BEPS 2.0 Roadmap

The OECD's BEPS 2.0 Blueprints concerning solutions to the tax challenges arising from digitalisation of the economy propose fundamental changes to existing international tax principles. Our BEPS 2.0 Roadmap details the key areas that you should be considering in the run up to their finalisation and subsequent implementation.

What should I do now?: Defining the scope of the proposals

Pillar 1 – am I in scope?

1. Am I large enough? Pillar 1 threshold

- An MNE is only in scope for Amount A if its consolidated revenue **is above €750m**
- An option to implement Amount A via a **phased approach** is being considered (threshold set at a higher level and reduced over time)
- This test applies to the MNEs total revenue, and does not consider whether the revenue is derived from in-scope activities

Action – review consolidated financial statements against the threshold, considering impact of a phased approach

2. Are the activities of my business caught? Pillar 1 activities in scope

Amounts A applies only to **Automated Digital Services** businesses or **Consumer Facing Businesses**

Automated Digital Services

Definition with positive list of services that are in scope, negative list of services that are not in scope.

Consumer Facing Businesses

"Businesses that generate revenue from the sale of goods and services of a type commonly sold to consumers, i.e. individuals that are purchasing items for personal use"

There has been an **evolution** of Consumer Facing Businesses that may be in scope since the initial guidance. We recommend reconfirming whether your business may be in scope and monitoring country specific implementation. Consumer Facing Businesses **include both Franchisors and Licensors. Dual use products – products sold to both consumers and businesses are in scope – but intermediate products are not**. There are specific carve outs for Natural resources, Financial services, Infrastructure and general construction businesses, International air and shipping businesses.

Action – Perform a review of the activities of your business against the Blueprint guidance

Pillar 2 – am I in scope?

1. Am I an MNE Group? Pillar 2 threshold

- Note definitions of constituent entities and excluded entities
- Special rules for associate, joint ventures that are not part of the consolidated group

Action – review the definitions of constituent entities and excluded entities to consider whether your business is an MNE.

2. Am I large enough? Pillar 2 threshold

- Do I have annual consolidated revenue **above €750M?**

Action – review consolidated revenue in the preceding fiscal year to determine whether the revenue threshold is met or not.

3. Is my jurisdictional effective tax rate (ETR) below the agreed minimum rate?

- Key elements of Pillar 2 that will assist taxpayers in determining their potential exposure are the definition of covered taxes, adjustments to be made to the consolidated financials statements e.g. elimination of certain income items, inclusion of certain expenses e.g. tax deductible stock-based compensation, adjustments for losses carry-forwards and excess taxes and **substance based carve outs** – returns on tangible assets and payrolls.

Further considerations

- **Engage in policy and public consultation**

  Is there something the OECD haven't considered that could impact your business? Are there elements of the rules that aren't clear? Please come talk to us, and we can discuss how best to feedback during the OECD's public consultation on the Pillar 1 and Pillar 2 Blueprints set to close on 14 December 2020.

Am I in scope?

No

- Continue to monitor developments to BEPS 2.0 and any changes to your businesses operations
- Review business units and sales models and document why business is not in scope.

Yes

- Consider the impact on your cash tax and ETR
- Start developing data collection processes and create initial compliance procedures

© 2020 KPMG LLP, a UK limited liability partnership and a member firm of the KPMG global organisation of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

Document Classification: KPMG Public

BEPS 2.0 Roadmap

The OECD's BEPS 2.0 Blueprints concerning solutions to the tax challenges arising from digitalisation of the economy propose fundamental changes to existing international tax principles. Our BEPS 2.0 Roadmap details the key areas that you should be considering in the run up to their finalisation and subsequent implementation.

January 2021: What will be the impact on my tax profile?

Pillar 1

1. What is my level of international presence? Level of overseas revenue

The 2 part threshold test operates as follows to determine foreign revenue:

- Activities test applied to **de minimis** amount for foreign in-scope revenues;
- Test for whether the MNE earned more than the **de minimis** amount from foreign in-scope activities
- In scope activities are per activities defined as in-scope. For MNEs that have multiple business lines, it would be necessary to segment income realised from activities that are in-scope.

Action – Perform review of revenue generated from overseas activities

2. What is my overseas nexus? Level of nexus for in-market activities

- Pillar 1 seeks to capture MNEs that are able to participate in an active and sustained manner in market jurisdictions
- Consumer Facing Businesses can take into account a "plus factor" based on the level of market engagement, however this may be purely revenue based

Action – If you are a Consumer Facing Business, review level of market engagement

Pillar 2

1. What is the impact of the Income Inclusion Rule (IIR) at the level of the Ultimate Parent?

- After the ETR and the "top-up tax" has been calculated on a jurisdictional basis, the IIR applies at the level of the Ultimate Parent (if possible, descending the ownership chain if necessary) to bring the low-taxed entity's ETR up to the agreed minimum rate

2. Do I need to apply the Undertaxed Payments Rule (UTPR) to bring in any remaining top-up tax?

- After the application of 1., the group may need to consider the UTPR to require a member to bring in any remaining top-up tax (i.e. which has not already been subject to an IIR)

3. Do I need to apply the Subject to tax rule (STTR) if my jurisdictional ETR is above the agreed minimum rate?

- Given the STTR is a treaty rule and takes a payment-based approach, the group should still consider its implications if there are intra-group payments that give rise to base erosion concerns. This needs to be reviewed even if the group is not impacted by the IRR and UTPR.

Action – Consider the impact of the STTR rule and perform your jurisdictional ETR testing.

Further considerations

- **KPMG's BEPS 2.0 modelling tool**

  Are your stakeholders aware of the potential impact of the measures? Engage in a free initial workshop with KPMG to consider how we can help you to estimate the potential monetary impacts on ETR and cash tax movements under the OECD proposals

- **Internal and external stakeholder engagement**

  What conversations need to happen at a C-Suite/Board level for stakeholders to understand the possible impacts of BEPS 2.0?
  Listed companies should be prepared for questions from analysts covering the company's stock performance on the expected impact of BEPS 2.0 and post-election US tax changes on ETR and Earnings Per Share guidance for their financial forecasts

What is the impact on my tax profile?

Limited

- Start to embed compliance processes
- Start to embed in longer term financial forecasts and business planning

High

- Consider transfer pricing/tax structuring changes required.
- Start to embed compliance processes
- Ensure impact is adequately understood for analyst coverage and consensus

© 2020 KPMG LLP, a UK limited liability partnership and a member firm of the KPMG global organisation of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

Document Classification: KPMG Public

BEPS 2.0 Roadmap

The OECD's BEPS 2.0 Blueprints concerning solutions to the tax challenges arising from digitalisation of the economy propose fundamental changes to existing international tax principles. Our BEPS 2.0 Roadmap details the key areas that you should be considering in the run up to their finalisation and subsequent implementation.

March 2021 onwards: Compliance and longer term planning

Pillar 1 and Pillar 2

Compliance

— Do you have an understanding of the data you need to assess the impact of Pillar 1 and 2 (e.g. user information) and do you have access to this data? Are you aware of what templates, systems and resources will be required to assess a tax charge under Pillar 1 or Pillar 2 and the process for embedding compliance?

Speak to our compliance team to help identify information gaps within the existing system in order to comply with the OECD proposals (e.g. how to locate users) and consider tech solutions for compliance and governance processes

Reviewing existing intra-group transfer pricing arrangements and investment structuring

Transfer Pricing

— Understand the level of residual profit and how this is expected to evolve over time based on the growth strategy and any planned changes to the operating model (is the residual profit expected to result in a material allocation of Amount A under Pillar 1?).

— Confirm that entity characterisation and method selection for transfer pricing purposes remains appropriate based on a detailed review of the functional and risk profile of relevant group entities.

— Understand the impact that transfer pricing policies have on whether there is a Pillar 1 allocation under Amount A and the sensitivity that positioning within the arm's length range can have on the quantum of the amount A allocation.

Group structure

— Are there elements of the group structure and intra-group financing which are now inefficient and can be rationalised?

Horizon scanning

— Is BEPS 2.0 driving changes in government tax policy in impacted jurisdictions e.g. historically low tax jurisdictions raising taxes in line with Pillar 2? Do I understand the sensitivity of the group's tax position to rate changes in key territories?

Speak to our advisory team about your transfer pricing model and group structure

KPMG Contacts

Matthew Herrington
International Tax Partner
Matthew.Herrington@KPMG.co.uk

James Sia
International Tax Director
James.Sia@KPMG.co.uk

Andrea Tolley
Transfer Pricing Partner
Andrea.Tolley@KPMG.co.uk

Amy Roberts
Transfer Pricing Senior Manager
Amy.Roberts@KPMG.co.uk

© 2020 KPMG LLP, a UK limited liability partnership and a member firm of the KPMG global organisation of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

Document Classification: KPMG Public