



The Latest on BEPS - 16 March 2015

OECD

On 3 March 2015, the OECD announced that a meeting of the Latin American and the Caribbean Regional Network on BEPS met on 26-27 February, with close to 90 senior tax officials from 14 jurisdictions and 7 international organizations participating. The meeting focused on BEPS issues of particular interest to the region, including interest deductions (Action 4), risk and recharacterisation (Actions 8-10), digital economy (Action 1), transfer pricing for commodities transactions (Action 10), and transfer pricing documentation and country-by-country reporting (Action 13). Automatic exchange of information, the difficulties in finding transfer pricing comparables, and the development of toolkits for implementation of BEPS measures were also discussed.

On 19-20 March 2015, the OECD is holding a public consultation on four pending discussion drafts on transfer pricing (Actions 8-10), which cover risk, recharacterisation and special measures; low value-adding intra-group services; profit splits in the context of global value chains; and cross-border commodity transactions. EY representatives will participate in this consultation.

Australia

On 13 March 2015, the Australian Tax Office (ATO) released a consultation paper on how it intends to comply with its requirement to publicly report certain tax data for large companies and corporate tax entities. This measure was enacted in 2013 and requires the ATO to publicly report certain income tax data in relation to corporate tax entities having incomes over \$100 million per annum, plus details of entities paying minerals resource rent tax (MRRT) and petroleum resource rent tax (PRRT). Beginning with the 2013-14 income year, the ATO will publish: (i) income tax information of companies and corporate tax entities (including some trusts and partnerships) with total incomes of \$100 million or more annually, disclosing taxpayers' ABN (Australian Business Number), total income, taxable income and tax payable, and (ii) payments of MRRT/PRRT, regardless of the entity's total income amount. The ATO proposes that one single report will be released in late 2015, covering approximately 2,300 entities. Submissions on the consultation paper are due by 10 April 2015.

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France

On 26 February 2015, a think tank affiliated with the French Government issued a report entitled "Taxation and the digital economy: A survey of theoretical models." The Report, authored by a group of economists, furthers the work done by a separate expert report published in January 2013 by Colin and Collin that had received significant international attention but had not resulted in Government action. The Report recommends a three-tiered approach to taxing digital economy: (i) adaptation of nexus rules on the taxation of profits (i.e., the definition of a permanent establishment) via international negotiations; (ii) if and as long as the previous approach is not implemented, adoption of an ad valorem taxation based on revenue (e.g., advertising revenue) generated in the jurisdiction; (iii) if and as long as neither of the previous approaches is implemented, adoption of a tax based on a measure of activity (e.g., number of users, flow of data or number of advertisers). The report recommends that the tax rate differentiate between those revenues generated by accessing the platform and those generated by exploiting users' data and that the rules be structured to encourage platforms to offer various degrees of data protection to users. The Report concludes that additional work is still necessary to quantify the optimal tax rates and the impact on competition and markets based on both empirical and theoretical studies.

Honduras

On 6 February 2015, the Honduran Tax Authorities created an International Taxation and Transfer Pricing Department. The Department will address the issues raised by the increasing number of investments and transactions of multinational companies operating in Honduras. The Department's main functions include: (i) creating guidelines for international taxation; (ii) identifying related domestic and multinational companies that may be subject to transfer pricing examinations; (iii) analyzing financial and economic attributes of the identified companies to obtain the necessary input for transfer pricing examinations; (iv) coordinating the necessary actions to obtain relevant and timely information for transfer pricing compliance control; (v) detecting tax avoidance and evasion in cross-border transactions; (vi) participating in the negotiation of Double Tax Conventions and Mutual Agreements with other Tax Administrations; and (vii) controlling, supervising and reviewing Advanced Pricing Agreements. In addition, Honduras Tax Authorities announced transfer pricing compliance updates, such as the modification of the transfer pricing return.

See EY Global Tax Alert, [Honduran Tax Authorities create new International Taxation and Transfer Pricing Department and announce transfer pricing compliance updates](#), dated 12 March 2015.

India

On 28 February 2015, India released the Bill for the financial year beginning 1 April 2015 (the FB2015). The Bill proposes to defer until 1 April 2017 the entry into force of the General Anti Avoidance Rules (GAAR), which were scheduled to come into effect as from 1 April 2015. The Bill explains that it will be more appropriate to implement GAAR provisions as part of a comprehensive regime to deal with BEPS and aggressive tax avoidance, once the OECD's work on the various BEPS action items has been finalized. Furthermore, transactions that take the form of investments into India made before or on 31 March 2017 are proposed to be protected from the applicability of GAAR through a grandfathering rule. Finally, the Bill proposes important clarifications to the indirect transfer rules.

See EY Global Tax Alert, [India presents 2015 Budget](#), dated 5 March 2015.

Taiwan

On 4 March 2015, Taiwan's Ministry of Finance adopted in final form amendments to the transfer pricing guidelines that had been released in draft form on 7 January 2015. There is one new provision as well as revisions to eight existing provisions. The new provision provides for the application of the arm's length principle in business restructurings. The revisions to the

eight existing provisions mainly cover the definition of business restructuring, functional and risk analysis of business restructuring, application of the profit split method, pre-filing meeting for an Advanced Pricing Agreement, operating margin on total costs and expenses, and assessment of tax pursuant to the deemed profit method.

See EY Global Tax Alert, [Taiwan proposes amendments to transfer pricing guidelines](#), dated 11 March 2015.

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