer review has been started in February 2017 by OECD. Over 45 jurisdictions approved primary or secondary legislation of CbCR in their domestic framework. There are 57 signatories of the Multilateral Competent Authority Agreement on the Exchange of CbC Reports. The Guidelines on CbCR were published in June and December 2016.
- ◆ **Action 14:** Peer Review on dispute resolution has been started in December 2016. Countries are divided into 8 batches for peer-reviews. The publication of batch 1 reports is expected to be published in July/August 2017. Peer-reviewing for 5th batch, which also includes Turkey, will start in April 2018.

2.2. Multilateral Instrument (MLI) Status Update

OECD representatives reported following on MLI: 55 delegations made more than 300 meetings with speed matching activities between 27th of February and 2nd of March. There will be a signing ceremony at ministerial level on 7 June, when it is expected more countries will sign MLI.



2.3. Transfer Pricing

OECD representatives highlighted that all 94 inclusive framework members can participate in the standard setting work. It was also stated that OECD Working Party 6 in its inclusive framework format is working on revised "Guidance on Attribution of Profits to Permanent Establishments and Use of Transactional Profit Split Method". Based on the latest OECD webcast;

- ◆ **Permanent establishment (Action 7):** PE concept is redefined in order to:

- ▶ Clarify that there is no double taxation in source countries,
- ▶ Minimise compliance burden and
- ▶ Clarify the interaction between action 7 and 9.

- ◆ **Transactional Profit Split Method (Action 8-10):** The team is working on when this method is appropriate and how it can be applied.

Furthermore, we understand from the OECD webcast that "Guidance on Hard-to-Value Intangibles and Transfer Pricing of Financial Transactions" is expected to be published. Accordingly, revised Chapter IX and 1995 Council Recommendation will be included in the 2017 consolidated version of the OECD Transfer Pricing Guidelines.

3. Tax Transparency

3.1. G-20 Listing Process

OECD representatives indicated that there were 3 criteria on listing process already agreed by G20:

- ◆ Whether a country is largely compliant with exchange of Information on request
- ◆ Whether a country committed to implement automatic exchange of information (at latest 2018)
- ◆ Whether a country signed the multilateral convention

If a country doesn't meet two of these criteria, it will be listed as a non-transparent country in terms of tax.

It is understood that there will be a fast track process by the Global Forum on Tax

Transparency and Exchange of Information. It will enable progresses of countries to be recognised before G20 Summit in July 2017. However, these countries need to be confirmed by a full peer review later.

3.2. Automatic Exchange of Information

Based on the OECD webcast, in terms of automatic exchange of information;

- ◆ 108 signatories signed multilateral convention.
- ◆ 87 signatories signed Multilateral Competent Authority Agreement.
- ◆ More than 1,400 activated exchange relationships have been made.
- ◆ More than 100 jurisdictions have already been assessed.

Last OECD Tax Talk addressed that standardized and secure transmission system for bilateral exchanges has been established as a technical infrastructure to be able to exchange the information between countries. In this context, the system can be used for CRS, CbCR and tax rulings. We understand that the system will be ready in September 2017 for the first exchanges.

4. Tax Certainty

A report on tax certainty has been prepared by OECD and IMF and it is delivered to G-20 Finance Ministers.

A survey on tax administration has been made by the OECD:

- ◆ 724 responses have been made.
- ◆ 99% FT Global 500 has responded
- ◆ 50% of respondents are multinational firms.
- ◆ 66% of respondents are tax directors or senior tax managers.

According to the survey, Top 5 sources on uncertainty are as follows:

- ◆ Considerable bureaucracy to comply with tax legislation including documentation requirements
- ◆ Unpredictable or inconsistent treatment by the tax authority



- ◆ Inconsistencies or conflicts between tax authorities on their interpretations of international tax standards (TP, VAT etc.)
- ◆ Lengthy decision-making of the courts tribunals or other relevant bodies
- ◆ Complexity in the tax legislation

Possible solutions for uncertainty offered by respondents are as follows:

- ◆ MAPAs (Multilateral advance pricing agreements)
- ◆ Multilateral audits
- ◆ Multilateral co-operative compliance programmes

5. VAT/GST

OECD representatives in the OECD Tax Talk pointed out that VAT/GST Guidelines were completed at the end of 2015 which comprise a set of standards for the VAT/GST treatment of international trade. These guidelines primarily focus on trade in services and intangibles.

Apparently, VAT/GST recommendation will be released at the Global Forum on VAT to be held in Paris on 12-14 April 2017. There will be a very broad delegation in the Global Forum about VAT/GST issues with more than 100 delegations.

These Guidelines include mechanism for the collection of VAT from overseas vendors of digital products. This had been identified as a major issue in the context of BEPS Action 1.

Countries around the world such as Australia, EU-28, India, New Zealand, Japan, Korea, Norway, Russian Federation and South Africa have started to implement or have already completed the implementation of regimes to collect the VAT from foreign sellers.

6. What's Next?

OECD representatives indicated:

- ◆ Inclusive Framework on BEPS will be written in July 2017, and be submitted to G-20 Summit.
- ◆ Inputs about BEPS Peer Reviews for mutual agreement procedure are welcome until the Summit.

- ◆ Global Forum fast track process has started.
- ◆ First automatic exchanges under Common Reporting Standard (CRS) will start very soon.
- ◆ The work of Task Force on the Digital Economy will be delivered to the spring meetings of the IMF and World Bank in 2018.

Please contact us for our International Tax Bulletin and further details on OECD BEPS Developments.



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