Panama signs Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS


Background

On 5 October 2015, the OECD released its final report on developing a multilateral instrument to modify bilateral tax treaties under its BEPS Action Plan (Action 15). This report was released in a package that included final reports on all 15 BEPS Actions. On 24 November 2016, the OECD released the text of the MLI and explanatory notes.1

On 7 June 2017, 68 jurisdictions2 signed the MLI during a signing ceremony hosted by the OECD in Paris.

Signatories submitted a preliminary list of their MLI positions in respect of the various provisions of the MLI3 and a list of covered tax agreements (CTAs) (i.e., tax treaties to be amended through the MLI). The definitive MLI positions for each jurisdiction will be provided upon the deposit of its instrument of ratification, acceptance or approval of the MLI.
Panama’s CTAs and MLI provisions

At the time of signature, Panama submitted a list of 17 tax treaties into which Panama entered and other jurisdictions that Panama would like to designate as CTAs. With the list of CTAs, Panama also submitted a provisional list of reservations and notifications (MLI positions) in respect of the provisions of the MLI. The definitive MLI positions will be provided upon the deposit of its instrument of ratification, acceptance or approval of the MLI.

So far, Panama’s list of reserved provisions includes any provisions that are not considered a minimum standard. Additionally, Panama did not agree to the application of the simplified limitation of benefits (LOB); thus, the LOB provision will not apply to Panama’s CTAs (i.e., only the principal purpose test will apply).

Endnotes

1. See EY Global Tax Alert, OECD releases multilateral instrument to implement treaty related BEPS measures on hybrid mismatch arrangements, treaty abuse, permanent establishment status and dispute resolution, dated 2 December 2016 for a more detailed analysis of the MLI-related BEPS measures.

2. Andorra, Argentina, Armenia, Australia, Austria, Belgium, Bulgaria, Burkina Faso, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Egypt, Fiji, Finland, France, Gabon, Georgia, Germany, Greece, Guernsey, Hong Kong, Hungary, Iceland, India, Indonesia, Ireland, Isle of Man, Israel, Italy, Japan, Jersey, Korea, Kuwait, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Monaco, Netherlands, New Zealand, Norway, Pakistan, Poland, Portugal, Romania, Russia, San Marino, Senegal, Serbia, Seychelles, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, United Kingdom and Uruguay.

3. For more detail on the MLI positions taken by the signing jurisdictions on 7 June 2017, see EY Global Tax Alert, Signing by 68 jurisdictions of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS highlights impacts for business to consider, dated 14 June 2017.

4. Barbados, Korea, United Arab Emirates, Spain, France, Ireland, Israel, Italy, Luxembourg, Mexico, The Netherlands, Portugal, Qatar, United Kingdom, Czech Republic, Singapore and Vietnam.

5. Status of List of Reservations and Notifications at the Time of Signature.

6. For more detail on the minimum standards of the MLI, see EY Global Tax Alert, Signing by 68 jurisdictions of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS highlights impacts for business to consider, dated 14 June 2017.
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