The Voice of OECD Business

BIAC BUSINESS IN BRIEF

August 2013

OECD BASE EROSION & PROFIT SHIFTING ACTION PLAN

- **Action 1: Address the tax challenges of the digital economy (A)**
  Examine various business models used in the digital sector and seek to identify the main difficulties posed.
- **Action 2: Neutralise the effects of hybrid mismatch arrangements (A)**
  Develop model treaty provisions and recommendations regarding the design of domestic rules to neutralise double non-taxation, double deduction and long-term deferral.
- **Action 3: Strengthen CFC rules (C)**
  Develop recommendations regarding the design of CFC rules.
- **Action 4: Limit Base Erosion via Interest Deductions (C)**
  Develop recommendations regarding best practices in the design of rules to prevent base erosion through excessive deductions and TP guidance on related party financial transactions
- **Action 5: Counter harmful tax practices more effectively taking into account transparency and substance (D)**
  Refocus work of Forum on Harmful Tax Practices to prioritise improving transparency and to holistically evaluate tax regimes in BEPS context.
- **Action 6: Prevent Treaty Abuse (A)**
  Develop model treaty provisions and recommendations regarding domestic rules to prevent granting of treaty benefits in inappropriate circumstances, including the development of a limitation of benefit clause.
- **Action 7: Preventing the artificial avoidance of PE status (C)**
  Consider changes to definition of PE to prevent artificial avoidance of PE status in relation to BEPS.
- **Actions 8, 9 & 10:Assure that TP outcomes are in line with value creation for intangibles, Risk & capital, and other high risk transactions (B)**
  Develop TP rules to prevent profit shifting through pricing of intangibles, risk & capital, and other high risk transactions.
- **Action 11: Establish methodologies to collect & analyse BEPS data (D)**
  Develop recommendations regarding indications of the scale of BEPS and ensure that tools are available to evaluate the actions taken to address BEPS on an on-going basis.
- **Action 12: Require taxpayers to disclose their aggressive tax planning arrangements (C)**
  Develop recommendations regarding the design of mandatory disclosure rules for aggressive or abusive transactions
- **Action 13: Re-examining transfer pricing documentation (A)**
  Develop rules regarding TP documentation to enhance transparency, taking into consideration the compliance costs for business.
- **Action 14: Making dispute resolution mechanisms more effective (C)**
  Develop solutions to address the absence of arbitration provisions in most treaties and the fact that MAP/arbitration may be denied.
- **Action 15: Develop a Multilateral Instrument (D)**
  Analyse the tax and public international law issues related to the development of a multilateral instrument, reflecting the need to adapt quickly to the rapidly evolving nature of the global economy.

BACKGROUND AND OVERVIEW

- In response to growing public concern around the tax affairs of international groups, the OECD launched a report in February 2013 titled ***Addressing Base Erosion and Profit Shifting*** ("BEPS").

- The OECD delivered its ***BEPS Action Plan*** on 19 July 2013. The Action plan sets out 15 areas where further work will be undertaken, including a summary of the key considerations to be addressed and the timetable for each area.

- Fundamental change to the international tax architecture is ruled out, It is also noted that the current balance between source and residence countries remains unaltered by the BEPS proposals.

METHODOLOGY

- OECD working groups are being set up to focus on each of the actions.
- The OECD is including all OECD and G20 members in the working groups and inviting other countries to input on an ad hoc basis. BIAC and the UN's inputs are also welcomed.
- The outcome of the actions will include changes to international tax rules and principles, and recommendations for domestic legislation that can be adopted unilaterally.

TIMING

- There are no set dates for delivery of any of the actions, although the expected timeframe is indicated.
- Actions are expected to take anywhere between 12 months and more than 24 months:

12 – 18 months	A
12 – 24 months	B
24 months	C
More than 24 months	D

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