WHAT IS BEPS ?

and what BEPS means for business

BUSINESSatOECD
THE BUSINESS AND INDUSTRY ADVISORY COMMITTEE

- In 2012, the G20 looked to the OECD, the leading multi-lateral institution on international taxation, to develop a framework to equip governments with tools to address tax avoidance — subsequently coined "Base Erosion and Profit Shifting" or "BEPS." BEPS, in the view of the G20/OECD, was caused by MNEs' exploitation of the existing international tax rules to move profits (and related tax) from jurisdictions with operations (and often relatively high-tax rates) to low or no-tax jurisdictions.
- Pursuant to its G20 mandate, the OECD developed 15 Action Items across a range of tax issues, including the digital economy, transfer pricing, coherence of corporate income taxation, as well as transparency, certainty, and predictability of taxation.
- From 2012 to today, the OECD has addressed all 15 Actions, with final reports issued in fall of 2015. Additionally, supplemental work continues on several items, e.g., Action 1: *Tax Challenges Arising from Digitalisation* (2018).

BY THE NUMBERS

15 Consensus Action Items
>100 jurisdictions involved in the process
>10,000 MNEs impacted by new rules
2,000-3,000 potential tax treaties impacted
USD 100-240B potential annual tax revenue lost from BEPS as est. by OECD

INCLUSIVE FRAMEWORK

Extended traditional **35** OECD members to **113 countries**, with all agreeing to implement four minimum BEPS standards:

- Harmful tax practices (Action 5) – standards for preferential tax regimes
- Treaty Abuse (Action 6) – rules to eliminate/reduce treaty-shopping
- Country-by-Country Reporting ("CbCR")(Action 13) – increased reporting
- Dispute Resolution (Action 14) – mechanisms for dispute resolution

BUSINESS AT OECD INVOLVEMENT

35 written responses to discussion drafts
13 public consultations attended
8 Regional Network Meetings attended
5 Public Position Papers
18 Press Releases
Direct discussions with governments on implementation

BEPS TIMELINE

BEPS Local Implementation

Business at OECD Engagement and Commentary

MLI Local/Regional Implementation and Follow-up

November 2012: *UK, France, and Germany joint letter and G20*

February 2013: *OECD Initial Report*

July 2013: *BEPS Action Plan*

Fall 2014: *Action Item Int. Reports*

Fall 2015: *Action Item Final Reports*

May 2016: *MLI Discussion Draft*

November 2016: *Adoption of MLI*

June 2017: *Signing of MLI*

Fall 2017: *Digital Input & Consult*

March 2018: *Digital Interim Report*

March 2018: *Slovenia enacts MLI*

July 2018: *MLI legally effective*

Summer 2019 (expected): *Update on Digital*

Summer 2020 (expected): *Final Digital Report*

WHAT BEPS MEANS FOR BUSINESS

Hybrid Mismatch (Action 2) **Controlled Foreign Corps** (Action 3) **Interest Deductions** (Action 4)
→ **Impact on Related Party Payments** (e.g., disallowed tax deductions)

Harmful Tax Practices (Action 5) **Permanent Establishment** (Action 7) **Transfer Pricing Guidelines** (Actions 8-10)
→ **Value chain impacts** (e.g., tax on IP assets, additional local taxation on sales, etc.)

Prevent Treaty Abuse (Action 6) **Multilateral Instrument** (Action 15)
→ **Holding Company Structure Costs** (e.g., taxes on affiliate dividends)

Disclosure of Aggressive Tax Planning (Action 12) **Transfer Pricing Documentation** (Action 13)
→ **New Reporting Requirements** (e.g., disclosure of EEs, revenue, etc. by jurisdiction)

Dispute Resolution (Action 14)
→ **Dispute Resolution Mechanisms** (e.g., binding arbitration between countries)