BEPS

In 2013, the Organisation for Economic Co-operation and Development (OECD) launched an initiative to tackle a wide range of international tax issues with the release of its Action Plan on Base Erosion and Profit Shifting (BEPS), covering areas such as the taxation of the digital economy, hybrid instruments and entities, transfer pricing rules, double tax treaties, permanent establishments and country-by-country reporting.

Background

A combination of increased media attention on tax avoidance and the need to shore up Governmental tax receipts in difficult economic conditions has led to the tax arrangements of multi-nationals being put in the spotlight. The press and the activities of NGOs and charities have, in particular, raised the issue of tax avoidance in the public consciousness and the political arena.

Much of the debate, often addressing very complex issues, has been conducted in an unfortunately simplistic manner, eliding the difference between avoidance and evasion and painting legitimate, long-standing arrangements as aggressive avoidance, for example. However, in the furore over tax avoidance, one area in relation to which all could find common ground was the need to modernise the international tax rules.

Many of the rules which determine the tax treatment of cross-border situations pre-date the current digital economy. For example, it is now possible for businesses to sell goods and services into economies with no physical presence in a way that could not be conceived when the rules dealing with permanent establishments were first formulated. As a result, it can be difficult to apply these rules to the modern business context.

BEPS

As a result of the growing pressure in the tax avoidance debate and at the request of the Governments of the G20, the OECD produced a report into base erosion and profit shifting (BEPS) in February 2013. This report received strong support from the G20 leaders and accordingly was followed in July 2013 by the OECD Action Plan, which set out 15 specific actions to be taken forward by the OECD.

In September 2015, the OECD published its final reports on these action points. They cover a wide-range of international tax issues, including: taxation of the digital economy; use of hybrid instruments and entities; modernising transfer pricing rules, especially with regard to intangibles; double tax treaty abuse; permanent establishment rules; CFC rules; base erosion via interest deduction; and country-by-country reporting.

Following the publication of the final reports, the focus now moves to the issue of implementation of the various agreed actions in the participating jurisdictions.

What's new

Luxembourg publishes draft rules to implement DAC 6

UK consults on implementation of DAC 6

A consensus solution for the tax challenges of the digital economy: OECD report

Publication of the EU's tax black list

Taxation of the digital economy: further developments

Taxation of the digital economy

The OECD’s BEPS Action Plan

ATAD II: hybrid mismatches with third countries

AG opines on scope of anti-Directive shopping rules

Treaty relief and non-CIV funds discussion draft

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