“I think the main challenge was making sure that there was sufficient flexibility in terms of the choices that countries can adopt, either unilaterally or bilaterally, but not just creating what would be in effect 3,000 protocols stapled together.”

— Interview with Mike Williams CB, Chair of the OECD ad hoc multilateral instrument group
Inside issue 19

6 An interview with Mike Williams CB, Chair of the OECD ad hoc multilateral instrument group

12 The G20’s post-BEPS agenda

17 IMF/OECD deliver report addressing tax certainty, including practical recommendations for countries

23 The EU’s Common Consolidated Corporate Tax Base: second time’s the charm?

27 Country updates

28 Australia
Australia first country to signal intention to adopt the MLI, launches consultation process

30 Hong Kong
BEPS changes are coming to Hong Kong’s tax regime

34 Israel
Israel approves new innovation box regime to attract intellectual property investment

38 Singapore
Singapore clarifies application of GAAR, introduces requirement for reporting related-party transactions

42 US
The outlook for US tax reform and its potential effects on global tax policy

48 2017 tax rates in the G20

51 EY contacts

Connect with EY Tax in the following ways:

- ey.com/tax
- ey.mobi for mobile devices
- twitter.com/EY_Tax for breaking tax news

Global Tax Policy and Controversy Briefing is published by EY.

To access previous issues and to learn more about the EY Tax Policy and Controversy global network, please go to ey.com/tpc or sign up to receive future editions via email by going to ey.com/emailmeTPC.
Welcome to the 19th edition of our Global Tax Policy & Controversy Briefing. What a year it is shaping up to be. On the one hand, the tax world is starting to look past the Base Erosion and Profit Shifting (BEPS) Action Plan from the G20/Organisation for Economic Co-operation and Development (OECD) to identify what tax competition, tax certainty and growth will look like in a post-BEPS landscape.

On the other hand, we expect a multitude of BEPS recommendations to pass into national legislation, with the advent of the OECD’s multilateral instrument (MLI) likely to drive many further adoptions of the four main areas of activity impacted by this new BEPS Action 15 tool. As Mike Williams, chair of the OECD’s ad hoc group that developed the MLI, says in his interview with us (see page 6), one of the MLI’s key benefits is that it will give countries “the ability to reflect their treaty-based commitments to the BEPS project more speedily.”

With the speed, volume and complexity of tax policy and legislative and regulatory change continuing to accelerate, accessing the leading global insights has never been more important.

EY is pleased to make available a Tax Policy and Controversy Briefing portal, providing earlier access to all articles in this publication and more, including interviews with minute-by-minute tweets of key news, daily tax alerts and more interviews with the leading stakeholders in the world of tax.

Access the new portal at: ey.com/tpcbriefing

1 Readers may be interested in registering for the EY series of six post-BEPS landscape webcasts at www.ey.com/webcasts.

2 Namely, the elements of (i) Action 2 on hybrid mismatch arrangements, (ii) Action 6 on treaty abuse, (iii) Action 7 on the artificial avoidance of the permanent establishment (PE) status and (iv) Action 14 on dispute resolution.
Into 2017: the G20, EU and tax certainty

Time, of course, waits for no one, and new hot topics for 2017 have already taken shape. On the international stage, Martin Kreienbaum, Director General of International Taxation at the German Ministry of Finance, will arguably be one of the most important tax figures in 2017. 1 January saw him become chair of the OECD’s Committee on Fiscal Affairs. With Germany now holding the G20 Presidency (and with the Hamburg G20 Leaders’ 7-8 July Summit fast approaching), there are few stakeholders who will exert more influence on the direction that world leaders will take on tax.

The key goals of the German G20 Presidency are already clear, with indications that its tax agenda will focus on transparency, implementation of BEPS recommendations, tax and development, tax certainty and digitization. Jeffrey Owens takes a closer look at how the G20 tax agenda might unfold in 2017 (see page 12), while Rob Thomas reviews the report on tax certainty that was prepared by the OECD and International Monetary Fund at the G20’s request (see page 17).

In the European Union (EU), the European Commission continues to press forward with its transparency and anti-tax avoidance agenda. The October 2016 relaunch of the Common Consolidated Corporate Tax Base proposal is arguably the most ambitious and far-reaching of the Commission’s corporate tax reform initiatives, but, as Klaus von Brocke explains on page 23, it is unclear whether the Commission will be able to advance the proposal as quickly as it hopes.

Country developments continue apace

One could be forgiven for thinking that the year-end period would mean few new developments from national governments. The opposite, in fact, is true. Many countries pass their annual tax and/or finance bills at the end of the year, meaning it is sometimes easy to miss a key development. In France, it was what was not included, as opposed to what was included, that drew attention as we passed into 2017, with the much-criticized diverted profits tax being struck down in full by the French Constitutional Court.

But for every tax initiative struck down, there are dozens that move forward, as evidenced by our coverage in this edition, including Hong Kong (BEPS measures), Israel (innovation box) and Singapore (GAAR guidance and a new requirement for reporting related-party transactions).

Of course, that rundown leaves the most colorful until last: US tax reform. Here, as Cathy Koch explains on page 42, the political environment is ripe for enactment of comprehensive tax reform. The process to find common ground between the positions of the Trump Administration, the House Republicans’ Blueprint (unveiled in June 2016), and the not-yet-detailed plans of the Senate – particularly on the Blueprint’s controversial border adjustment plan – has just begun. But have no doubt, the potential outcome could set in motion significant changes – for the US tax system, for businesses and for global responses on the policy front.

Look out for our Outlook

Last but definitely not least, we wanted to signpost the recent release by EY of The outlook for global tax policy in 2017. In this publication, we cover many of the above issues in more detail, as well as setting out the potential policy direction for 2017 in 50 countries.

You can access the Outlook at www.ey.com/tax.

As always, we hope you find this publication to be of interest and value. And our standing offer remains – please do let us know if you would like us to cover specific issues in the future.
The multilateral instrument (MLI) developed under Action 15 of the Base Erosion and Profit Shifting (BEPS) project of the Organisation for Economic Co-operation and Development (OECD) is crucial to quickly and consistently incorporating tax treaty-related BEPS measures into bilateral or regional tax treaties. The OECD released the text of the MLI and a related commentary statement on 24 November 2016; they had been formally adopted by approximately 100 countries at a ceremony hosted by the OECD following the conclusion of the negotiations during the week of 21 November 2016. In general, the MLI will only enter into force after five countries have ratified it and will apply for a specific tax treaty after all parties to that treaty have ratified the instrument and a certain period has passed to ensure clarity and legal certainty. The first high-level signing ceremony will take place in Paris in June 2017.

Chris Sanger, EY Global Tax Policy Leader, recently spoke with Mike Williams CB, Chair of the OECD ad hoc multilateral instrument group, for a progress report on the MLI and a look ahead.
Chris Sanger: Since its inception, the MLI has had a few believers and many more who said, “It’s never going to happen.” So now we have seen its publication. Before getting into some of the more detailed questions, what’s your overall reflection on the journey to where the MLI is today, and what’s now on the table in public?

Mike Williams: Much of the skepticism came from the fact that it was intrinsically difficult to create an instrument that is in effect a multilateral amending protocol to a very large number of treaties. The second difficulty is that we had so many options that the MLI had to consider under its “opt in” mechanism. However, it was essential that we found a way of delivering the changes demanded by the BEPS project. I don’t think you can adopt a process such as the BEPS project, whereby you achieve outputs in two years, in an environment with tremendous public pressure on countries, and then say, “Oh, we have agreed these outputs, but the treaty-based ones will not be implemented for 40 years, because it will take that long to amend existing treaties.” I think it would have been quite beyond people’s comprehension.

Did it require a lot of compromise? In short, yes. It took significant willingness to move away from the old way of doing things. Equally, it was important, and this is where it helped having the OECD Secretariat develop the instrument, to have quite a lot of flexibility in the instrument. Some people have said there's too much flexibility, but I think the answer to that is without significant flexibility, people would not have found it an appropriate way of amending all these treaties. It would have been more rigid, but nobody would have adopted it.

Chris Sanger: So you’re happy with the outcome, and you think it’ll be attractive to many of the countries to sign up to?

Mike Williams: I’m not at this stage prepared to say what I think success is in terms of numbers. But what I would say is that, given how much effort and how many resources go into negotiating protocols, actually a relatively small number of treaties being modified by an instrument will be success in terms of greater efficiency. I think in reality, it will be a very significant proportion of the 3,400 treaties. I think that is clearly more efficient, and it will, over time, I think, lead to greater uniformity, which is useful.

I would distinguish two forms of diversity within the substantial diversity that we see in tax treaties. Some truly reflect substantive “bargains,” like to what rate to reduce withholding tax — that’s clearly a significant choice that countries will still want to exercise when negotiating treaties. But it seems to me that having a sort of “meaningless diversity” of people negotiating bilaterally to produce very slightly different definitions of, say, when is a permanent establishment derived for a building site or not, is not very effective, and over time hopefully that will go.

Chris Sanger: And what do you see as key benefits for the countries?

Mike Williams: The ability to reflect their treaty-based commitments to the BEPS project more speedily.

Chris Sanger: And for business?

Mike Williams: For business, naturally the same. It’s in business's interest that countries move reasonably speedily and reasonably uniformly to agree the BEPS outputs. It would’ve been great if we could get greater uniformity by a multitude of bilateral negotiations, but business would never be quite sure when they were happening or when they were ratified. Clearly not every treaty will be amended through the MLI, but if a very large proportion are, and at broadly the same time, I think that gives you greater clarity, and I think that’s useful.
The positive surprise was in the number of countries that participated and genuinely took part and, for example, have already given quite strong indications that they contemplate putting in all or nearly all of their treaties.

**Challenges and surprises in developing the MLI**

**Chris Sanger:** What were the main challenges in negotiating the agreement?

**Mike Williams:** I think the main challenge was making sure that there was sufficient flexibility in terms of the choices that countries can adopt, either unilaterally or bilaterally, but not just creating what would be in effect 3,000 protocols stapled together. It's got to be more than that. Equally, if it became one single treaty, it would neither fit with the existing treaties nor be adopted by many countries.

**Chris Sanger:** Were there any disappointments or positive surprises?

**Mike Williams:** The positive surprise was in the number of countries that participated and genuinely took part and, for example, have already given quite strong indications that they contemplate putting in all or nearly all of their treaties. Equally, if it became one single treaty, it would neither fit with the existing treaties nor be adopted by many countries.

**Chris Sanger:** So effectively a staging point?

**Mike Williams:** Yes. Was it disappointing that the US was not very heavily involved, except on arbitration? I would say no, on the basis that I don't think anyone can realistically have expected the US to have been involved given the constitutional process it needs to follow in terms of agreeing to treaty amendments.

**Chris Sanger:** What do you see as the main challenges in terms of countries moving into implementation on this?

**Mike Williams:** I think there's a significant challenge for many countries in ratifying this MLI, which you could rightly describe as a rather peculiar thing. It's a multilateral instrument, but it amends bilateral treaties. So there's a challenge for countries where a legislature takes a lot of interest in this sort of thing to explain precisely what the instrument is doing. Equally, there's a challenge given that the instrument is equally valid in English and French. How do you then use it to amend a treaty that is equally valid in two other languages? That, of course, isn't an issue that we previously had to deal with, but it turns out to be an issue that is not that uncommon in other international instruments. So you can copy from that. Also, we have countries with common languages, like the Netherlands and Belgium, that have been working hard to then come up with a translation that they're both happy with.

**Mismatches in implementation choices**

**Chris Sanger:** The BEPS recommendations contemplate that there will be mismatches between states in selecting their implementation choices. What's the mechanism for addressing such a mismatch?

**Mike Williams:** If you look closely at the instrument, in some areas, in effect, the contracting parties, or the contracting-parties-to-be, have stated that the other party can make a free choice. Equally, there are other areas – the most obvious one being the anti-treaty abuse one – where, in general, countries are going to say they won't accept the alternative choice. The majority of countries, it became very clear, are keen on a principal purpose test. Against that background, most of those countries are not open to another country coming along and saying, “We want an LOB (limitation of benefits).” And I think that is not too surprising, particularly when as part of the process, it became clear that we needed more work put in to an LOB test.

**Chris Sanger:** How wide do you think the disparities in application might be in practice, and in which areas do you think the highest level of disparities are likely to occur?

**Mike Williams:** I think you'll have to test that against the counterfactual, which is that we have lots of bilateral protocols with many disparities, and it seems to me that in reality the disparities from applying the MLI will be considerably smaller because there is this single instrument. Equally, we can't rule out that some countries will join relatively late. But, if we assume that most countries that take part are those that took part in the negotiations and that they will join broadly early on, then you're going to get a lot less disparities due to time moving on and something becoming out of date.

**Chris Sanger:** And they'll come to this with the expectation and the knowledge of the negotiation process, and therefore they should be aligned in terms of their thinking.

**Mike Williams:** Yes.

**Monitoring the implementation of the minimum standard**

**Chris Sanger:** How will tracking and reporting work in practice?

**Mike Williams:** There are pre-signing and post-signing dimensions to consider in that regard. For pre-signing, we are going to host what we probably shouldn't, but we are tending to, call a “speed dating” session where countries can get together with one another to discuss clarifying in areas where they don't have to accept what the other country wants. Of course, it's more than speed dating, but I guess someone came up with that description of our approach to helping the countries come together and it has stuck!

The purpose is to find a means of reconciliation between countries. Then, subsequently, there's tracking in terms of peer review, which has to be done on the same basis for the MLI as for the BEPS minimum standards implemented bilaterally, where the main difference, it seems to me, is that the tracking will be easier. If you've adopted the multilateral
instrument and you’ve ratified it, it will be clearer that you have met the BEPS minimum standard as it relates to treaties.

As for the reporting, there’s an important role for the OECD as a depository because there must be a single body – the OECD – that keeps track of what’s going on, and who has ratified what in relation to which treaties, because otherwise I think there’s a danger of confusion. Over time, I think it will become clearer and more straightforward, but in the short term, again you’ve genuinely either got bilateral protocols negotiating and amending bilateral treaties in international public law, or you’ve got a multilateral convention that is itself amended multilaterally. We’re trying to do a new thing, but as time goes by, I think people will get used to that.

Chris Sanger: And is that a long-term role for the OECD, do you think? Or do you think it will go far wider over time?

Mike Williams: So long as the instrument continues to exist and new countries are joining it, then I think the OECD does have to perform that role.

Making the case for mandatory binding arbitration

Chris Sanger: What are the OECD’s longer-term goals for dispute resolution, both within the treaties and linked to the MLI?

Mike Williams: There’s the goal of mandatory binding arbitration for the 20+ countries participating in the arbitration subgroup. This does give them a common provision for dealing with mandatory binding arbitration. The interesting thing is that you’ve got a reasonable number of countries that are all adopting arbitration at the same time, and many of the countries that are doubtful about arbitration might wonder, “Does it really work?”

So many countries joining gives a significant number of pairings. It ought to be reasonably clear, reasonably quickly: does it work to reduce disputes or doesn’t it? If it does, you’ve then got a ready means for other countries to join as well. Rather than having a country wait to add arbitration until the next time it does a bilateral protocol, there is the opportunity for a country to adopt the arbitration provision in the MLI. I think that’s quite significant and also quite efficient.

Chris Sanger: So effectively, at least on that point, it’s a case of the early movers proving that it actually works in practice.

Mike Williams: Yes, provided it does work in practice, but equally the instrument provides something of an attraction. Instead of sort of nebulously saying, “Oh, maybe we will adopt this,” you’ve got a tangible means of doing it relatively quickly.

Chris Sanger: Not all jurisdictions will use the MLI to meet the minimum standards. Will there be a mechanism for monitoring their implementation of minimum standards on treaty abuse?

Mike Williams: Yes, the adherence to minimum standards will be part of the BEPS implementation framework.

Chris Sanger: So it’ll effectively be separate from the MLI?

Mike Williams: Yes. I think it has to be because we at no stage said you have to use the MLI to implement your commitments to BEPS, which reflects the voluntary nature of the group.

Chris Sanger: But then over time you might expect the MLI to be the natural way of implementing the minimum standards on treaty abuse?

Mike Williams: It could become the natural way of doing things – and this probably is a benefit for developing countries. It’s a way of getting a standard text, and it’s a way of joining the club in a more efficient way. The premium for that is a more standardized approach, but actually you’re back to meaningless diversity. Are you really losing anything by being more standardized? I think, overall, you’re probably not.

Chris Sanger: And you mentioned developing countries: what are the other potential benefits for developing countries?

Mike Williams: That depends whether you take the view that tax treaties are of benefit to developing countries, but there are those that are not convinced.

Chris Sanger: Like the IMF?

Mike Williams: Like the IMF. But I think it’s hard to argue against a provision that implements minimum-standards protection against treaty abuse. It’s a little hard to see why you wouldn’t want that as a developing country. Equally, I think it’s relatively easy to appreciate why developing countries might be doubtful about arbitration on the basis that if you’re a small, poorly resourced developing country, do you really want to go into arbitration with a very large developed country, with a very large multinational, that you might think are better able to defend their perspective than you are?

Chris Sanger: But in that same regard, we’ve heard comments from some of the developing countries that the whole mindset approach that has developed is very different from that of arbitrators in developing countries, and therefore it’s more difficult for them to get binding arbitration to work.

Mike Williams: I think that slightly presupposes that the main purpose of this is to do a lot of arbitrating, whereas the main purpose is actually to get the disputes and treaties settled more readily, before they ever need to get to arbitration.

If the reality is that we spawn a vast industry around arbitration, then it seems to me that that’s not desirable. But if we’re able to show that we can reduce the number of disputes, at last, then there is a benefit to countries and to business in having mandatory binding arbitration provisions, and I think we could get more developing countries interested.
If we look at the OECD Model Tax Convention, it’s amended every two years or so. Why would we not create a protocol to the multilateral instrument?

**Extending the MLIs approach to other tax instruments**

**Chris Sanger:** What are the prospects that at some point the MLIs approach will be used to implement changes to the OECD Model Tax Convention, or indeed the UN Model, that are not related to BEPS? Once we’ve learned the lessons that this is a useful and beneficial mechanism, could it be extended elsewhere?

**Mike Williams:** I think the first step is to get the instrument signed by as many countries as possible, and then ratified by them so that it comes into effect. But let’s suppose that that works, and there’s no good reason why it shouldn’t work, although I do think that because of the novelty of it, there will be some countries that struggle with ratification. But let’s assume that they get through that. You’ve then got this platform that you can use to effect changes more quickly on a more standardized basis.

If we look at the OECD Model Tax Convention, it’s amended every two years or so. Why would we not create a protocol to the multilateral instrument? Clearly, you’ve got to ratify that. But that’s a single step, which of course enables countries to protect their sovereignty rather than this – to me – slightly odd thing at the moment. We’ve updated the OECD Model Tax Convention every two years. But how many countries by the time of the next update have actually done anything, not because they’re not willing but because it takes a lot of time to negotiate? And I think that is the most likely next step.

**Chris Sanger:** Why didn’t this all occur before?

**Mike Williams:** The answer goes back to the fact that in the midst of time, decades ago when countries started agreeing these treaties, there weren’t that many players in the game, and therefore it wasn’t particularly inefficient. But then you find over the last 20 years that the numbers have grown, and that’s a good thing. But, on the other hand, as a mechanism, it’s not tremendously satisfactory. It seems to me that you have 3,400 treaties – and, indeed, nobody quite knows how many. That’s slightly peculiar.

**Chris Sanger:** And you also needed someone at the center to drive it all together and bring all the parties to see the sense of this?

**Mike Williams:** I think it’s more that we needed the urgency of the public concern that fostered the BEPS project. Given the intrinsic difficulties, you’ve got to want to do it quite a lot, and there’s got to be common reason why people are going to sit in the room and struggle through the difficulties. I’m not sure that that was there before. If you take the biannual changes to the Model Tax Convention, there isn’t genuinely enough there to cause people to depart from what they’ve already done, or there isn’t sufficient urgency.

**Chris Sanger:** So maybe we’ll see this extended to social security treaties and others as a natural consequence?

**Mike Williams:** I think we need to fix it for tax treaties first before extending it! There’s a long way to go – if we think we should even go there at all – between having 3,400 tax treaties that will still exist, or having something like the ICAO (Convention on International Civil Aviation) treaty, which is multilateral and covers all areas of aviation security. I think we should focus on this first before extending the subject matter.

**Chris Sanger:** The low-hanging fruit?

**Mike Williams:** You have to have quite long ladders to get to this fruit! When we climb to the top, you’ll see a lot of fruit further up, I think. I think it’s back to respecting this sort of meaningful diversity while also trying to eliminate the meaningless diversity (between treaties). The encouraging thing is that, at the end of the process, I think countries are reasonably committed to it and we have built up some momentum. There are countries that are thinking, “Well, how exactly do we persuade our foreign affairs ministry, or how do we persuade the justice ministry, that this is the way that you implement this thing?” But I don’t think anyone’s throwing up huge difficulties in the way of that. So once they’ve done it, again you’re making it more productive.

**Chris Sanger:** And once you’ve got one country showing how they are implementing this instrument, it’ll help as a way for others to understand?

**Mike Williams:** Maybe, although I’m less convinced of that. I think maybe if the UK ratifies quickly, it sort of relays to other countries in the Commonwealth with similar legal structures and processes to the UK that it’s relatively straightforward to ratify. I don’t think that tells you anything about ratification in a country with a different tradition, where the parliamentary ratification process is maybe not more cumbersome, but different, maybe more heavily engineered. It’s a different process, I think.
The MLI’s significance in implementing the BEPS treaty-related measures

When the OECD and G20 started the BEPS Project in July 2013, many commentators said it would never happen. And look where we are now. Putting the MLI in the perspective of the BEPS Project as a whole, it provides a mechanism to speedily implement the final category of BEPS measures, the treaty-based measures. Transfer pricing measures and country-by-country reporting have already been broadly implemented in 2016. The EU has put a lot of effort behind the implementation of the coherence measures, like interest deductibility and hybrid mismatches. And now the MLI brings the possibility of having the treaty-related BEPS outputs enter into effect in relation to existing bilateral tax treaties in 2018 or 2019. So, in fact, we can now say that we are entering the post-BEPS world, where the roadmap to navigating that world is roughly laid out – or will be so after countries have expressed their positions in relation to the MLI in 2017.

Ratification – the road ahead

Ratifying the MLI will indeed be a great challenge for countries, as it is such a complex instrument. I do not expect, however, that this will lead to delays in the ratification of the MLI by countries. The political climate in many countries is such that much pressure is likely to be put upon speedy introduction of the BEPS measures. And besides that, peer reviewing of the minimum standards, such as, for example, the minimum standard on treaty abuse, by the OECD’s inclusive framework for BEPS implementation will ensure that there is a pressure on countries to keep moving. I therefore expect that the treaty abuse measures, in particular the principle purpose test, will enter into effect for a relevant number of existing bilateral tax treaties in or before 2019.

Effects on dispute resolution

The MLI is, in my opinion, particularly important for dispute resolution. First, because it translates the support of countries for mandatory binding arbitration from paper support into a firm, legal commitment. Prior to now, countries very rarely went back to the negotiation table on the issue of whether or not to use arbitration, so the MLI gives the introduction of arbitration into treaties a priority that it did not have before. The second reason why the MLI is important is because it also translates the OECD minimum standard on dispute resolution into treaties. This secures that countries include provisions in their treaties that guarantee access to the mutual agreement procedure for all transfer pricing cases. This is an important win, as some countries could or would not allow such access in the past, and more than half of all double taxation cases in the world relate to transfer pricing.
The G20’s post-BEPS agenda

2017 could be a pivotal year in international taxation, as the G20 moves beyond the Base Erosion and Profit Shifting (BEPS) agenda of the G20/Organisation for Economic Co-operation and Development (OECD) and grapples with questions of growth and tax certainty and also revisits the challenges posed by the digital economy.

Germany, which holds the G20 presidency from 1 December 2016 through to 30 November 2017, has indicated that it will focus its tax agenda on transparency, implementation of BEPS recommendations, tax and development, tax certainty and digitization.

Note: this article also appears in The outlook for global tax policy in 2017, a publication that highlights government proposals for new legislation, provides an overview of global tax trends and offers a deep dive into individual countries’ policies as forecasted by EY tax policy leaders in 40+ countries. The publication is available at www.ey.com/tax.

Jeffrey Owens
Senior Policy Advisor
Ernst & Young LLP
+44 20 795 11401
jowens@uk.ey.com
Promoting tax policies that generate sustainable and inclusive growth

Germany will continue to explore the so-called third plank of the G20’s tax agenda – achieving strong, sustainable, balanced and inclusive growth. Under this plank, launched by the previous G20 presidency held by China, the G20 aims to boost economic growth through a range of tax policy tools. As part of this initiative, the G20 is exploring how it can increase certainty and predictability in the tax system, as it believes such factors are critical to fostering a pro-growth environment. The G20 has asked the OECD and the International Monetary Fund to prepare a report with recommendations on tax policies and mechanisms to generate sustainable and inclusive growth; the OECD and IMF published their report on 18 March 2017 (see related article on page 17). This work is likely to form an ongoing part of the G20 tax agenda for years to come.

From a conceptual standpoint, one of the key questions that must be addressed by the G20 should be: is all tax uncertainty bad? One could argue that having some amount of uncertainty in a tax system can be beneficial for tax administrations, as it forces taxpayers to act more cautiously. At the same time, uncertainty may give taxpayers more opportunity for tax planning. The G20 will therefore have to determine what level of tax uncertainty is “good” or “bad.”

The G20 will also have to develop criteria for achieving tax certainty. In other words, what elements are needed to derive tax certainty? Clearly, governments can pledge to take a coordinated approach when developing tax policies – for example, by engaging in dialogue with the business community, adopting well-thought-out polices that are translated into clear legislation and regulations, and ensuring that tax policies are consistent with international standards. The G20 will also have to look at the role that tools like advance rulings and advance pricing agreements can play in bringing certainty to both tax administrations and taxpayers. However, given the amount of scrutiny that rulings were put under as part of the debate on BEPS Action 5 (Countering Harmful Tax Practices), touting the benefits of advance rulings could be a tricky endeavor in a post-BEPS environment.

Tax and the digital economy revisited

Germany has indicated that the digital economy will be a big focus of its G20 presidency. At its first presidency meeting held in Berlin on 1 December 2016, Germany asked the OECD to prepare a report for the March 2017 G20 finance ministers’ meeting on current developments within the OECD’s Task Force on the Digital Economy, and to bring forward any other potential ideas on how taxation of digital activity can be improved. The task force is co-chaired by France and the United States, which may have very different views (and interests) on how to tax the digital economy.

The rapid digitization of our economies brings both challenges and opportunities for all sides, and will require an unprecedented level of cooperation – between tax administrations as well as between taxpayers and tax administrations – if tax is not to become a barrier to using these new technologies for the good of all citizens.

The debate on digitization comes at a critical time, as digital technology is transforming not just the way business is done but the way tax administrations interact with taxpayers and other tax authorities. To cope with the unprecedented amount of taxpayer data that is flowing between governments and business, tax administrations are increasingly relying on digital methods to collect and analyze this data. Many tax authorities are building sophisticated data-gathering platforms.
and using data analytics to help them develop a more complete picture of companies’ tax profiles. Some are even extracting data directly from corporate systems as part of VAT and GST audits.

As tax administration goes digital, companies will need to make major investments in their tax and information technology functions to meet the challenges – and opportunities – of providing information on an almost real-time basis.

**Battle of the non-cooperative tax jurisdiction lists?**

The G20’s plans to develop a list of “non-cooperative” jurisdictions for tax transparency purposes could conflict with the European Union’s effort to compile its own blacklist of non-cooperative jurisdictions. In July 2016, the OECD, working with G20 members, agreed on a set of criteria for identifying non-cooperative jurisdictions. To avoid being considered non-cooperative, a jurisdiction must meet two of the following three criteria:

- It receives a rating of “largely compliant” or better from the OECD’s Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum), as regards the “exchange of information on request” standard of transparency.
- It commits to adopting the OECD’s automatic exchange of information standard (the Common Reporting Standard, or CRS) and beginning exchanges by 2018 at the latest.
- It has signed the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, or it has in place a sufficiently broad exchange network providing for exchange of information on request and automatic exchange of information.

At the G20 Leaders’ Summit held in Hangzhou, China, in September 2016, the G20 asked the OECD to prepare a list by the July 2017 G20 Leaders’ Summit of those jurisdictions that have not yet sufficiently progressed toward a satisfactory level of implementation of the agreed international standards on tax transparency. The G20 stated that defensive measures will be considered against listed jurisdictions.

The European Union (EU) is carrying out a similar exercise. In January 2016, as part of an Anti-Tax Avoidance Package, the European Commission announced plans to create a list of third countries that do not respect tax good governance standards. The plan was endorsed in May 2016 by the Economic and Financial Affairs Council of the European Union (ECOFIN). In November 2016, ECOFIN agreed on the criteria and the process for compiling an EU list of non-cooperative jurisdictions. The jurisdictions selected for screening will be assessed cumulatively under three criteria: (i) tax transparency, (ii) fair taxation and (iii) implementation of minimum BEPS standards.

The tax transparency standard is similar to the G20/OECD’s. A jurisdiction will be considered compliant if it has committed to and started the legislative process to implement the CRS, with first exchanges in 2018; it has a peer review rating of at least “largely compliant” from the Global Forum regarding the OECD’s exchange of information on request standard; and it has ratified, agreed to ratify, is in the process of ratifying or has committed to the entry into force of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (as an alternative to the last criterion, the jurisdiction has a network of exchange agreements covering all EU Member States that provide for exchange of information on request and automatic exchange of information).

However, the fair taxation standard goes beyond the criteria set by the G20/OECD. To be considered compliant on fair taxation, the EU’s guidelines state that the jurisdiction should have no preferential tax measures that could be regarded as harmful according to the criteria set out by the EU Code of Conduct for Business Taxation, and the jurisdiction should not facilitate offshore structures or arrangements aimed at attracting profits that do not reflect real economic activity in the jurisdiction. The guidelines further state that by January 2017, the Code of Conduct Group should evaluate the absence of a corporate tax system or imposition of a nominal corporate tax rate equal to zero or almost zero as a possible indicator of non-fair taxation.

The EU’s approach could lead to a tense debate within the G20/OECD. One could argue that a list of non-cooperative jurisdictions should be based only on criteria for which there is broad global agreement – in this case, the OECD’s tax transparency standard as it pertains to exchange of information. By contrast, there is no globally agreed standard (yet) on what constitutes “fair taxation” or what should be considered a harmful tax regime. It can be expected that the non-OECD and non-G20 countries will put pressure on the EU to align its approach with the G20/OECD and focus only on tax transparency criteria.
Achieving good tax compliance, sustainable growth and restoring citizens’ faith in globalization

The G20 is to be congratulated for broadening its agenda beyond tax compliance to include issues that are at the center of the political debate in most countries: namely, how to reduce unemployment and improve living standards in a global economy, and how to ensure that the benefits and costs of globalization and new technologies are fairly shared between all segments of society. Meeting these challenges will require a reconsideration of the structure of our tax systems and the relative reliance on different tax bases; harnessing new technologies to bring more citizens into the formal economy and to reduce the deadweight loss of collecting and paying taxes; and developing “smart” approaches to taxing capital and wealth that achieve some redistribution at the top end of the income scale, but without reducing the incentive for work, risk-taking and entrepreneurship. The German G20 Presidency has an opportunity at the 7-8 July G20 Leaders’ Summit in Hamburg to set out in more detail this ambitious agenda, so that it can be carried forward over the coming years.
On 18 March 2017, the Organisation for Economic Cooperation and Development (OECD) and International Monetary Fund (IMF) published their report on tax certainty, which had been requested by G20 leaders at the conclusion of their Hangzhou (China) Summit in 2016, and is the result of international cooperation on pro-growth tax policies and the work on tax and inclusive growth and tax certainty conducted by both organizations.

The report was provided to the G20 finance ministers’ meeting in Baden-Baden, Germany, a precursor to the G20 Leaders’ Summit that will be held in Hamburg, Germany, on 7-8 July 2017. The G20 finance ministers issued a communiqué after the meeting, in which the G20 welcomed the international cooperation on pro-growth tax policies and the work on tax and inclusive growth and tax certainty conducted by the OECD and the IMF. The G20 also acknowledged the report on tax certainty, and encouraged jurisdictions to consider voluntarily the practical tools for enhanced tax certainty as proposed in the report, including with respect to dispute prevention and dispute resolution. Furthermore, the G20 asked the OECD and the IMF to assess progress in enhancing tax certainty in 2018.

In this article, we review the key findings and recommendations of the report, and set out some thoughts on additional issues that we have heard from EY clients.

Background to the tax certainty project

At the G20 Summit in Hangzhou in September 2016, the G20 leaders recognized that, while the global economic recovery is progressing, numerous financial and political challenges remain and that growth is “still weaker than desirable.”

In that regard, the leaders emphasized “the effectiveness of tax policy tools in supply-side structural reform for promoting innovation-driven, inclusive growth, as well as the benefits of tax certainty to promote investment and trade.” The G20 leaders therefore asked the OECD and the IMF to continue working on the issues of pro-growth tax policies and tax certainty.

In response, the OECD launched a survey in October 2016, in which it invited businesses and other stakeholders to contribute their views on tax certainty, in particular the effects of the direct and indirect tax system on business behavior. The survey attracted responses from 724 enterprises headquartered in 62 different countries, and with regional headquarters in 107 different jurisdictions. A survey of 25 national tax administrations was also completed on a confidential basis.


2 [http://www.g20.utoronto.ca/2016/160905-communique.html](http://www.g20.utoronto.ca/2016/160905-communique.html)

The report explores the nature of tax uncertainty, its main sources and effects on business decisions and outlines a set of practical approaches that may help policymakers and tax administrations shape a more certain tax environment.

The report explains that several factors have contributed to heightened tax uncertainty, such as the spread of new business models, aggressive tax planning, fragmented and unilateral policy decisions, some court decisions, and updates to the international tax rules, including the G20/OECD Base Erosion and Profit Shifting (BEPS) project.

The report notes that, while good progress has been made in terms of fighting tax evasion and aggressive tax avoidance through increased transparency and the BEPS project, it is also important to focus on tax certainty. In this context, the importance of providing greater tax certainty to taxpayers to support trade, investment and economic growth has become a shared priority of governments and businesses.

Impacts of uncertainty in investment decision-making

The report states that while the effects of uncertainty on investment are ambiguous in theory, the empirical evidence is clear and does suggest adverse effects on investment and trade. This type of uncertainty can be divided into two key groupings:

- Business factors for investment and location decisions
- Tax factors for investment and location decisions

According to the business survey respondents, the five most important (non-tax) business factors for investment and location decisions are as follows (respondents used a scale from 5 to 1, where 5 is extremely important and lower numbers indicate that the factor is progressively less important; scores are noted in parentheses):

1. Corruption (3.9)
2. Political certainty* (3.8)
3. The overall tax environment (3.8)
4. Current and expected macroeconomic conditions in the country (3.8)
5. Labor costs (3.5)

The five most important tax factors for investment and location decisions for all business survey respondents are as follows:

1. Uncertainty about the effective tax rate on profit (3.9)
2. The anticipated effective tax rate on profit (3.7)
3. Uncertainty about input tax credits, refunds, place of supply issues for VAT/GST purposes and/or uncertainty about the tax burden of other consumption taxes (e.g., excises, sales taxes, custom duties) (3.8)
4. The anticipated neutrality of VAT/GST (e.g., through the availability of input tax credit refund and other relief arrangements) or the tax burden of other consumption taxes (e.g., excises, sales taxes, custom duties) (3.6)
5. Existence of tax treaties (3.5)

Three hundred sixty-four of the responses were from multinational companies (MNCs), which the report divides as companies operating in between two and 10 jurisdictions (90 companies) or companies operating in more than 10 jurisdictions (274 of the 364).

For the MNCs operating in more than 10 jurisdictions, the top five tax factors are slightly different than for all survey respondents, with “Existence of tax treaties” (3.7) taking second place, and “Uncertainty about the ability to effectively obtain relief for withholding taxes” taking fifth place (3.6).

Key sources of tax uncertainty

While the report notes that the sources of uncertainty are many and varied, it identified the key findings in regard to leading sources of tax uncertainty (where all business survey respondents’ views are taken into account) as follows:

- Issues related to tax administration were ranked as among the major drivers of uncertainty in tax systems, with the top two, and three out of the top 10, sources of tax uncertainty deriving from issues related to tax administration. In this regard, “Considerable bureaucracy to comply with tax legislation, including documentation requirements” was the leading source of all tax uncertainty, attracting a mean score of 3.54. “Unpredictable or inconsistent treatment by the tax authority” attracted a virtually identical score (3.53).
- Concerns over the inconsistent approaches of different tax authorities toward the application of international tax standards (for example, in the area of transfer pricing) ranked high in the business survey, scoring 3.38.
- Issues associated with dispute resolution mechanisms (3.34), including time scales, were also identified as an important driver of uncertainty. In particular, respondents to the business survey highlighted concerns about lengthy decision-making of the courts (3.26) – which may be an aspect of the wider judicial system, and not wholly under the tax authorities’ control.
- Tax administrations identified taxpayer behavior as an important source of uncertainty, in particular as a result of aggressive tax planning and a lack of cooperation. This was an open-form text-based response, and therefore not scored.

*Political certainty, while scoring the same overall score as “The overall tax environment,” did attract a large overall number of 4 and 5 responses.
Tax administrations also highlighted complexity in legislation, lengthy court procedures, unclear drafting and frequency of legislative changes. The survey analysis suggests there is considerable variation across advanced countries in both the frequency of corporate tax changes and the lag before implementation. Most corporate income tax changes, however, are announced at least 90 days in advance of implementation. There is no obvious trend toward less pre-announcement of corporate income tax changes.

A key area of agreement in both surveys was that legislative and tax policy design issues are a major source of tax uncertainty, mainly through complex and poorly drafted tax legislation and the frequency of legislative changes.

Table 1 below shows the top 10 sources of tax uncertainty for both businesses and tax administrations. Respondents were asked the following question: “The following factors (legal systems, tax administration, dispute resolution, and specific international dimensions) have been identified as increasing the overall uncertainty on tax issues. Please identify from your tax administration’s perspective the extent to which you believe each of these factors contributes to tax uncertainty for business taxpayers in your country’s tax system, regardless of whether or not the factors are within the control of the tax administration to influence.” The factors proposed to the tax administrations were the same as those proposed in the business survey.

Table 1: Leading 10 sources of tax uncertainty for both businesses and tax administrations (Source: OECD)

<table>
<thead>
<tr>
<th>Business perspective</th>
<th>Tax administration perspective</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bureaucracy</td>
<td>N.A.</td>
</tr>
<tr>
<td>Inconsistent</td>
<td></td>
</tr>
<tr>
<td>treatment</td>
<td></td>
</tr>
<tr>
<td>by the tax</td>
<td></td>
</tr>
<tr>
<td>authority</td>
<td></td>
</tr>
<tr>
<td>Inconsistent</td>
<td></td>
</tr>
<tr>
<td>interpretation of</td>
<td></td>
</tr>
<tr>
<td>international</td>
<td></td>
</tr>
<tr>
<td>tax standards</td>
<td></td>
</tr>
<tr>
<td>Lengthy</td>
<td></td>
</tr>
<tr>
<td>decision making</td>
<td></td>
</tr>
<tr>
<td>of the courts</td>
<td></td>
</tr>
<tr>
<td>Complexity</td>
<td></td>
</tr>
<tr>
<td>in the tax</td>
<td></td>
</tr>
<tr>
<td>legislation</td>
<td></td>
</tr>
<tr>
<td>Tax legislation</td>
<td></td>
</tr>
<tr>
<td>not in line with</td>
<td></td>
</tr>
<tr>
<td>evolution of new</td>
<td></td>
</tr>
<tr>
<td>business models</td>
<td></td>
</tr>
<tr>
<td>Inconsistent</td>
<td></td>
</tr>
<tr>
<td>treatment</td>
<td></td>
</tr>
<tr>
<td>by the courts</td>
<td></td>
</tr>
<tr>
<td>Unclear, poorly</td>
<td></td>
</tr>
<tr>
<td>drafted</td>
<td></td>
</tr>
<tr>
<td>tax legislation</td>
<td></td>
</tr>
<tr>
<td>Tax</td>
<td></td>
</tr>
<tr>
<td>Administration’s</td>
<td></td>
</tr>
<tr>
<td>lack of expertise</td>
<td></td>
</tr>
<tr>
<td>on international</td>
<td></td>
</tr>
<tr>
<td>taxation</td>
<td></td>
</tr>
<tr>
<td>Inability to achieve</td>
<td></td>
</tr>
<tr>
<td>early certainty</td>
<td></td>
</tr>
<tr>
<td>proactively</td>
<td></td>
</tr>
</tbody>
</table>

Practical tools to enhance tax certainty

While not delivering any new minimum standards, the report outlines a set of practical approaches and solutions to enhancing tax certainty in G20 and OECD countries. The report notes that developing countries face different challenges and may require alternative tools to address tax uncertainty.

While recognizing that governments and tax administrations already take a wide range of measures in pursuit of tax certainty in both the domestic and international context, the report highlights the benefits of reducing or addressing uncertainty at the earliest possible point in time. However, where issues cannot be avoided or resolved early on, effective dispute resolution mechanisms will be needed.

More specifically, the report outlines the following practical tools to enhancing tax certainty, when (again) all 724 survey respondents’ views are taken into account:

- Reducing complexity and improving the clarity of legislation through improved tax policy and law design. The report suggests the development of a robust principles-based tax law design and monitoring framework coupled with various other measures to improve
clarity and reduce complexity, including avoiding inappropriate retroactivity, ensuring appropriate mechanisms for consultation on proposed or announced legislation and enhanced guidance. As an example, “Reduced frequency of changes in the tax legislation” was the leading measure identified by business survey respondents, scoring 4.1.

- In the area of tax administration, “Effective dispute resolution mechanisms” (3.9), “Increased transparency from tax administrations in relation to their compliance approaches” (3.8) and “Efficient communication between taxpayers and administration, e.g., by digital means” (also 3.8) were identified as the leading tools for reducing tax uncertainty.

- The report outlines a number of approaches to enhancing tax certainty in the international context for G20 and OECD countries, including through dispute prevention and early issue resolution programs, such as cooperative compliance programs and advance pricing agreements (APAs) (3.3), as well as simultaneous and joint audits (3.0), where appropriate. The innovative use of such tools in a multilateral context also received support from the business and tax administration surveys.

- Implementing robust and effective international dispute resolution mechanisms, such as the mutual agreement procedure (MAP) (3.3) – including fully implementing the minimum standard under Action 14 of the BEPS Project – and the use of arbitration, where countries elect to do so.

- Updating tax treaties through the use of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS. The multilateral instrument will allow for the amendment of treaties to be made rapidly and consistently, thereby enhancing certainty, says the report.

- Making further progress toward simplified and effective withholding tax collection and treaty relief procedures.

- Cooperation and coordination on the development of coherent international standards and guidance, and consistent implementation.

Table 2 below shows the leading 10 tools for fostering tax certainty for businesses and tax administrations. The respondents were asked the following question: “The following tools have been identified as potential solutions to enhancing certainty in the tax system in regard to legal systems, tax administration, dispute resolution, and specific international dimensions. Please identify from your perspective the extent to which you think each tool could enhance tax certainty in your country’s tax system, regardless of whether or not the tools are within the control of the tax administration.” The tools for enhanced tax certainty were the same as those proposed in the business survey.

Table 2: Leading 10 tools for fostering tax certainty for businesses and tax administrations (Source: OECD)
Tax uncertainty for MNCs

Table 3 below indicates the three leading tools that could best enhance tax certainty for MNCs operating in more than 10 jurisdictions, for each of the four categories of sources of potential tax uncertainty (tax policy design and legislation, tax administration, dispute resolution, and specific international dimensions) for which the report surveyed:

<table>
<thead>
<tr>
<th>Issue</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Tax policy design and legislation</strong></td>
<td></td>
</tr>
<tr>
<td>• Reduced frequency of changes in the tax legislation</td>
<td>4.0</td>
</tr>
<tr>
<td>• Reduction of bureaucracy to comply with tax legislation</td>
<td>4.0</td>
</tr>
<tr>
<td>• Detailed guidance in tax regulations</td>
<td>3.9</td>
</tr>
<tr>
<td><strong>Tax administration</strong></td>
<td></td>
</tr>
<tr>
<td>• Increased transparency from tax administrations in relation to their compliance approaches</td>
<td>3.8</td>
</tr>
<tr>
<td>• Timely communication of tax authority during tax audits</td>
<td>3.7</td>
</tr>
<tr>
<td>• Increased transparency from tax administrations in relation to their risk assessment protocols</td>
<td>3.7</td>
</tr>
<tr>
<td><strong>Dispute resolution</strong></td>
<td></td>
</tr>
<tr>
<td>• Effective domestic dispute resolution regimes</td>
<td>4.0</td>
</tr>
<tr>
<td>• MAP</td>
<td>3.8</td>
</tr>
<tr>
<td>• Mandatory binding arbitration</td>
<td>3.7</td>
</tr>
<tr>
<td><strong>Specific international dimensions</strong></td>
<td></td>
</tr>
<tr>
<td>• Multilateral APAs in collaboration with other jurisdictions</td>
<td>3.5</td>
</tr>
<tr>
<td>• Multilateral co-operative compliance programmes in collaboration with other jurisdictions</td>
<td>3.3</td>
</tr>
<tr>
<td>• Multilateral audits in collaboration with other jurisdictions</td>
<td>3.0</td>
</tr>
</tbody>
</table>

Where to next?

So, the report sets out information on the sources of tax uncertainty as well as the tools that are available to government and taxpayers to tackle. So why do we have uncertainty? And where do we head from here?

On a recent webcast, we asked about 800 polling respondents: “Which one specific issue would do most to raise overall levels of tax certainty?” More than one third (34%) of respondents thought that countries “will do their own thing,” indicating skepticism that the outputs of the OECD’s work on tax and certainty will bear fruit. That shows that, despite all the hard work going on by the OECD and countries on MAP and issues like arbitration (not to mention the hard work going on to make bilateral and multilateral APAs available and to increase the use of joint audits), there is still some distance between aspirations and experiences. In fact, the 34% figure was more than the combined figure for “improvements to the Mutual Agreement Procedure” (16%) and “more countries adopting mandatory binding arbitration” (12%) combined.

While there were some interesting ideas in the report – like the possibility of multilateral cooperative compliance programs or encouraging greater use of fiscal stability agreements – no new programs or minimum standards of any type are set out. The innovative use of dispute resolution tools is welcome, but should not overshadow the need for tax administrations to strengthen their domestic tools and processes, which were scored far higher by business respondents.

Of course, there will always be issues that simply cannot be predicted. Much of the tax uncertainty existing today is rooted in the sheer pace, complexity and volume of change we are experiencing. That is to be expected when disruption is as rife as it is today, having its unarguably profound effect on business models.

But stakeholders are not completely at the mercy of events. Surveys like this are but one way to feed in business views. Indeed, as Pascal Saint-Amans recently noted in an interview with EY, taxpayers can and should probably do a better job of advocating for themselves. “If you are not happy with the access to MAP, with the way that MAP is handled, with all the aspects of the relationship with the tax administrations relating to the elimination of double taxation, let us know because this will be taken into consideration,” Saint-Amans said, adding, “How can taxpayers contribute? By letting us know what they think. If they miss this opportunity, then they should not complain.”

So, this work on tax certainty should be welcomed but considered to be the first step, not the last.
The EU’s Common Consolidated Corporate Tax Base: second time’s the charm?

While it appears highly unlikely that the European Commission (the Commission) will be able to advance its two-stage proposal towards a Common Consolidated Corporate Tax Base (CCCTB) as quickly as it originally anticipated, multinational companies (MNCs) should nevertheless seriously evaluate the proposal and consider how it could impact their European Union (EU) operations.

Following the 25 October 2016 publication of the Commission’s two proposed directives – the first would establish the rules for a common corporate tax base (CCTB), and the second would introduce the consolidation elements of the CCCTB itself – it seemed like the Commission stood a better chance of reaching political agreement on an EU-wide CCCTB than it did in 2011, when the Commission published a CCCTB proposal as a single proposition. EU Member States’ negotiations on the 2011 proposal stalled because of disagreements over the tax consolidation provision.

Since that 2011 effort, however, the political climate has changed dramatically – governments are under enormous pressure by tax activists, the media, politicians and other stakeholders to tackle perceived aggressive tax planning and ensure that MNCs pay their fair share of tax. Given the global momentum around reforming the international framework for taxing MNC profits, which culminated in the G20 Leaders’ endorsement of the Organisation for Economic Co-operation and Development’s Base Erosion and Profit Shifting (BEPS) Action Plan in November 2015, it would appear that the Commission is in a better position this time around to advance a CCCTB proposal, particularly as the Commission has repackaged the CCCTB as an anti-BEPS initiative.

Indeed, the Economic and Financial Affairs Council of the European Union (ECOFIN) has already held several working group meetings to discuss the technical aspects of the 25 October 2016 proposals. While those technical discussions will continue behind the scenes, more recent developments – such as the timing of Brexit negotiations and the impasse over reaching agreement on a hybrid mismatch directive – suggest that there will be little, if any, time during 2017 or 2018 for holding serious political negotiations around the CCCTB proposals. That, in turn, means that realistically it is highly unlikely that the Commission will be able to keep its very ambitious timetable of having a CCTB Directive enter into force on 1 January 2019, and the CCCTB Directive enter into force on 1 January 2021.

Of course, no one can predict whether future developments might further alter that timetable, but, given the strong appetite among some of the EU institutions, particularly the Commission and the European Parliament, to tackle aggressive tax planning and corporate tax avoidance, MNCs should take the CCCTB proposals seriously and assess their impact, should they become law.
Weighing the impact – the pros

The proposals have some features that MNCs would find desirable. The most important is that the CCTB directive would provide a uniform set of legal provisions and terms across the EU, which in turn should increase MNCs’ legal certainty for a longer period. If all Member States were to adopt the CCTB directive, it would be much more difficult for them to change basic principles or the interpretation of certain legal terms, since any changes to the directive would require unanimous approval. In effect, for the first time in EU tax history, Member States would be unable to make changes, via their annual budgets or tax laws, to the basic structure of the corporate tax system.

The proposed R&D super deduction could also be a big plus for some MNCs. Under this proposal, R&D costs would be fully expensed in the year incurred. In addition, businesses may claim an additional 50% deduction for R&D expenditure up to €20 million and an additional 25% on costs over that. Small, stand-alone entities that are less than five years old could potentially claim a 100% extra deduction on R&D expenditure up to €20 million. However, on the flip side, the CCTB would not allow Member States to have in place a patent box or innovation box, a prohibition that would be particularly disadvantageous to smaller Member States.

The proposed Allowance for Growth and Investment (i.e., a notional interest deduction on equity) is another feature that should be welcomed by MNCs.

Some Member States, including Belgium and Italy, have already introduced such measures. To have it implemented across the EU would be quite attractive for MNCs.

The provisions allowing temporary cross-border loss relief are another big plus. Currently, most Member States do not allow such relief because of the principles set out by the Court of Justice of the European Union in its 2005 judgment Marks & Spencer plc v. David Halsey (C-446/03).

The cons

That the CCTB and CCCTB would be mandatory for groups with consolidated worldwide revenues greater than €750m in the preceding year (whereas, under the 2011 proposal, the rules were to be optional) is clearly the biggest drawback for MNCs. The costs of transitioning into the new system would likely be very large.

In addition, assuming that Germany would still have in place a municipal trade tax (which is levied by municipalities on trade income at rates ranging from 7% to 17%), then German MNCs would have to contend with two systems.

Overall, the Commission’s goal of reducing tax competition via the CCCTB and other elements of the corporate tax reform package will create a concomitant disadvantage on the part of MNCs. Their ability to access tax incentives like patent or innovation boxes will be extensively restricted, although tax rate competition would be still available since harmonization of corporate tax rates is not foreseen by the CCTB and CCCTB Directives.

The next steps

In terms of timing, one should consider the priorities of the upcoming EU presidencies, who will be writing the agenda for the ECOFIN meetings. The order of EU presidencies is as follows:

- **Malta**: January – June 2017
- **Estonia**: July – December 2017
- **Bulgaria**: January – June 2018
- **Austria**: July – December 2018

Before the CCTB proposal can be seriously discussed, the way must be cleared from currently pending tax initiatives, including the proposed directive amending the Anti-Tax Avoidance Directive (ATAD) to address hybrid mismatches with third countries (the proposal is known as ATAD 2) and the proposed directive on mandatory dispute resolution. Both of those proposals were included, along with the CCCTB proposals, in the corporate tax reform package published by the Commission on 25 October 2016.

Regarding ATAD 2, the Member States were unable to reach political agreement before the end of 2016. They finally agreed on a compromise proposal at the ECOFIN meeting held on 21 February 2017. ECOFIN will formally adopt the ATAD 2 once the European Parliament has given its opinion.

The proposed directive on mandatory dispute resolution is another high priority item, as the Commission proposes that Member States should transpose the directive by 31 December 2017 at the latest.
Given the amount of time and attention that will be devoted to finalizing and adopting ATAD 2 and the mandatory dispute resolution directive, it is likely that serious political discussions around the CCTB proposal will not begin until the second half of 2017, under the Estonia presidency. However, there may not be much progress made under the subsequent two presidencies. In light of the significant political and economic issues facing the EU, it seems unlikely that Bulgaria (which will hold the presidency from January through June 2018) will view the CCCTB dossier as an urgent action item. Similarly, Austria (which takes over from July through December 2018) will be preoccupied with Brexit matters.

There was some surprise after Michel Barnier, the EU’s chief negotiator for Brexit negotiations, said at a 6 December 2016 news conference that the period of actual negotiations will likely be shorter (around 18 months) than the two-year period provided under Article 50 of the Lisbon Treaty, to allow time for the European Parliament, Member States and UK Government to ratify an exit agreement. Assuming the UK Government triggers Article 50 by the end of March 2017, the parties will need to reach an agreement by October 2018. Under this timetable, Austria will hold the EU presidency when the Brexit negotiations come to a head, and will likely be unable to devote any time to the CCTB proposal.

Act now

While the Commission may be unable to advance the proposals as quickly as they originally planned, that does not mean that MNCs should put this on the back burner. There is still a strong appetite among certain stakeholders to put in place further corporate transparency measures beyond BEPS, and it is clear that the Commission sees the CCCTB as the only way forward to achieve a stable, fair and competitive corporate tax system.

MNCs should therefore familiarize themselves with the proposals, assess the potential impact to their operations and tax planning strategies, and continue to monitor EU developments around the proposals.
On 19 December 2016, Australia became the first country to publicly signal its position on the way forward, with the Australian Treasury releasing a consultation paper outlining its preliminary approach to adopting the MLI and signalling the timeline by which it would start amending Australia’s existing double tax agreements (DTAs).

The Australian consultation paper (ACP) invited input by 6 February 2017 on the various practical and technical challenges and outlines Australia’s proposed policy. It represents a significant marker for multinational companies (MNCs) to use when planning their international business supply chains and activities, even at this early stage. It will be watched closely by other major governments, who in turn are expected to start making their intentions public as we enter 2017.

Overview of process to adopt MLI and amend Australia’s DTAs

The effective date of any changes affecting individual Australia’s DTAs would be from 2019 at the earliest.

The ACP outlines the MLI and change process as, broadly:

- The first group of jurisdictions to sign the MLI is expected to do so in June 2017. Only some countries are likely, like Australia, to be initial adopters of the MLI “umbrella” framework for amending tax treaties. Other countries might (perhaps like the United States) prefer bilateral amendments to their DTAs or might wish to delay adoption.

- Countries wishing to adopt the MLI will need to discuss whether they want the MLI to apply to and modify their existing DTAs; treaties brought within the scope of the MLI are referred to as Covered Tax Agreements (CTAs). Those discussions have already started and include a February “speed dating” session to identify bilateral pairs.

- For an existing DTA to become a CTA, the process requires the agreement of both parties (all parties if it is a multilateral agreement) regarding the mandatory MLI articles and other optional articles. This will require the parties to negotiate their MLI options from the MLI multi-choice package, specify any reservations they might have and then ratify their adoption of the MLI changes. The changes will take effect after a waiting period.

- If Australia signs the MLI “umbrella” framework in mid-2017, the MLI will not take effect in Australia until it is legislated and formally ratified by the Australian Parliament, which will include review by the Joint Standing Committee on Treaties.

- If the MLI is adopted by the Parliament, it is expected that the MLI could potentially take effect in Australia from 1 January 2019 (for rules relating to withholding taxes) and 1 July 2019 (for rules relating to other taxes), subject to its ratification by Australia’s treaty partners. Given that some countries may take longer to complete their domestic treaty implementation process than others, the date of effect for different treaties is likely to be staggered.

---

Why a consultation?

The Australian Treasury seeks input to help identify the potential impacts of adopting the MLI, the optimal package for adoption and options to minimize unintended impacts and compliance costs.

The Treasury notes that the MLI provides significant flexibility, with its mix of:

- Decisions on adopting CTAs (the MLI applies only to tax treaties for which the treaty partners agree they want to be covered by the MLI)
- Minimum standards (some with options or allowing alternative approaches)
- Optional articles for other non-minimum-standard rules
- Flexible options within articles
- Capacity for reservations

Preliminary negotiating position

The ACP outlines Australia’s preliminary negotiating position, subject to consultation, as:

- Apply the MLI to all bilateral tax treaties that do not already incorporate BEPS rules (which would exclude the 2015 Australia-Germany DTA, which incorporates most of the BEPS treaty-related measures)
- Adopt the minimum standards and as many optional MLI articles as possible, which would enable the full range of tax integrity measures recommended under the BEPS Action Plan to be applied across Australia’s tax treaty network (subject to the agreement of the relevant treaty partner)
- Make limited use of the MLI reservation system, except if Australia’s existing treaty practice meets or exceeds the new standard, or a reservation is necessary to avoid any significant unintended impacts (e.g., the MLI article would create technical difficulties or would override existing integrity provisions that Australia should retain). An example of an existing treaty practice to retain (in order to alleviate double taxation) would be Australia’s use of foreign tax credits, rather than the MLI preference for an exemption method (Article 5 of the MLI).

The ACP provides a summary of the MLI’s substantive technical articles (i.e., articles 3-26) and Australia’s initial approach to each of them.

Implications

The MLI constitutes an unprecedented change in international taxation and will have a significant impact on the taxation of MNCs, given the expectation that it may amend at least 2,000 tax treaties.

While it is not certain at this stage which countries will become signatories to the MLI, or the extent to which the provisions (other than the minimum standards) might apply with respect to any particular treaty, it is anticipated that a broad range of MNCs may be impacted by the proposal in the coming years. Developments in this area should be monitored, and existing arrangements should be carefully evaluated in light of the potential treaty changes across the world.

Australia’s potential treaty changes are wide-ranging and affect various business functions for MNCs, including strategic planning and M&A, international business and procurement and human resources. But more importantly, it is the domino effect of more countries joining the march to amend their DTAs in this manner that should put business on alert that broad changes are afoot, and monitoring processes should therefore be established.
Within the past year, Hong Kong has taken several steps to demonstrate its commitment to aligning its tax regime with the three core pillars — coherence, substance and transparency — underlying the Base Erosion and Profit Shifting (BEPS) initiative of the G20/Organisation for Economic Co-operation and Development (OECD). The Government joined the OECD’s inclusive framework on BEPS implementation, followed soon after by proposed legislation to implement its minimum standard commitments under the inclusive framework. Additionally, it put in place a legislative framework for Hong Kong to implement the OECD’s Common Reporting Standard (CRS) and introduced a corporate treasury center (CTC) regime that requires robust business substance in Hong Kong before a tax incentive will be granted.

Multinational companies (MNCs) should be prepared for dramatic changes to Hong Kong’s tax regime, particularly in the transfer pricing area. The Hong Kong Government is now considering proposals to codify the arm’s length principle into domestic legislation, impose penalties for failure to comply with the transfer pricing rules, create new transfer pricing documentation requirements and introduce a statutory advance pricing agreement (APA) regime.

MNCs should now be reviewing their existing Hong Kong operating and tax structures and stay abreast of BEPS-related legislation, as the relevant amendment bills are expected to be introduced into the Legislative Council in mid-2017.

Hong Kong joins inclusive framework

On 20 June 2016, the Hong Kong Government announced that it was joining the OECD’s inclusive framework for implementing the BEPS Action Plan. Members of the inclusive framework will develop a process to monitor the implementation of the four BEPS minimum standards: 1) countering harmful tax practices (Action 5); 2) preventing treaty abuse (Action 6); implementing the country-by-country (CbC) reporting requirement (Action 13); and improving cross-border dispute resolution mechanisms (Action 14). The members are also expected to develop review mechanisms for other elements of the BEPS project.
Hong Kong’s decision to join the inclusive framework was in line with the Financial Secretary’s 2016 budget speech, delivered on 24 February 2016, in which the Financial Secretary said that the Government is committed to modernizing its tax legislation to ensure that Hong Kong maintains a fair tax environment, aligns its tax system with international standards, and enhances its competitiveness.

Government releases BEPS consultation paper

To fulfill its commitment to implementing the BEPS Action Plan, Hong Kong will need to revise its existing tax laws. The Government therefore launched a consultation paper on 26 October 2016 to gauge views on how to implement the BEPS measures. The consultation period closed on 31 December 2016, and the Government plans to submit amendment bills to the Legislative Council in mid-2017.

The consultation paper states that priority will be given to the four minimum standards, as well as measures of direct relevance to their implementation. To achieve this objective, the Government will put in place the necessary legislative framework on the following:

- Transfer pricing rules (Actions 8-10)
- Spontaneous exchange of information on tax rulings (Action 5)
- The CbC requirement (Action 13)
- Cross-border dispute resolution (Action 14)
- Multilateral instrument (Action 15)

Transfer pricing and CbC reporting

The most significant proposals involve the adoption of a formal transfer pricing regime, along with mandatory documentation requirements. This would be achieved by introducing a fundamental transfer pricing rule into the Inland Revenue Ordinance, which would empower the Inland Revenue Department (IRD) to adjust the profits or losses of an enterprise in a non-arm’s length situation. Related parties would be defined based on tests of participation in the management, control and capital of another or of common participation by a third party.

The consultation paper proposes new penalty provisions for failure to comply with the arm’s length principle. Specifically, penalties could be imposed when a tax return was made with incorrect information on transfer pricing without reasonable excuse, and when a return was made with incorrect information on transfer pricing willfully with the intent to evade tax. The consultation paper further proposes introducing a statutory APA regime, which would prescribe transfer pricing issues that can be the subject matter of an APA and provide related APA guidance (for example, by clarifying the rights and obligations of the IRD and taxpayers in relation to APAs).
Regarding transfer pricing documentation and CbC reporting, the consultation paper adopts the OECD's recommended three-tiered documentation structure, comprising a Master File, Local File and CbC report. The Government suggests that transfer pricing documentation should be prepared for each fiscal year, either in English or Chinese, and retained for at least seven years. However, it is not clear whether these documentation requirements are meant to be contemporaneous.

The CbC report filing threshold is proposed to be set according to the OECD recommendation (€750 million, which is approximately HK$6.8 billion). A CbC report would be required to be filed within 12 months of the end of the fiscal year. In-scope companies would need to gather information in 2018 and file their first CbC reports in 2019. The consultation paper takes the view that automatic exchange of CbC reports should require a comprehensive double taxation agreement (CDTA) or tax information exchange agreement (TIEA), along with a competent authority agreement (CAA) providing for such exchange.

**Multilateral instrument**

To modify Hong Kong's current network of 35 CDTAs in a synchronized and efficient manner, the consultation paper states that the Government will sign up to the multilateral instrument that is being developed by the OECD. The multilateral instrument will contain provisions designed to counter the use of hybrid entities and hybrid arrangements, prevent the use of tax treaties to avoid tax, prevent the artificial avoidance of permanent establishment (PE) status, and enhance treaty dispute resolution mechanisms.

**Treaty abuse and dispute resolution**

To counter treaty abuse, the Government proposes adopting the principal purpose test, but not a limitation on benefits provision, in its CDTAs. The consultation paper further proposes introducing legislation to formalize the adoption of mutual agreement procedures and mandatory arbitration to resolve treaty disputes.

**Exchange of tax ruling information**

The consultation paper also addresses the implementation of action 5, which requires the spontaneous exchange of information regarding six categories of tax rulings: rulings related to preferential tax regimes; unilateral APAs; cross-border rulings providing for a downward adjustment of taxable profits; PE rulings; related-party conduit rulings; and any other type of ruling that, in the absence of spontaneous exchange of information, could give rise to BEPS concerns. Hong Kong's current information exchange policy is that information will only be exchanged upon request. The Government proposes making an exception for the abovementioned six categories of rulings to allow spontaneous exchange of information on a bilateral basis with CDTA or TIEA partners who are:

- The resident jurisdictions of all related parties with which the taxpayer enters into a transaction for which a ruling is granted or gives rise to income from related parties benefitting from a preferential treatment
- The resident jurisdiction of the ultimate parent company and the immediate parent company of the taxpayer

**Double taxation relief**

Finally, the consultation paper proposes enhancing Hong Kong's tax credit system by extending the time period for claiming credits from the current two years to six years after the end of the relevant year of assessment, and by requiring taxpayers to make full use of other available relief before claiming a tax credit.

**Legislation passed enabling Hong Kong to implement CRS**

In addition to its BEPS commitments, Hong Kong has committed to implementing the CRS for the automatic exchange of financial account information. Under the CRS, which was developed in response to a G20 request and approved by the OECD Council in July 2014, financial institutions in a jurisdiction are required to perform certain due diligence procedures to identify accounts held by tax residents of reportable jurisdictions and to collect and provide reportable information on those accounts to the tax authority in that jurisdiction. The tax authority will then automatically exchange that information with CRS partner jurisdictions on an annual basis.

Following an extensive public consultation, the Hong Kong Government introduced an amendment bill in January 2016, which was passed by the Legislative Council on 22 June 2016. The Inland Revenue (Amendment) (No. 3) Ordinance 2016, which took effect on 30 June 2016, enables Hong Kong to implement the CRS from 1 January 2017. The Government is now identifying potential CRS exchange partners from among the 42 jurisdictions with which it
New tax regime for corporate treasury centers

On 3 June 2016, a new law aimed at attracting multinational and mainland China enterprises to establish CTCs in Hong Kong was enacted. The Inland Revenue (Amendment) (No. 2) Ordinance 2016 provides for two key benefits to MNCs:

- A concessionary profits tax rate of 8.25% (50% of the current corporate tax rate of 16.5%) for qualifying profits derived by qualified CTCs in Hong Kong.

- A deduction for interest paid by a corporation carrying on an intra-group financing business in Hong Kong to its overseas associated corporations, provided that 1) the money is borrowed in the ordinary course of the intra-group financing business of the corporation, 2) the interest income received by an overseas associated corporation is “subject to tax” in a territory outside Hong Kong (i.e., overseas tax of a nature similar to Hong Kong corporate income tax has been paid or will be paid at a rate not lower than 8.25% or 16.5%, as applicable), and 3) the lender is the beneficial owner of the interest income.

A CTC will be regarded as a qualifying CTC if it is a corporate entity solely dedicated to the conduct of one or more of the following corporate treasury activities: carrying on an intra-group financing business, providing corporate treasury services or entering into corporate treasury transactions.

In addition, to qualify as a qualifying CTC, a CTC must also meet the business substance requirements that 1) the central management and control of the CTC must be exercised in Hong Kong, and 2) the activities that produce the qualifying profits in that year must be either carried out in Hong Kong by the CTC itself or arranged by the CTC to be carried out in Hong Kong.

The “business substance in Hong Kong” requirements are to ensure that the concessionary tax rate would not be regarded as a harmful tax practice by the international community, in the context of the BEPS initiative. The substance requirements also align with the desire of many CTCs to claim tax benefits under Hong Kong’s expanding tax treaty network.

The interest deduction rules and concessionary tax rate will apply retroactively on sums paid, received or accrued on or after 1 April 2016. The IRD released a Departmental Interpretation and Practice Note No. 52 on 9 September 2016 that explains, among other things, its interpretation of: (i) what constitutes an “intra-group financing business” and (ii) the “subject to tax” requirement that the overseas associated lenders must satisfy before a Hong Kong taxpayer can claim a tax deduction on the interest payment.

Action steps

These recent developments underscore the Hong Kong Government’s desire to be regarded as a tax transparent jurisdiction, which will be important in helping Hong Kong boost its reputation as an internationally compliant player and its status as a robust business location.

Taxpayers should be prepared for more transparency. This is the general trend internationally and, while Hong Kong may not be fully there yet (e.g., formal transfer pricing rules have not yet been implemented), many of its trading partners are requiring more international transparency (e.g., requests for Master Files and CbC reports, etc.) in cases when Hong Kong is the parent outbound location and is therefore drawn into the transparency net by rules abroad.

In light of increasing substance requirements in Hong Kong and elsewhere, MNCs should review their existing operating and tax structures. When there are offshore claims, MNCs should consider whether these substance requirements align with those claims. Additionally, as Hong Kong moves toward codifying the arm’s-length principle, MNCs will need to reconcile their transfer pricing positions with offshore claim positions. The proposed transfer pricing framework set out in the BEPS consultation paper has not yet addressed the interaction between territorial source rules and transfer pricing rules. The attribution of profits under the territorial source principles and transfer pricing principles may not always align. Taxpayers will need to stay abreast of developments in this area, should offshore claims exist in their current tax profile.

---

1. It should be noted that the new interest deduction rules apply to any corporation that carries on an intra-group financing business in Hong Kong, i.e., this provision is not restricted to a qualifying CTC.
On 29 December 2016, Israel formally published a law amendment that introduces an innovation box tax regime for intellectual property-based companies. The regime, which entered into force on 1 January 2017, is tailored to a post-base erosion and profit shifting (BEPS) world and has been designed as part of an initiative to transform Israel into one of the most attractive jurisdictions for technology companies.

Background to Israel’s high-tech environment

Over the last decade, Israel has become known as a technology innovation center, with the highest number of scientists, technicians and engineers per capita in the world. As the Israeli start-up ecosystem developed, numerous multinational companies (MNCs) accessed the local talent and technology through acquisitions of hundreds of Israeli technology companies and by establishing research and development (R&D) centers. This investment activity became a global phenomenon, and currently over 270 of the largest technology MNCs operate development and technology-related manufacturing centers in Israel.

Israeli innovation box: a post-BEPS opportunity

Against the backdrop of the BEPS project of the Organisation for Economic Co-operation and Development (OECD) and recent EU state aid cases, many technology MNCs are seeking to find greater alignment of the allocation of their profits, ownership of their IP and location of their significant functions. In this new reality, Israel has identified an opportunity to use tax incentives to encourage MNCs to choose to hold intellectual property (IP) in Israel. The innovation box will enable companies to meet the new international transfer pricing standards, which require alignment between IP ownership, value-creating functions and profits. Moreover, under the nexus approach endorsed by the G20 and OECD as part of Action 5 (countering harmful tax practices) of the BEPS Action Plan, tax benefits for IP-based income are required to be limited to the proportional level of R&D activity carried out by the
taxpayer. As such, the R&D activity already existing in Israel could maximize the benefits provided under an IP regime.

**The tax benefits**

The new regime encourages MNCs to consolidate IP ownership and profits in Israel along with existing Israeli R&D functions. The tax benefits created to achieve this goal include a reduced corporate income tax (CIT) rate of 6% on IP-based income and a reduced capital gains tax rate of 6% for certain sales of IP. The 6% rates apply to qualifying Israeli companies that are part of a group with global consolidated revenue of over ILS10 billion (US$2.5 billion).

Other qualifying companies with global consolidated revenue below ILS10 billion will be subject to reduced CIT and capital gains tax rates of 12%. However, if the Israeli company is located in Jerusalem or in certain northern or southern parts of Israel, the CIT rate is further reduced to 7.5%.

Additionally, withholding tax on dividends distributed to foreign shareholders will be subject to a reduced rate of 4% for all qualifying companies (regardless of size or location).

**Qualifying conditions**

Entrance into the regime is not conditioned on making additional investments in Israel, and a company could qualify if it incurred at least 7% of the last three years’ turnover in R&D (or, the company had ILS75 million in R&D expenses per year) and met one of the following three conditions:

1. At least 20% of its workforce is engaged in R&D (or, it has more than 200 R&D employees)
2. Venture capital investment of ILS8 million was previously made in the company
3. It had average annual growth over three years of 25% in sales or number of employees in Israel

Companies not meeting the above conditions may still be considered as a qualified company under the discretion of the Israel Innovation Authority, an agency within the Ministry of Economy and Industry that executes government policy for the support of industrial R&D. Lastly, companies wishing to exit from the regime in the future will not be subject to clawback of tax benefits.

**Stability ruling**

Companies that will transfer IP into Israel in an amount of at least ILS500 million (US$130 million) could confirm the applicability of the tax incentives by obtaining a ruling for a period of at least 10 years.
Upcoming nexus regulations

The new law entered into force on 1 January 2017. However, the law requires the Finance Minister to promulgate regulations to ensure companies are benefiting from the regime in accordance with the nexus approach required under BEPS Action 5. This basically means that benefits will be granted to the extent qualifying R&D expenditures are incurred. Moreover, subject to the upcoming regulations, the tax benefits are likely to apply to IP that was previously developed in Israel on a cost-plus basis and will now be onshored into Israel. The nexus regulations are expected to be finalized by 31 March 2017.

Impact on global IP structures

The innovation box regime can potentially have an immediate impact on global IP structures, in the following manners:

- Tax rates of Israeli technology companies could be reduced as of 1 January 2017. MNCs that hold Israeli companies may need to take further action so that benefits are maximized under the new nexus regulations.

- In the context of acquisitions of Israeli technology companies, the new tax regime can impact the post-acquisition integration of Israeli IP within MNCs’ global structures. Over the last decade, IP was commonly migrated out of Israel post acquisition, thereby triggering a significant tax event (and often performed under heavy tax authority scrutiny). The new tax benefits may encourage MNCs to avoid this and keep the IP in Israel as part of their post-acquisition integration.

- Companies that currently operate R&D centers in Israel on a cost-plus basis can enjoy the tax benefits as of 1 January 2017 by switching the ownership of the IP developed in Israel to the Israeli entity. The resulting Israeli IP company will generally be BEPS-compliant, due to the significant people functions that in many cases already exist in the company.

- Certain group IP can be transferred to the Israeli R&D company for on-development with income that could be subject to low tax rates. Also, the stepped-up acquired IP may generally be amortized in Israel over a period of eight years.

Israel's other tax incentives and government grants

Other than the new incentives for IP-based companies, tax incentives in Israel are generally available to Israeli industrial companies (including technology companies) and to R&D centers (operating on a cost-plus basis). These tax incentives are currently provided under two tracks: i) a “Preferred Enterprise” status, under which qualifying companies are eligible for a reduced 7.5% or 16% CIT rate (depending on geographical location), and ii) a “Special Preferred Enterprise” status, which is aimed at large enterprises that meet certain investment requirements and provides for a 5% or 8% CIT rate. The dividend withholding tax rate under both tracks is generally 20% for a Special Preferred Enterprise, the withholding tax rate is reduced to 5% from 1 January 2017 through 31 December 2019 for dividends paid to a foreign parent company) and may be further reduced according to applicable tax treaties.

In addition to the various tax incentives, the Israeli Government offers a range of grants in various areas:

- Grants for investments in fixed assets (e.g., building, machinery and equipment)
- A grant of 20% of the approved investment for industrial enterprises located in Development Area A and up to additional 10% for enterprises located in Negev
- Employment grants ~ 20%-30% of the salary cost for additional employees
- Various R&D grants ~ 20%-50% of total eligible R&D expenditure
- Marketing grants ~ 50% of eligible marketing expenses

Moreover, the Israel Innovation Authority has recently initiated a new program intended to incentivize companies to invest in “open innovation” via collaborations between large corporations and start-ups. The program’s main goals are (i) to assist technology companies in implementing “open innovation” processes in their R&D centers, and (ii) to assist local start-ups in defining and validating their product, verifying technological feasibility and preparing for market penetration by providing technological facilities, market data and other professional support. Under the program, the R&D center will be granted up to 33% (50% in certain geographic locations) of its capital expenditure (up to ILS2 million, or ILS4 million in certain geographical locations) and 50% of its operating expenditure (up to ILS500,000) per year. The start-up companies will be provided grants of up to 85% of their approved budget (up to ILS1 million) for one year.
Conclusion

The new BEPS Action 5 guidelines have limited the application of global IP regimes in certain cases due to a lack of substantial activity. In contrast, the new Israeli tax incentives uniquely rely on the fact that Israel is home to hundreds of R&D centers of the largest multinationals. This creates a BEPS-compliant and tax attractive opportunity to integrate Israeli-developed IP within MNCs’ global structures. Companies should carefully review the new legislation and examine the application of its benefits to their existing or potential investments in Israel.
Within the past year, Singapore’s tax authority has signaled that it is fully and positively engaged in the global effort to realign international corporate tax policy with the realities of today’s global economy. In June 2016, Singapore announced that it will join the inclusive framework of the Organisation for Economic Co-operation and Development (OECD) for the implementation of the G20/OECD Base Erosion and Profit Shifting (BEPS) Action Plan, which will require Singapore to implement the four minimum standards agreed under the BEPS project. This includes the introduction of country-by-country reporting (CbCR) for Singapore-headquartered multinational companies (MNCs) for financial years beginning on or after 1 January 2017. Singapore announced in December 2016 that it will allow voluntary filings for Singapore-based MNC groups that are subject to CbCR requirements in foreign jurisdictions in financial year 2016.

Following the trend towards greater transparency and governance of tax matters, Singapore’s tax authorities recently published significant guidance clarifying the application of the general anti-avoidance rule (GAAR) and introduced new rules requiring the reporting of related-party transactions.

**GAAR guidance**

The GAAR is embodied in section 33 of the Singapore Income Tax Act (ITA) and has been in place in its current form since 1988. In brief, the GAAR is designed to allow the Comptroller of Income Tax (CIT) to reverse tax advantages arising from arrangements that alter the incidence of tax without bona fide commercial reasons.

The first major Singapore court case concerning GAAR was AQQ v CIT, which went all the way to the Court of Appeal. The final judgment, which was handed down in February 2014, established important principles on the interpretation of section 33 and has been significant in clarifying the application of GAAR and how it is to be applied in Singapore.

To build on the principles established by the AQQ v CIT case, the Inland Revenue Authority of Singapore (IRAS) issued an e-Tax Guide in July 2016, which aims to set out the CIT’s approach to the construction of section 33 and provides...
examples of arrangements that, in the CIT’s view, have the purpose or effect of tax avoidance within the meaning of section 33. The examples are classified under four broad categories:

- Circular flow or round-tripping of funds
- Setting up of more than one entity for the sole purpose of obtaining a tax advantage
- Change in business form for the sole purpose of obtaining a tax advantage
- Attribution of income that is not aligned with economic reality

Regarding the application of section 33, the e-Tax Guide states that the CIT adopts the “scheme and purpose” approach set out in the AQQ v CIT case, namely that it will:

(i) Consider whether an arrangement prima facie falls within any of the three threshold limbs of section 33(1) of the ITA such that the taxpayer has derived a tax advantage; and if so,

(ii) Consider whether the taxpayer may avail himself of the statutory exception under section 33(3)(b) of the ITA; and if not,

(iii) Ascertain whether the taxpayer has satisfied the court that the tax advantage obtained arose from the use of a specific provision in the ITA that was within the intended scope and Parliament’s contemplation and purpose, both as a matter of legal form and economic reality within the context of the entire arrangement.

The release of the e-Tax Guide sent a strong signal that scrutiny of artificial or contrived arrangements is firmly on the IRAS’s agenda, and that the GAAR does not apply only to highly complex financing arrangements such as those in the AQQ v CIT case. While the e-Tax Guide was being developed, another GAAR case was in process: GBF v CIT was heard by the Income Tax Board of Review (the Board). This case pertained to a change in business form (i.e., corporate versus partnership) to obtain a tax advantage.

The arguments in the GBF v CIT case focused on whether the taxpayer had bona fide commercial reasons for the arrangement entered into. In a decision handed down on 28 June 2016, the Board held that the CIT had acted reasonably in disregarding the taxpayer’s restructuring arrangement. The Board stated that the taxpayer’s explanation of his business purpose was based solely on oral evidence, which could neither be discerned from documentary evidence nor in his conduct in putting his business plan into action. The Board further found that the arrangement gave rise to substantial tax savings.

The decision serves as an important reminder that courts rule on evidence. Oral evidence with regards to intention needs to be supported with facts, and it is critical that taxpayers document their commercial intent
when entering into arrangements. Such documentation should, of course, be made at the time when decisions are made and be consistent with subsequent facts and actions.

The GBF v CIT case reiterates that Singapore’s GAAR needs to be taken seriously and must be considered when arrangements are put in place that produce a tax advantage. It is important to note that while the law has not changed, the decisions in the two GAAR cases and the release of the e-Tax Guide have helped to clarify the application of section 33 substantially.

Reporting of related-party transactions

Singapore has already implemented requirements for the preparation of contemporaneous transfer pricing documentation (TPD). These requirements follow OECD principles. Such documentation is not required to be filed with corporate income tax returns, but must be available upon request by the IRAS.

On 3 November 2016, the IRAS announced the introduction of a new requirement for companies to complete a “Form for reporting of related-party transactions” (RPT Form), with effect from year of assessment (YA) 2018. A company must complete the RPT Form and submit it together with the corporate income tax return (Form C) if the aggregated value of related-party transactions exceeds S$15 million for the relevant YA.

The details that must be disclosed include the types and amounts of related party transactions; the names, locations and relationships of the top five foreign transacting parties (by amount of sales or purchases of goods and service transacted), and loans and non-trade amounts due to or from related parties.

The IRAS expects the introduction of the disclosure requirement to provide it with relevant information to better assess companies’ transfer pricing risks and improve on the enforcement of the arm’s-length principle. A more systematic way of collecting such information will allow for a focused selection of audit targets, as well as industry-specific trend or risk analysis based on automated algorithms.

While the form appears relatively straightforward in terms of its information requirement, practical concerns remain, primarily on the definition of related parties. The IRAS has clarified in its FAQ on the RPT Form that the data for RPT will be based on the RPT disclosed in companies’ audited accounts, which are prepared according to the applicable accounting standards. According to the IRAS, companies do not need to determine whether a particular related party falls within the definition of section 34D of the ITA.

Challenges remain, however, in determining the existence of certain related-party relationships in which the applicable accounting standard may not have specified any quantitative threshold (e.g., direct or indirect shareholding percentage). Given that the RPT Form will now be part of Form C and there are penalties for filing an incorrect tax return, companies will have to ensure that the RPT data reflected in the audited accounts (prepared based on the applicable accounting standards) is complete, when assessing whether the S$15 million aggregated threshold for RPT Form is met.

Companies will also have to ensure that the information disclosed in the RPT Form is consistent with their contemporaneous TPD. While most companies may have prepared such RPT disclosures as part of their audited accounts, there could inevitably be potential differences when compared to the company’s existing TPD.

For example, RPT disclosed in audited accounts may not necessarily be considered as a related-party from a transfer pricing perspective because there is no effective control from an economic standpoint. A classic example is a 50:50 joint venture situation, where the dealings among “related parties” are the result of an arm’s-length negotiation in the first place.

If transactions with such parties were excluded from its transfer pricing analysis, companies would need to be prepared with an explanation in terms of completeness of the TPD’s scope of coverage. Furthermore, most TPDs may have analyzed the arm’s-length position on a legal entity basis. Such an approach must be reconciled with the presentation of transactions on the RPT form, which is, in general, presented on a transaction-type basis per related party.

Taxpayers should therefore start reviewing their related-party disclosure in their audited accounts together with their TPD to ensure consistency between the two. If there are any discrepancies arising from a different interpretation of what constitutes a related party relationship (i.e., effective control from an economic standpoint) versus the accounting definition, taxpayers must be able to explain any inconsistencies.
Conclusion

Singapore already has a well-developed corporate tax regime and advanced compliance procedures. With the BEPS project and global calls for greater transparency and governance in taxation, Singapore is continually upgrading its enforcement and compliance processes to meet the new benchmarks being set. Furthermore, Singapore is positioning itself for greater automation in analytics and risk assessment, as it is in Singapore’s interest to demonstrate a commitment to certainty in taxation and minimum administrative compliance burden.
The US tax reform picture is more dynamic and fluid than it has been for some time. In this piece, we provide an overview of the current state of the US tax reform debate. This article has been prepared for general informational purposes only. It is not intended to be relied upon as accounting, tax or other professional advice. Please refer to your advisors for specific advice.

There has been a general desire for some time to reform the US tax system to increase US tax competitiveness and grow the economy.

Many reform ideas have been under development for years, but the political dynamics have made action on tax reform challenging. With Republicans in control of both chambers of Congress and a Republican president in power, the prospect of achieving significant tax reform has become much more likely, with some speculating that tax reform legislation could be enacted in the 2017-18 time frame. Should that happen, it is expected that the changes would be effective for 2018 forward; however, it is possible – though somewhat less likely – that changes could affect earlier tax years.

Of course, whatever the outcome, multiple parties will be impacted by the changes, with some groups potentially benefitting from reform while others could face a more challenging tax picture. And, of course, tax reform by a major trading nation like the United States will likely prompt other countries to adopt measures in response, as they adjust to the revised business and economic landscapes.
What is the US striving for?

For Republican lawmakers controlling the legislative agenda, economic growth remains a key issue. While US economic growth is strong and unemployment is down, it is expected that reform plans will include provisions intended to increase demand for US goods and services as well as a return to capital investment in US companies. Generally, the tax reform plans under consideration share the broad goals of stimulating US economic growth by encouraging companies to invest and create jobs in the United States and to reduce their reliance on imports. The leading plans would generally lower income tax rates, broaden the US tax base by eliminating many targeted tax preferences and make changes to the international tax system that are aimed at bringing the United States more in line with other countries’ territorial tax systems.

The process and timing

While Republicans control both chambers of Congress, their majority in the Senate is shy of the 60 votes needed to overcome a Democratic filibuster that could tie up a reform bill. Therefore, Republicans plan to pursue tax reform legislation through “reconciliation.” Reconciliation allows certain legislation to pass with a simple 51-vote majority, but places limits on what can be included in the legislation.

Potential tax reform elements

President Trump and congressional Republicans agree on many elements of tax reform – such as lowering tax rates, eliminating many business tax preferences and moving the United States toward a territorial tax system.

Corporate income tax rates are likely to drop as part of the comprehensive tax reform effort in Congress, although when and by how much is uncertain. The rates being considered range from 15% – the rate President Trump proposed in his high-level plan, “2017 Tax Reform for Economic Growth and American Jobs,” released on 26 April 2017 (with the same rate on the business income of pass-through entities) – to 20% for corporations (and 25% for pass-through business income), which House Republicans outlined in their June 2016 tax reform “Blueprint.” The Senate has yet to put forth a tax reform plan.

Where exactly the corporate income tax rate ends up will depend partly on revenue considerations, and what other provisions are included in tax reform to offset the revenue loss of lowering the rate. Congressional Republicans have, in the past, pledged to make their tax reform effort revenue-neutral, using dynamic scoring (that factors in the economic effects of their tax cuts).
While the details remain to be seen, some key features that many think will be part of any final tax reform include:

- Lower corporate/business tax rates
- Lower individual tax rates
- Elimination of many deductions, exclusions and credits
- Possible limitations on interest deductions
- Move toward a territorial system and a mandatory transitional tax to encourage accumulated foreign earnings to be repatriated to the United States
- Some provision to encourage economic activity within the United States

**Details to-date**

Table 1 below summarizes the key features of the Trump plan as outlined on 26 April 2017 and the House Republicans’ Blueprint.

<table>
<thead>
<tr>
<th></th>
<th>Trump plan</th>
<th>House Republican Blueprint</th>
</tr>
</thead>
<tbody>
<tr>
<td>Top corporate tax rate</td>
<td>15%</td>
<td>20%, corporate AMT eliminated</td>
</tr>
<tr>
<td>(now 35%)</td>
<td></td>
<td>20%, corporate AMT eliminated</td>
</tr>
<tr>
<td>Top pass-through rate</td>
<td>15%</td>
<td>25%</td>
</tr>
<tr>
<td>(now 39.6%)</td>
<td></td>
<td>25%</td>
</tr>
<tr>
<td>Taxation of future</td>
<td>Territorial</td>
<td>• Territorial, 100% exemption for dividends paid from foreign</td>
</tr>
<tr>
<td>foreign earnings</td>
<td></td>
<td>subsidiaries</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Border tax adjustment mechanism</td>
</tr>
<tr>
<td>Mandatory tax, untaxed</td>
<td>Taxed at unspecified rate</td>
<td>8.75% for cash/cash equivalents, 3.5% otherwise, payable over 8 years</td>
</tr>
<tr>
<td>accumulated</td>
<td></td>
<td></td>
</tr>
<tr>
<td>foreign earnings</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cost recovery</td>
<td>Not addressed</td>
<td>100% expensing of tangible, intangible assets except land</td>
</tr>
<tr>
<td>Interest</td>
<td>Not addressed</td>
<td>No current deduction will be allowed for net interest expense</td>
</tr>
<tr>
<td>Other business provisions</td>
<td>Eliminate tax breaks for special interests</td>
<td>Calls for them to generally be eliminated, except for research credit and LIFO</td>
</tr>
<tr>
<td>Individual rates (now 10%, 15%, 25%, 28%, 33%, 35%, 39.6%)</td>
<td>10%, 25%, 35%. Individual AMT repealed; standard deduction doubled; 3.8% Net Investment Income Tax repealed</td>
<td>12%, 25%, 33%</td>
</tr>
</tbody>
</table>

Where exactly the corporate income tax rate ends up will depend partly on revenue considerations, and what other provisions are included in tax reform to offset the revenue loss of lowering the rate.
The potential for eliminating the deduction for net interest is of particular significance, given that it goes further than the interest restrictions recently adopted by many countries.

The details of Trump's plan and the House Republicans' Blueprint are directionally similar. Some of the elements of business tax reform proposed by Republicans could form the basis for discussions with Democrats. Democrats, however, have not supported the Republican's proposed lower tax rates for high-income individuals. If the total burden on upper-income taxpayers were unchanged, however (for example through base-broadening), Democrats may be willing to accept the individual income tax rate reductions. The parties have also disagreed on revenue issues in the past, with Democrats arguing reform should be revenue-neutral on a macro-static (as opposed to macro-dynamic) basis. However, if reconciliation is used to advance tax reform, these differences become irrelevant, as Senate Democrats would have little opportunity to change or block the legislation.

It is not clear whether the Senate, the other party in this three-way negotiation, will propose a similar plan. Senate tax leaders have indicated they plan to follow their own tax reform process, however, it remains to be seen whether any Democrats will participate in drafting a Senate plan.

**Key issues for global stakeholders: interest deductibility and border adjustments**

While the leading plans propose many changes that could potentially affect global tax policy (such as the overall rate reductions and shift toward territorial taxation), two tax reform proposals have sparked intense interest, and discussion by global stakeholders: the Blueprint's limits on the deductibility of interest expense, and introduction of a border adjustment tax.

The Blueprint would allow immediate expensing of business investment in tangible property (such as equipment and buildings, but not land) and intangible assets, but would eliminate the current deduction for interest expense on a net basis. Under the Blueprint, interest expense would be able to be deducted against interest income, but no current deduction would be allowed for net interest expense. Any net interest expense would be able to be carried forward indefinitely and allowed as a deduction against net interest income in future years.

The potential for eliminating the deduction for net interest is of particular significance, given that it goes further than the interest restrictions recently adopted by many countries. These include changes that are consistent with BEPS Action 4 recommendations that restrict deductions to 30% of earnings before interest, taxes, depreciation and amortization. Indeed eight of 50 covered in EY's *Outlook for global tax policy in 2017* - China, Greece, India, Israel, Netherlands, Norway, Singapore and the United Kingdom – are restricting interest deductibility in some way this year.

Given the potential for limitations on the deduction of interest, it is possible we could see a move away from debt financing to more flexible types of equity funding, if US tax reform is enacted.

The Blueprint contains another proposal that has generated controversy both inside and outside the United States – a border tax adjustment mechanism. A border adjustment is a way to tax imports and refund (or credit) taxes paid on business purchases used in the production of exports. Under the proposal in the Blueprint, revenue from export sales would not be taxable, and the cost of imported goods would be in the tax base (or taxed separately). If enacted, the border adjustment mechanism, combined with other changes in the Blueprint, would shift the US income tax toward a consumption-based tax. Global policymakers are watching this proposal closely and are discussing what types of policy changes they may wish to make should this change become law.

Some supporters view border adjustments as a way to improve US competitiveness and the US balance of trade. For example, under current US tax law, a US exporter must pay an import tax on products sold in a foreign country where there are border adjustments (paid via the foreign country's value-added tax, or VAT). A foreign exporter, in contrast, has no VAT liability; instead it receives a tax rebate under its border adjustment and pays no import tax to the United States.

While in the near term a country that adopts border adjustments could see a temporary increase in exports and decrease in imports (and a corresponding increase in revenue), the longer-term effects of border adjustments are likely to be different. Most economists think that the real price level would adjust to offset the effect that border adjustments might have on trade, with changes in currency values (e.g., exchange rates) the primary mechanisms for the adjustment.

---

How would the Blueprint’s border adjustment work?

Countries with VATs typically include border adjustments, which refund (or credit) taxes paid on business purchases used in the production of exports, and they tax imports. Border adjustments are included in VATs to transform the tax into a destination-based system that taxes domestic consumption. The provision in the Blueprint is a 20% border-adjusted cash flow tax. Under the provision, revenue from export sales would not be taxable, and the cost of imported goods would be in the tax base (or taxed separately) as it would not be deductible. The provision would apply to all domestic consumption and would exclude any goods or services that are produced domestically, but consumed elsewhere.

Do multilateral trade agreements place any restrictions on border adjustments?

There is uncertainty over whether the border adjustments as proposed in the Blueprint would be allowed under the multilateral trade rules negotiated as part of the General Agreement on Tariffs and Trade under the World Trade Organization (WTO). WTO rules allow for border adjustments under indirect taxes (e.g., VATs), but not for direct taxes, such as income taxes. The border adjustments as proposed in the Blueprint would, in effect, be administered as an income tax. The case for the Blueprint’s border adjustments being permitted is that they move the US income tax system considerably toward being a consumption tax (vs. a direct tax).

It remains unclear whether President Trump would support the border adjustment provision outlined in the Blueprint. US Treasury Secretary Mnuchin said in February, “We’re looking at it seriously – there are certain aspects of it that we’re concerned about, [and] there are certain aspects that we like.”

What might other governments be thinking about?

Tax policy never operates in a vacuum, and policy formation today is more reliant upon consideration of impacts – or “spillover” – effects than it has ever been. So with some key components of US reform on the table – but certainly not agreed upon – what are the considerations that other governments may be making while they continue to watch US policy unfold from afar?

While it is hard to predict precisely what the impact of the US tax reforms will be, the following sets out some of the issues that policymakers outside of the United States may be thinking about:

- The President has said that his tax reforms will be designed to boost the US domestic economy by supporting growth and jobs. The lower tax rates should, at least in the short- to medium-term, work to advance this goal.
- If it is part of the final tax reform bill, a border adjustment tax regime could (at least initially) favor US domestic businesses.
- In addition, US reforms, if achieved, may potentially lead to responses by businesses and individuals, such as:
  - Mobile businesses might consider relocating to the United States – for example, in the technology, pharmaceuticals, services and financial sectors.
  - Businesses might shift their expansion and investment decisions to the United States.
  - Internationally oriented businesses currently headquartered outside the United States could consider moving their headquarters to the United States.
  - Individuals might decide to relocate to or from the United States.

The medium- to long-term impacts of the tax reform proposals are difficult to predict. Some commentators have suggested that the increased stimulus to the US economy stemming from tax reform would lead to domestic inflation, which in turn could cause US interest rates to rise. This monetary effect could dampen the longer-term stimulatory effects of the tax changes.

Others have pondered the longer-term effects that the US tax reform proposals could have on the trade policies of the United States and its major trading partners. Questions raised include: Will the border adjustment tax, if enacted, lead to “retaliatory” law changes by the United States’ major trading partners? Will this in turn lead to greater protectionist policies that could impact the global economy?

US tax changes raise issues for the United States’ trading partners, placing even greater importance on those countries’ reform agendas. Governments are aware of this, and many are reinvigorating their efforts in this area. This is evidenced by the data reported in this publication, including the ongoing focus on reducing corporate income tax rates and driving greater levels of economic activity via enhanced or entirely new business incentives.

Corporate tax rates

It is likely that many countries will be reassessing whether their headline corporate tax rate positions them as an attractive place to work, invest and save. The average OECD corporate income tax rate in 2016 was 24.7%, higher than the rate proposed by both the House Republicans and Trump. Indeed, data in this publication shows that jurisdictions continue to desire having a competitive, “low-rate, broad-based” business tax environment, extending a trend that we
Any US tax law changes would have wide-reaching effects, and would influence how the OECD and others approach actions to address base erosion and profit shifting.

have seen for some years now. Headline corporate income tax rates continue to fall – albeit in slightly fewer countries and with lower overall rate reductions than in the last few years. At the same time, the number of countries forecasting an increased overall business tax burden continues to outstrip those forecasting a reduced burden, cementing the “broad-base” component of the trend.

Many countries continue to believe that competitive tax rates can enhance growth. A number of reports and studies have supported this view, including, for example, Australia’s Henry Review which reported that “Australia’s company income tax rate, which currently stands at 30%, is high relative to other comparably sized OECD countries. The average rate for small to medium OECD economies is currently around 25%.” Reducing taxes on investment would increase Australia’s attractiveness as a place to invest, particularly for foreign direct investment. Reducing taxes on investment, particularly company income tax, would also encourage innovation and entrepreneurial activity. Such reforms would boost national income by building a larger and more productive capital stock and by generating technology and knowledge spillovers that would improve the productivity of Australian businesses and employees.6

Incentives

Business tax reform for any country is not just about delivering lower tax rates. Governments must also consider their tax incentives and more general business tax settings as well – especially for innovation, R&D and capital investment, as we move through what the World Economic Forum has described as the “Fourth Industrial Revolution.” This will be particularly pertinent if the United States reshapes its tax incentives in favor of new capital invested in the United States, and if immediate expensing of capital expenditures (as proposed in the House Republicans’ Blueprint) is enacted.

We are already seeing a refreshed focus by governments in the incentives area. As set out in this publication, there has been a strong uptick in the number and scope of incentives offered by countries – from innovation and patent “boxes,” to R&D incentives and broader business incentives such as depreciation and capital investment allowances. Whether this is to counter ongoing weak economic growth, to provide a more competitive tax environment in the context of the BEPS project or is a precursor to further action in response to US reform remains unclear. But it is fair to assume that, should US reforms spur greater foreign direct investment and capital spending via lower tax costs, other countries will respond.

A new phase of anti-base erosion measures?

Many countries are already moving to limit interest expenses (with India being the latest country to adopt the OECD’s BEPS Action 4 recommendations; in its recently announced Union Budget for tax year 2017-18, the Indian Government proposed imposing a limit of 30% of earnings before interest, taxes, depreciation and amortization). Such a move by the United States would likely have spillover effects elsewhere. Much the same can be said if the United States makes changes to the way it taxes foreign-earned income of its multinational corporations – such as the rules governing controlled foreign companies, transfer pricing and hybrid mismatch arrangements. Should changes in these areas be enacted, the OECD and others may also want to change their approach to these rules. Any US tax law changes would have wide-reaching effects, and would influence how the OECD and others approach actions to address base erosion and profit shifting.

Concluding thoughts

Many governments are already modeling the potential impacts of US tax reform and assessing how they might shape their tax policies in response. Companies should be carrying out a similar exercise, as any change in US tax law will affect aspects of their tax strategy. To a certain degree, companies can use a similar approach to the one they used when assessing the impact of the OECD’s BEPS recommendations – monitor, model and engage; the process, protocols and knowledge-sharing activities should already be in place. And as always, monitoring and assessment must be linked to (and embedded in) overall business and tax strategies.

5 Ibid, page 163.
6 Ibid, page 149.
7 https://www.weforum.org/about/the-fourth-industrial-revolution-by-klaus-schwab.
<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>2016</th>
<th>2017</th>
<th>Notes</th>
<th>% of change in 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Argentina</td>
<td>35.0%</td>
<td>35.0%</td>
<td></td>
<td>0.0%</td>
</tr>
<tr>
<td>Australia</td>
<td>30.0%</td>
<td>30.0%</td>
<td></td>
<td>0.0%</td>
</tr>
<tr>
<td>Brazil</td>
<td>34.0%</td>
<td>34.0%</td>
<td></td>
<td>0.0%</td>
</tr>
<tr>
<td>Canada</td>
<td>27.84%</td>
<td>28.07%</td>
<td>Federal/national rate remains 15%. Combined federal and provincial or territorial rates on general income vary from 27.8% to 28.1.</td>
<td>0.0%</td>
</tr>
<tr>
<td>China</td>
<td>25.0%</td>
<td>25.0%</td>
<td></td>
<td>0.0%</td>
</tr>
<tr>
<td>France</td>
<td>38.0%</td>
<td>34.4%</td>
<td></td>
<td>-9.4%</td>
</tr>
<tr>
<td>Germany</td>
<td>30.0%</td>
<td>30.0%</td>
<td>Comprises the national corporate tax rate of 15%; a solidarity surcharge of 5.5%; and a trade tax (local) between 7% and 19.25%, depending on the region of Germany. The total average is ~30.</td>
<td>0.0%</td>
</tr>
<tr>
<td>India</td>
<td>43.3%</td>
<td>43.3%</td>
<td>Domestic company income tax rate is 30% and will gradually be reduced to 25% over the next three years. Rate shown to left is for foreign companies, and is inclusive of surcharge and education cess.</td>
<td>0.0%</td>
</tr>
<tr>
<td>Italy</td>
<td>31.4%</td>
<td>27.9%</td>
<td>The corporate income tax (imposta sul reddito delle società, or IRES) rate is 27.5%. However, the 2016 Budget Law provides that, except for banks and other financial entities, the IRES rate is reduced to 24% effective from the 2017 fiscal year (fiscal years beginning after 31 December 2016). A regional tax on productive activities (imposta regionale sulle attività produttive, or IRAP) is imposed on the net value of production and the basic tax rate is 3.9%. Different rates apply to certain sectors.</td>
<td>-11.1%</td>
</tr>
<tr>
<td>Japan</td>
<td>30.0%</td>
<td>30.0%</td>
<td>National rate is 23.4%; 29.97% is the effective tax rate when federal and local (Tokyo) taxes are taken into account.</td>
<td>0.0%</td>
</tr>
<tr>
<td>Mexico</td>
<td>30.0%</td>
<td>30.0%</td>
<td></td>
<td>0.0%</td>
</tr>
<tr>
<td>Netherlands</td>
<td>25.0%</td>
<td>25.0%</td>
<td></td>
<td>0.0%</td>
</tr>
<tr>
<td>Russia</td>
<td>20.0%</td>
<td>20.0%</td>
<td></td>
<td>0.0%</td>
</tr>
<tr>
<td>Saudi Arabia</td>
<td>20.0%</td>
<td>20.0%</td>
<td></td>
<td>0.0%</td>
</tr>
<tr>
<td>South Africa</td>
<td>28.0%</td>
<td>28.0%</td>
<td></td>
<td>0.0%</td>
</tr>
<tr>
<td>South Korea</td>
<td>22.0%</td>
<td>22.0%</td>
<td></td>
<td>0.0%</td>
</tr>
<tr>
<td>Turkey</td>
<td>20.0%</td>
<td>20.0%</td>
<td></td>
<td>0.0%</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>20.0%</td>
<td>19.0%</td>
<td>19% from 1 April 2017.</td>
<td>-5.0%</td>
</tr>
<tr>
<td>United States</td>
<td>39.0%</td>
<td>39.0%</td>
<td></td>
<td>0.0%</td>
</tr>
</tbody>
</table>

Source: The outlook for global tax policy in 2017, EY.
### Corporate income tax (effective rate paid)

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Indicator</th>
<th>2016</th>
<th>2017</th>
<th>% of change in 2017</th>
<th>Indicator</th>
<th>2016</th>
<th>2017</th>
<th>% of change in 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Argentina</td>
<td>No change</td>
<td>35.0%</td>
<td>35.0%</td>
<td>0.0%</td>
<td>No change</td>
<td>21.0%</td>
<td>21.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>Australia</td>
<td>No change</td>
<td>49.0%</td>
<td>47.0%</td>
<td>-4.08%</td>
<td>Decrease</td>
<td>10.0%</td>
<td>10.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>Brazil</td>
<td>No change</td>
<td>27.5%</td>
<td>27.5%</td>
<td>0.0%</td>
<td>No change</td>
<td>18.0%</td>
<td>18.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>Canada</td>
<td>No change (at federal level)</td>
<td>54.0%</td>
<td>54.0%</td>
<td>0.0%</td>
<td>No change</td>
<td>5.0%</td>
<td>5.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>China</td>
<td>No change</td>
<td>45.0%</td>
<td>45.0%</td>
<td>0.0%</td>
<td>No change</td>
<td>17.0%</td>
<td>17.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>France</td>
<td>Decrease</td>
<td>45.0%</td>
<td>45.0%</td>
<td>0.0%</td>
<td>No change</td>
<td>20.0%</td>
<td>20.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>Germany</td>
<td>No change</td>
<td>45.0%</td>
<td>45.0%</td>
<td>0.0%</td>
<td>No change</td>
<td>19.0%</td>
<td>19.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>India</td>
<td>No change</td>
<td>30.0%</td>
<td>30.0%</td>
<td>0.0%</td>
<td>No change</td>
<td>12.5%</td>
<td>12.5%</td>
<td>0% No change</td>
</tr>
<tr>
<td>Italy</td>
<td>Decrease</td>
<td>47.2%</td>
<td>47.2%</td>
<td>0.0%</td>
<td>No change</td>
<td>22.0%</td>
<td>22.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>Japan</td>
<td>No change</td>
<td>45.0%</td>
<td>45.0%</td>
<td>0.0%</td>
<td>No change</td>
<td>8.0%</td>
<td>8.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>Mexico</td>
<td>No change</td>
<td>35.0%</td>
<td>35.0%</td>
<td>0.0%</td>
<td>No change</td>
<td>16.0%</td>
<td>16.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>Netherlands</td>
<td>No change</td>
<td>52.0%</td>
<td>52.0%</td>
<td>0.0%</td>
<td>No change</td>
<td>21.0%</td>
<td>21.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>Russia</td>
<td>No change</td>
<td>35.0%</td>
<td>35.0%</td>
<td>0.0%</td>
<td>No change</td>
<td>18.0%</td>
<td>18.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>Saudi Arabia</td>
<td>No change</td>
<td>20.0%</td>
<td>20.0%</td>
<td>0.0%</td>
<td>No change</td>
<td>0%</td>
<td>0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>South Africa</td>
<td>No change</td>
<td>41.0%</td>
<td>41.0%</td>
<td>0.0%</td>
<td>No change</td>
<td>14.0%</td>
<td>14.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>South Korea</td>
<td>No change</td>
<td>38.0%</td>
<td>38.0%</td>
<td>0.0%</td>
<td>No change</td>
<td>10.0%</td>
<td>10.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>Turkey</td>
<td>No change</td>
<td>35.0%</td>
<td>35.0%</td>
<td>0.0%</td>
<td>No change</td>
<td>18.0%</td>
<td>18.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>Decrease</td>
<td>45.0%</td>
<td>45.0%</td>
<td>0.0%</td>
<td>No change</td>
<td>20.0%</td>
<td>20.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>United States</td>
<td>No change</td>
<td>39.6%</td>
<td>39.6%</td>
<td>0.0%</td>
<td>No change</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0% No change</td>
</tr>
</tbody>
</table>

### Personal income tax (highest marginal rate)

### VAT/GST/sales tax

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Indicator</th>
<th>2016</th>
<th>2017</th>
<th>% of change in 2017</th>
<th>Indicator</th>
<th>2016</th>
<th>2017</th>
<th>% of change in 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Argentina</td>
<td>No change</td>
<td>35.0%</td>
<td>35.0%</td>
<td>0.0%</td>
<td>No change</td>
<td>21.0%</td>
<td>21.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>Australia</td>
<td>No change</td>
<td>49.0%</td>
<td>47.0%</td>
<td>-4.08%</td>
<td>Decrease</td>
<td>10.0%</td>
<td>10.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>Brazil</td>
<td>No change</td>
<td>27.5%</td>
<td>27.5%</td>
<td>0.0%</td>
<td>No change</td>
<td>18.0%</td>
<td>18.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>Canada</td>
<td>No change (at federal level)</td>
<td>54.0%</td>
<td>54.0%</td>
<td>0.0%</td>
<td>No change</td>
<td>5.0%</td>
<td>5.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>China</td>
<td>No change</td>
<td>45.0%</td>
<td>45.0%</td>
<td>0.0%</td>
<td>No change</td>
<td>17.0%</td>
<td>17.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>France</td>
<td>Decrease</td>
<td>45.0%</td>
<td>45.0%</td>
<td>0.0%</td>
<td>No change</td>
<td>20.0%</td>
<td>20.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>Germany</td>
<td>No change</td>
<td>45.0%</td>
<td>45.0%</td>
<td>0.0%</td>
<td>No change</td>
<td>19.0%</td>
<td>19.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>India</td>
<td>No change</td>
<td>30.0%</td>
<td>30.0%</td>
<td>0.0%</td>
<td>No change</td>
<td>12.5%</td>
<td>12.5%</td>
<td>0% No change</td>
</tr>
<tr>
<td>Italy</td>
<td>Decrease</td>
<td>47.2%</td>
<td>47.2%</td>
<td>0.0%</td>
<td>No change</td>
<td>22.0%</td>
<td>22.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>Japan</td>
<td>No change</td>
<td>45.0%</td>
<td>45.0%</td>
<td>0.0%</td>
<td>No change</td>
<td>8.0%</td>
<td>8.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>Mexico</td>
<td>No change</td>
<td>35.0%</td>
<td>35.0%</td>
<td>0.0%</td>
<td>No change</td>
<td>16.0%</td>
<td>16.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>Netherlands</td>
<td>No change</td>
<td>52.0%</td>
<td>52.0%</td>
<td>0.0%</td>
<td>No change</td>
<td>21.0%</td>
<td>21.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>Russia</td>
<td>No change</td>
<td>35.0%</td>
<td>35.0%</td>
<td>0.0%</td>
<td>No change</td>
<td>18.0%</td>
<td>18.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>Saudi Arabia</td>
<td>No change</td>
<td>20.0%</td>
<td>20.0%</td>
<td>0.0%</td>
<td>No change</td>
<td>0%</td>
<td>0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>South Africa</td>
<td>No change</td>
<td>41.0%</td>
<td>41.0%</td>
<td>0.0%</td>
<td>No change</td>
<td>14.0%</td>
<td>14.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>South Korea</td>
<td>No change</td>
<td>38.0%</td>
<td>38.0%</td>
<td>0.0%</td>
<td>No change</td>
<td>10.0%</td>
<td>10.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>Turkey</td>
<td>No change</td>
<td>35.0%</td>
<td>35.0%</td>
<td>0.0%</td>
<td>No change</td>
<td>18.0%</td>
<td>18.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>Decrease</td>
<td>45.0%</td>
<td>45.0%</td>
<td>0.0%</td>
<td>No change</td>
<td>20.0%</td>
<td>20.0%</td>
<td>0% No change</td>
</tr>
<tr>
<td>United States</td>
<td>No change</td>
<td>39.6%</td>
<td>39.6%</td>
<td>0.0%</td>
<td>No change</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0% No change</td>
</tr>
</tbody>
</table>
“Martin Kreienbaum will arguably be one of the most important men in tax in 2017. On 1 January 2017, the Director General of International Taxation at Germany’s Federal Ministry of Finance also became Chair of the Organisation for Economic Co-operation and Development’s Committee on Fiscal Affairs (CFA). And with Germany now holding the G20 Presidency (and with the Hamburg G20 Leaders’ Summit fast approaching), there are few stakeholders who will exert more influence on the direction that world leaders will take on taxation issues.”

So starts the latest issue of EY Tax Insights magazine for business leaders.

In his interview with EY, Mr. Kreienbaum shares some fascinating insights. “I think we should focus not only on resolution, but also on prevention of disputes. I believe it all starts with the greater use of joint audits,” he says, signaling that this seldom-used approach may be set for more future application.

“We will also initiate a much-needed discussion on the tax challenges of digitalization, building on the work that has already been conducted during the BEPS project,” he continues, heralding a revisit of the BEPS Action 1 work on the digital economy that left many taxpayers wanting more clarity and more guidance.

India has its hands full today with international tax reforms, digitalization and a new sales tax. The country’s tax administration, however, remains focused on increasing efficiency, consistency and, ultimately, certainty. That’s the view of Akhilesh Ranjan, Principal Chief Commissioner of Income Tax, at India’s Ministry of Finance, and Competent Authority for India.

“Too much has been made of the so-called retrospective taxation in India,” argues Mr Ranjan. “We firmly believe there never was any new and retrospective taxation, just a retelling of the rules that were already clear and in place. That’s all history now. I’m not worried about the ghost of retrospective taxation anymore. We are focused on ensuring that our tax rules are consistent with global norms. And on the policy front, I do not think any major issues can be raised.”

Access both interviews at taxinsights.ey.com.
# EY contacts

## Global leaders

<table>
<thead>
<tr>
<th>Local leaders</th>
<th>Tax Policy</th>
<th>Tax Controversy</th>
</tr>
</thead>
<tbody>
<tr>
<td>EY Americas</td>
<td>Cathy Koch</td>
<td>Rob Hanson</td>
</tr>
<tr>
<td>EY Asia-Pacific and EY Japan</td>
<td>Alf Capito</td>
<td>Howard Adams</td>
</tr>
<tr>
<td>EY EMEIA</td>
<td>Jean-Pierre Lieb</td>
<td></td>
</tr>
</tbody>
</table>

## Area leaders

<table>
<thead>
<tr>
<th>EY Americas</th>
<th>Tax Policy</th>
<th>Tax Controversy</th>
</tr>
</thead>
<tbody>
<tr>
<td>EY Asia-Pacific</td>
<td>Tax Policy</td>
<td>Tax Controversy</td>
</tr>
<tr>
<td>EY EMEIA</td>
<td>Tax Policy and Controversy</td>
<td></td>
</tr>
</tbody>
</table>

## Country leaders

<table>
<thead>
<tr>
<th>Argentina</th>
<th>Tax Policy</th>
<th>Carlos Casanovas</th>
<th><a href="mailto:carlos.casanovas@ar.ey.com">carlos.casanovas@ar.ey.com</a></th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>Tax Policy</td>
<td>Alf Capito</td>
<td><a href="mailto:alf.capito@au.ey.com">alf.capito@au.ey.com</a></td>
</tr>
<tr>
<td>Austria</td>
<td>Tax Policy and Controversy</td>
<td>Andreas Stefaner</td>
<td><a href="mailto:andreas.stefaner@at.ey.com">andreas.stefaner@at.ey.com</a></td>
</tr>
<tr>
<td>Belgium</td>
<td>Tax Policy</td>
<td>Herwig Joosten</td>
<td><a href="mailto:herwig.joosten@be.ey.com">herwig.joosten@be.ey.com</a></td>
</tr>
<tr>
<td>Brazil</td>
<td>Tax Policy</td>
<td>Washington Coelho</td>
<td><a href="mailto:washington.coelho@brey.com">washington.coelho@brey.com</a></td>
</tr>
<tr>
<td>Bulgaria</td>
<td>Tax Policy and Controversy</td>
<td>Milen Raikov</td>
<td><a href="mailto:milen.raikov@bg.ey.com">milen.raikov@bg.ey.com</a></td>
</tr>
<tr>
<td>Canada</td>
<td>Tax Policy and Controversy</td>
<td>Gary Zed</td>
<td><a href="mailto:gary.zed@ca.ey.com">gary.zed@ca.ey.com</a></td>
</tr>
<tr>
<td>Chile</td>
<td>Tax Policy and Controversy</td>
<td>Osiel González</td>
<td><a href="mailto:osiel.gonzalez@cl.ey.com">osiel.gonzalez@cl.ey.com</a></td>
</tr>
<tr>
<td>China</td>
<td>Tax Policy</td>
<td><a href="mailto:becky.lai@hk.ey.com">becky.lai@hk.ey.com</a></td>
<td><a href="mailto:becky.lai@hk.ey.com">becky.lai@hk.ey.com</a></td>
</tr>
<tr>
<td>Colombia</td>
<td>Tax Policy and Controversy</td>
<td>Margarita Salas</td>
<td><a href="mailto:margarita.salas@co.ey.com">margarita.salas@co.ey.com</a></td>
</tr>
<tr>
<td>Costa Rica</td>
<td>Tax Policy and Controversy</td>
<td>Rafael Sayagués</td>
<td>rafael.sayagué<a href="mailto:s@cr.ey.com">s@cr.ey.com</a></td>
</tr>
<tr>
<td>Croatia</td>
<td>Tax Policy</td>
<td>Denes Szabo</td>
<td><a href="mailto:denes.szabo@hr.ey.com">denes.szabo@hr.ey.com</a></td>
</tr>
<tr>
<td>Cyprus</td>
<td>Tax Policy and Controversy</td>
<td>Philippos Raptopoulos</td>
<td><a href="mailto:philippos.raptopoulos@cy.ey.com">philippos.raptopoulos@cy.ey.com</a></td>
</tr>
<tr>
<td>Czech Republic</td>
<td>Tax Policy and Controversy</td>
<td>Lucie Rihova</td>
<td><a href="mailto:lucie.rihova@cz.ey.com">lucie.rihova@cz.ey.com</a></td>
</tr>
<tr>
<td>Denmark</td>
<td>Tax Policy</td>
<td>Jens Wittendorf</td>
<td><a href="mailto:jens.wittendorf@dk.ey.com">jens.wittendorf@dk.ey.com</a></td>
</tr>
<tr>
<td>Finland</td>
<td>Tax Policy</td>
<td>Marnix Van Rij</td>
<td><a href="mailto:marnix.van.rij@nl.ey.com">marnix.van.rij@nl.ey.com</a></td>
</tr>
<tr>
<td>France</td>
<td>Tax Policy and Controversy</td>
<td>Klaus Von Brocke</td>
<td><a href="mailto:klaus.von.brocke@de.ey.com">klaus.von.brocke@de.ey.com</a></td>
</tr>
<tr>
<td>Germany</td>
<td>Tax Policy</td>
<td>Hermann Ottmar Gauß</td>
<td><a href="mailto:hermann.gauss@de.ey.com">hermann.gauss@de.ey.com</a></td>
</tr>
<tr>
<td>Greece</td>
<td>Tax Policy</td>
<td>Stefanos Mitsios</td>
<td><a href="mailto:stefanos.mitsios@gr.ey.com">stefanos.mitsios@gr.ey.com</a></td>
</tr>
<tr>
<td>Guatemala</td>
<td>Tax Policy and Controversy</td>
<td>Rafael Sayagués</td>
<td>rafael.sayagué<a href="mailto:s@cr.ey.com">s@cr.ey.com</a></td>
</tr>
<tr>
<td>Honduras</td>
<td>Tax Policy and Controversy</td>
<td>Rafael Sayagués</td>
<td>rafael.sayagué<a href="mailto:s@cr.ey.com">s@cr.ey.com</a></td>
</tr>
<tr>
<td>Hong Kong SAR</td>
<td>Tax Policy</td>
<td>Becky Lai</td>
<td><a href="mailto:becky.lai@hk.ey.com">becky.lai@hk.ey.com</a></td>
</tr>
<tr>
<td>Hungary</td>
<td>Tax Policy and Controversy</td>
<td>Botond Rencz</td>
<td><a href="mailto:botond.rencz@hu.ey.com">botond.rencz@hu.ey.com</a></td>
</tr>
</tbody>
</table>
India  Tax Policy  Ganesh Raj  ganesh.raj@in.ey.com  +91 120 6717110
Indonesia  Tax Policy and Controversy  Rajan Vora  rajan.vora@in.ey.com  +91 22 619 20440
Ireland  Tax Policy and Controversy  Yudie Paimanta  yudie.paimanta@id.ey.com  +62 21 5289 5585
Israel  Tax Policy  Kevin McLoughlin  kevin.mccloughlin@ie.ey.com  +353 1 2212 478
Italy  Tax Policy  Arie Pundak  arie.pundak@il.ey.com  +972 3 568 7115
Japan  Tax Policy and Controversy  Konstantin Yurchenko  konstantin.yurchenko@kz.ey.com  +7 495 641 2958
Kazakhstan  Tax Policy and Controversy  Ilona Butane  ilona.butane@lv.ey.com  +371 6704 3836
Latvia  Tax Policy and Controversy  Kestutis Lisauskas  kestutis.lisauskas@lt.ey.com  +370 5 274 2252
Luxembourg  Tax Policy  Marc Schmitz  marc.schmitz@lu.ey.com  +352 42 124 7352
Malaysia  Tax Policy and Controversy  Amarjeet Singh  amarjeet.singh@my.ey.com  +60 3 7495 8383
Malta  Tax Policy and Controversy  Robert Attard  robert.attard@mt.ey.com  +356 2134 2134
Mexico  Tax Policy  Jorge Libreros  jorge.libreros@mx.ey.com  +52 55 5283 1439
Middle East  Tax Policy and Controversy  Balaji Ganesh  balaji.ganesh@kw.ey.com  +971 2 7260260
The Netherlands  Tax Policy and Controversy  Arjo van Eijsden  arjo.van.eijsden@nl.ey.com  +31 10 406 8506
New Zealand  Tax Policy  Aaron Quintal  aaron.quintal@nz.ey.com  +64 9 300 7059
Nicaragua  Tax Policy  Kirsty Keating  kirsty.keating@nz.ey.com  +64 9 300 7073
Panama  Tax Policy and Controversy  Luis Ocando  luis.ocando@pa.ey.com  +507 208 0144
Peru  Tax Policy and Controversy  David de la Torre  david.de.la.torre@pe.ey.com  +51 1 411 4471
Philippines  Tax Policy  Wilfredo U. Villanueva  wilfredo.u.villanueva@ph.ey.com  +63 2 894 8180
Poland  Tax Policy  Zbigniew Liptak  zbigniew.liptak@pl.ey.com  +48 22 557 7025
Portugal  Tax Policy  Carlos Manuel Baptista Lobo  carlos.lobo@pt.ey.com  +351 217 912 000
Puerto Rico  Tax Policy and Controversy  Teresita Fuentes  teresita.fuentes@ey.com  +1 787 772 7066
Romania  Tax Policy and Controversy  Emanuel Bancela  emanuel.bancela@ro.ey.com  +40 21 402 4100
Russia  Tax Policy  Alexei Lobova  alexei.lobova@ru.ey.com  +7 495 705 9730
Singapore  Tax Policy  Russell Aubrey  russell.aubrey@sg.ey.com  +65 6309 8690
Slovak Republic  Tax Policy  Richard Panek  richard.panek@sk.ey.com  +421 2 333 39109
Slovenia  Tax Policy and Controversy  Peter Feiler  peter.feiler@sk.ey.com  +421 2 333 3915
South Africa  Tax Policy  Lucía Hlongwane  lucia.hlongwane@za.ey.com  +27 76 830 4144
South Korea  Tax Policy  Chirstel Van Wyk  chirstel.vanwyk@za.ey.com  +27 11 502 0100
Spain  Tax Policy  Javier Seijo Perez  javier.seijoperez@es.ey.com  +34 91 572 7414
Sweden  Tax Policy  Maximino Linares  maximino.linares@es.ey.com  +34 91 572 7123
Switzerland  Tax Policy  Erik Hultman  erik.hultman@se.ey.com  +46 8 5205 9468
Taiwan  Tax Policy and Controversy  Roger Krapf  roger.krapf@ch.ey.com  +41 58 286 2125
Tax Policy  Martin Huber  martin.huber@ch.ey.com  +41 58 286 6120
Thailand  Tax Policy and Controversy  Yupa Wichtkrasorn  yupa.wichtkrasorn@th.ey.com  +66 2 264 0777
Turkey  Tax Policy and Controversy  Erdal Calikoglu  erdal.calikoglu@tr.ey.com  +90 212 408 53 75
Ukraine  Tax Policy and Controversy  Vladimir Kotenko  vladimir.kotenko@ua.ey.com  +380 44 490 3006
United Kingdom  Tax Policy  Chris Sanger  csanger@uk.ey.com  +44 20 7951 0150
United States  Tax Policy  James Wilson  jwilson8@uk.ey.com  +44 20 7951 5912
Venezuela  Tax Policy and Controversy  Jose Velazquez  jose.a.velazquez@ve.ey.com  +58 212 905 6659
Vietnam  Tax Policy and Controversy  Huong Vu  huong.vu@vn.ey.com  +84 9 0343 2791

Global Tax Policy and Controversy Briefing 53
About EY
EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit ey.com.

EY Tax Policy and Controversy services
Our business tax services are designed to help you meet your business tax compliance and advisory needs. Our tax professionals draw on their diverse perspectives and skills to give you seamless global service in planning, financial accounting, tax compliance and accounting, and maintaining effective relationships with the tax authorities. Our talented people, consistent global methodologies and unwavering commitment to quality service give you all you need to build the strong compliance and reporting foundations and sustainable tax strategies that help your business succeed.

© 2017 EYGM Limited.
All Rights Reserved.

EYG no: 03075-173GBL
1701-2165562

ED None

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax or other professional advice. Please refer to your advisors for specific advice.

ey.com

The opinions of third parties set out in this publication are not necessarily the opinions of the global EY organization or its member firms. Moreover, they should be viewed in the context of the time they were expressed.

Circular 230 Statement: Any US tax advice contained herein is not intended or written to be used, and cannot be used, for the purpose of avoiding penalties that may be imposed under the Internal Revenue Code or applicable state or local tax law provisions.