The Latest on BEPS - 7 July 2015

**OECD**

On 6-7 July 2015, the OECD is holding a public consultation on transfer pricing matters under BEPS Actions 8-10. The consultation is focused in particular on the discussion drafts on hard-to-value intangibles and cost contribution arrangements. During the consultation, the OECD also will provide an update with respect to the transfer pricing work on risk, non-recognition and intangibles.

**Mexico**

On 6 May 2015, the Mexican Tax Administration Service published on its website the revised version of Appendix 9, “Information on operations with foreign related parties,” of the Multiple Disclosure Return (which is an informational annual return separate from the regular tax return). The revised version of Appendix 9 is effective from the day of its publication, for fiscal year 2014 and all subsequent fiscal years. It includes 57 fields of information broken down by type of transaction and allows up to 40,000 transactions to be reported, thereby significantly increasing the amount of detail required. Among the most relevant new fields are: information regarding foreign related party’s data; detailed description of included transactions; financial information used to determine the result of the tested transaction; and comparable companies’ or operations’ reference interquartile range.


**Netherlands**

On 18 June 2015, the Dutch Ministries of Finance and of Foreign Affairs released a letter providing an update on various activities undertaken to assist developing countries in the area of tax administration. Among these, the Netherlands participates in the OECD’s Tax and Development program to provide 14 developing countries and representatives of two organizations - “African Tax Administration Forum” and “Inter-American Center of Tax Administrations” - with the technical and logistical support and expertise necessary to attend BEPS negotiations at the OECD. The Netherlands
also announced that it would participate, along with other donors, in an initiative providing training and support to developing countries with respect to the application and implementation of BEPS measures and multilateral initiatives relating to tax transparency.

**Russia**
On 11 June 2015, the Russian Government approved a tax policy paper for the period from 2016 to 2018 which may broadly serve as an indicative framework for potential tax legislative proposals. In the paper, the Government announces that it will decide whether to amend domestic controlled foreign company rules and legislation on interest deductibility once the OECD’s recommendations on BEPS Action 3 and 4 are final. The paper also recommends revisiting transfer pricing documentation requirements, taking into account the OECD recommendations, and clarifying the scope and content of transfer pricing rules. It does not provide further details or directions on how existing domestic rules should be amended. The paper also recommends that additional measures should be taken to limit the use of “one-day firms” and tax schemes involving offshore companies. In this context, a draft law on unjustified tax benefits, which has passed the first reading at the Russian State Duma on 15 May 2015, would introduce as of 1 January 2016 an explicit anti-avoidance rule denying deductions, offsets and refunds in situations where the deduction, offset or refund in question is found to be the main purpose of a transaction (thereby confirming and codifying existing court practice).

See EY Global Tax Alert, Russian Government approves draft main tax policy objectives, dated 29 June 2015.

**Sri Lanka**
On 25 March 2015, Sri Lanka’s Commissioner General of Inland Revenue published a gazette which requires taxpayers to submit details of transactions with associated parties to the Inland Revenue Department (IRD) as a part of the annual corporate income tax return. Under this gazette, taxpayers are required to specify the pricing method used to determine the arm’s length price. Since 2013, taxpayers have been required to keep contemporaneous transfer pricing documentation in English if certain thresholds are met, to be made available to the IRD upon request. The gazette also requires the approved accountant (i.e., the auditor) to certify that all transactions are carried out on an arm’s length basis and that the necessary documentation has been reviewed by the auditor. This certificate is in addition to the certificate to be submitted by the companies’ directors as part of the Director’s Report in the published annual accounts that all transactions between associated parties are carried out on an arm’s length basis.

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