

INTRODUCTION OF THE BEPS INITIATIVE AND INTERNATIONAL TAX NEWS

July 2017



International Tax

INTRODUCTION

This fifteenth edition of the **Fiscal Countdown** deals with new measures released in July by the OECD, the EU, and by 33 countries. These measures will impact your tax obligations as following.

OECD

The OECD updated the G20 Leaders on progress in key areas of tax work. Moreover the OECD released an update of Guidance on the Implementation of Country-by-Country Reporting as well as a draft 2017 update to the OECD Model Tax Convention. What is more the “Platform for Collaboration on Tax” (the Platform) – a joint effort of the Organisation for Economic Co-operation and Development (OECD), United Nations (UN), International Monetary Fund (IMF) and World Bank Group (WBG) – released a toolkit (the Toolkit) designed to help developing countries address the lack of “comparables” for transfer pricing analyses and better understand mineral product pricing practices. However, the Toolkit goes beyond a narrow examination of how to deal with a lack of local comparables data; instead, the toolkit’s aim is to help ensure greater practical implementation of transfer pricing regimes that apply the arm’s length principle, in accordance with the realities faced by many developing countries, including limited information availability and administrative capacity. The Toolkit builds on the work performed and comments received on the discussion draft issued on 24 January 2017. The delivery of the Toolkit coincides with the third meeting of the Inclusive Framework on Base Erosion and Profit Shifting (BEPS), held in the Netherlands on 21–22 June 2017, and demonstrates the commitment of the Platform to work together to tackle a wide range of pressing tax issues. Furthermore, the OECD released the 2017 edition of the *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations* (OECD TPG) in English and French. The 2017 edition of the OECD TPG mainly reflects a consolidation of the changes resulting from the OECD/G20 BEPS Project, but it also contains the revised guidance on safe harbors and a number of other consistency changes to produce this consolidated version of the OECD TPG.

EU

On 4 July 2017, the European Parliament approved, in first reading, the joint report submitted by the Committee on Economic and Monetary Affairs and the Committee on Legal Affairs on the proposal for a directive of the European Parliament and the Council amending the Accounting Directive as regards disclosure of income tax information by certain undertakings and branches (better known as public Country-by-Country (CbC) reporting). The matter has now been referred back to the committees responsible for inter-institutional negotiations (the so called “trilogue”) who will report to the Parliament within four months. The joint report proposes to amend the European Commission proposal to broaden the scope of the reporting obligation to any multinational enterprise (MNE) group, having an annual consolidated turnover of or exceeding €750 million, with undertakings or branches within the European Union (EU) and provides for exemptions in the case of commercially-sensitive information (which are closely monitored). Furthermore, the public CbC reporting requirements are more aligned to the non-public CbC reporting requirements under the OECD BEPS Action 13 on CbC reporting. A new revision clause stipulates that every four years, the European Commission has to carry out an impact assessment of the new reporting obligation. In terms of the further procedure after the inter-institutional negotiations, the proposed directive will ultimately need to be adopted by the Council. At this time it is difficult to predict whether and to which extent this proposal will be acceptable to the Council, given the negative comments made by some Member States. If adopted, all EU Member States will have to transpose the text into national legislation.

In the VAT area, the EU indicated that VAT repayments cannot be unreasonably delayed in the EU for tax authority inquiries.

ANDORRA

The Andorran Government submitted a Bill to Parliament implementing (i) CbC reporting and (ii) a patent box regime in line with the recommendations contained in the OECD BEPS Action 5.

ARGENTINA

Argentina suspended for 180 days the mechanism for nonresidents to pay capital gains tax.

AUSTRALIA

On 4 July 2017, the CbC reporting local file instructions were published by the Australian Taxation Office along with some guidance.

BELGIUM

The Belgian Parliament approved the Bill implementing the OECD's Multilateral Competent Authority Agreement on the exchange of CbC reports, which Belgium had signed in Paris on 27 January 2016.

Belgian Federal Government announces major corporate tax reform.

CANADA

The Canadian Finance Minister released a consultation paper and a draft legislation targeting tax planning using private corporations.

CYPRUS

The Cyprus Tax Authorities issued a Circular revising the transfer pricing framework for companies carrying out intra-group financing activities in Cyprus.

Cyprus signed Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS.

CZECH REPUBLIC

The Czech Republic signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS.

EGYPT

Egypt amended its Income and Stamp Tax Laws. Moreover Egypt signed Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS.

FRANCE

French Administrative Supreme Court decision may signal end of 3% contribution on distributed profits. What is more, recent French Government announcements provide for a five year outlook on tax policy including but not limited to:

- Reduction of the standard corporate income tax (CIT) rate;
- Transformation of the Tax credit for competitiveness and employment (CICE);
- Tax reform measures for individuals and companies;
- General supplementary social contribution (CSG) increase; and
- "The right to make mistakes".

GERMANY

The Act against Harmful Tax Practices with regard to Licensing of Rights was published in the German Federal Gazette.

GREECE

Greece proposed new transfer pricing documentation requirements for Country-by-Country Reporting.

HONG KONG

Hong Kong proposed profits tax exemption for resident privately-offered open-ended fund companies. Moreover Hong Kong enacted the law to attract aircraft leasing and aircraft leasing management businesses.

ICELAND

The Icelandic Parliament passed legislation amending the interest limitation rules, which are effective as from 1 January 2017.

INDIA

India's GST is in effect since 1 July 2017. Moreover India signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS. Finally, India's Bangalore Tribunal ruled on creation of service PE

ITALY

Italian Tax Authorities clarified the documentation to prove US SEC supervision for withholding exemption on distributions from Italian real estate funds.

IRELAND

Ireland signed Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS.

KENYA

Kenya enacted Finance Act 2017

KOREA:

Korea signed Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS

MEXICO

Multinational companies under a tax audit in Mexico for FY 2012 should note that they have until September 2017 to request suspension of the deadline for notifying the Mexican or US Government of their desire for assistance under the mutual agreement procedures (MAP) of the Mexico-US income tax treaty. Moreover, Mexico signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS;

MOROCCO

Morocco enacted its Finance Law 2017 including but not limited to:

- Corporate Income Tax (CIT) exemption for new industrial companies;
- Extension of the reduced CIT rates for sales made to companies located in Free Zones;
- New beneficial regime for intra-group transfers of fixed assets; and
- Changes regarding the preferential merger regime.

THE NETHERLANDS

A public (internet) consultation was launched by the Dutch Ministry of Finance on the implementation of the European Anti-Tax Avoidance Directive 2016/1164 (ATAD). What is more, the Netherlands signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS.

PAKISTAN

Pakistan enacted its Finance Act 2017.

PANAMA

Panama issued resolution regarding its legal framework on CRS and FATCA.

POLAND

Poland's implementation of CRS regulations creates new obligations for clients of Polish financial institutions. Moreover, Polish Ministry of Finance published a draft bill significantly revising Polish Corporate Income Tax Act.

PUERTO RICO

Puerto Rico issued guidance on use of granted tax credits for tax year 2017 and subsequent years.

QATAR

Qatar Financial Centre amended its QFC Tax Regulations and Tax Rules.

RUSSIA

Russian Government submitted a draft law on BEPS Action 13 and CRS implementation to State Duma.

SOUTH AFRICA

South Africa published a draft 2017 tax amendment bills for public comments. It includes:

- An extension of the application of controlled foreign company (CFC) rules to foreign trusts;
- Anti-avoidance rules: dividend stripping in respect of share buy-backs and contributed tax capital (CTC) concerns;
- Refinement of rules prohibiting the deduction of "tainted" intellectual property (IP);
- Tax treatment of conversion of debt into equity and artificial repayment of debt;
- Refinements to the domestic treasury management company (DTMC) regime qualifying criteria;
- Refinement to the taxation of financial assets and liabilities due to changes in accounting standard; and
- Application of hybrid debt instruments rules in respect of covered persons defined in section 24JB.

SWITZERLAND

Switzerland signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS.

TANZANIE

Tanzania issues Finance Act, 2017.

THAILAND

The Thai Revenue Department released key proposals for the draft legislation to impose tax on the foreign e-commerce business operators for public consultation.

TURKEY

Turkey set new reporting dates for The Standard for Automatic Exchange of Financial Information in Tax Matters.

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THE UK

UK Government announced plans to introduce Finance (No.2) Bill 2017. Moreover, UK Government introduced the European Union (Withdrawal) Bill.

USA

Trump Administration released a summary of the NAFTA renegotiation objectives and keeps NAFTA renegotiation on track to begin in early August. Moreover, US Tax Court refused to follow IRS guidance subjecting foreign investors to US tax on dispositions of partnership investments. What is more, US IRS and Treasury issued corrections to reporting and withholding regulations under FATCA and Chapters 3 and 61. Finally the US Internal Revenue Service recently launched a section on irs.gov dedicated to CbC reporting. The website provides background information on CbC reporting, some frequently asked questions and other helpful resources.

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