BEPS Health Check

Impacts of the BEPS proposals from the OECD and EU on companies operating worldwide

The BEPS proposals from the OECD and EU have significant implications for group structures and business models of companies operating worldwide. We can analyse what this means specifically for your group structure and develop bespoke BEPS-compliant solutions.

The challenge

Companies operating worldwide are facing unprecedented change in the field of international taxation due to the initiative to combat worldwide base erosion and profit-shifting ("BEPS") launched by the OECD and G20 nations in 2013. The reports published on 5 October 2015 by the OECD contained internationally agreed measures against base erosion and profit-shifting by globally active groups of companies.

The OECD papers identified 15 actions to be taken to address BEPS. These actions contain recommendations (some obligatory) that the participating states are to transpose into national law.

There is also a drive to change double tax treaties between all participating states. The looming signs of changes to legislation in many states and developments at EU level will change international tax law significantly.

German tax law already contains rules that feature in the OECD/EU proposals, such as the taxation of controlled foreign companies (CFC) or a cap on interest deductibility. It is not yet clear how the German legislator will react to the proposals, which in parts go far beyond the regulations currently in place in Germany. Will they be used as an opportunity to modernise German law in individual areas, or maybe even to tighten it up? Will Germany introduce further transparency requirements and/or so-called anti-abuse rules?

Come what may, companies worldwide are up facing a wave of changes in legislation. And groups with worldwide operations can expect to be exposed to an increased risk of double taxation in the future. Some countries will use the legislative changes as an opportunity to make competitive gains against other countries, while others will go even further than the OECD proposals. The measures are thus likely to be implemented very differently from country to country.

Our services

We can help you to develop solutions at an early stage and to implement possible countermeasures to minimise tax risks arising from the BEPS project. As part of our BEPS Health Check, we will put your group structures and business models to the test and develop solutions that comply with BEPS. Our BEPS Health Check focuses particularly on the following initial assessment procedures:

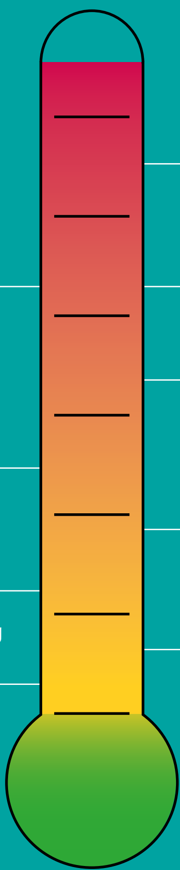
– Identifying hybrid mismatch arrangements
– Analysing permanent establishment risks, especially with commissionaire arrangements, independent sales agents, globally allocated functions and support-service sites (for example, warehouses)
– Assessing potential impacts on intra-group financing and licence flows arising from newly introduced or changing rules on limiting interest deductibility and controlled foreign companies (CFC rules)

- Analysing new withholding tax risks (for example, diverted profits tax)
- Identifying double taxation risks that arise from spreading the value chain over different group entities (especially intangible assets)
- Bringing existing transfer pricing documentation into line with future requirements such as continuous documentation and centralised documentation components (master file, country-by-country reporting)
- Using the KPMG BEPS Tracker to identify worldwide BEPS implementation measures

Well equipped to meet your needs

KPMG can provide you with an internationally assembled and interdisciplinary team of experienced professionals who will support you in identifying cross-border taxation risks and help you to develop solutions that allow you to be tax efficient even after the implementation of BEPS actions.

Are you fit for BEPS?
Can you tell where the changes in international tax law might affect your company? Can you see warning signs indicating how much your company will be affected by BEPS? The KPMG BEPS Thermometer alerts you at an early stage about necessary actions to take.



Are your (finance) companies registered in a low tax jurisdiction?

Do you use qualification mismatches between partnerships and stock corporations or do you use hybrid financial instruments?

Have you implemented a commissionaire arrangement?

Do you use warehouses in foreign countries, or manage purchasing/sales or other global functions through your head office?

Is your transfer pricing documentation up to date?

Have you filed for advance rulings with cross-border content in your home country or abroad?

Do you use patent boxes and/or handle IP within the group using licences?

Do you apply double tax treaties to reduce withholding tax?

Are you planning restructuring measures within your group?

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