
The OECD has released the outcomes of the second phase of peer reviews of the BEPS Action 13 Country-by-Country (CbC) reporting initiative, demonstrating strong progress in continuing efforts to improve the taxation of multinational enterprises (MNEs) worldwide.

CbC reporting, one of the four minimum standards of the BEPS Project, requires tax administrations to collect and share detailed information on all large MNEs doing business in their country. Information collected includes the amount of revenue reported, profit before income tax, and income tax paid and accrued, as well as the stated capital, accumulated earnings, number of employees and tangible assets, broken down by jurisdiction.

This second annual peer review considers implementation of the CbC reporting minimum standard by jurisdictions as of April 2019. Highlights include:

- Coverage increased to 116 jurisdictions.
- Practically all large MNEs now covered.
- Implementation largely consistent with BEPS Action 13.
- Jurisdictions acting on prior recommendations
- Over 2200 exchange relationships.

2. As the pace of tax reform slows, countries are urged to take bolder action

The pace of tax reforms has slowed across most leading economies and bolder tax reforms will be needed to address future challenges, according to a new OECD report.

Tax Policy Reforms 2019 describes the latest tax reforms across all OECD countries, as well as in Argentina, Indonesia and South Africa. The report identifies major tax policy trends and highlights that fewer countries have introduced comprehensive tax reform packages in 2019 compared to previous years.

The report highlights that corporate tax rate cuts have continued across countries, although they have been less significant than the ones introduced in 2018. Countries that are introducing the most significant corporate tax rate reductions tend to be those that have higher initial tax rates, leading to further convergence in corporate tax rates across countries.

Efforts to fight against corporate tax avoidance have progressed with the adoption of significant reforms in line with the OECD/G20 Base Erosion and Profit Shifting (BEPS) project. The tax challenges arising from the digitalization of the economy continue to give rise to concerns, with some countries pursuing unilateral measures while global efforts to achieve a consensus-based multilateral solution continue.

3. EU anti-fraud office touts success curbing transnational fraud

The European Anti-Fraud Office (OLAF) identified €371 million in misappropriated EU funds in 2018 and opened over 200 new investigations.

After identifying VAT fraud, smuggling, undervalued and counterfeit goods coming through customs, and even nonexistent farming ventures, OLAF investigators turned over evidence to national prosecutors.

According to the 2018 OLAF report, released September 3, the office has concluded 167 investigations. The report notes that internet shopping has complicated efforts to stop counterfeits and led to evasion of customs duties through undervaluation of goods.

The cases uncovered by OLAF show that “organized networks of fraudsters are targeting the EU as a whole by selecting those entry points where they perceive the entry to be easier at one particular time,” the report states. “There is a clear need for more cooperation between customs offices in the Member States in order to deal in a coordinated way with these criminal networks,” it concludes.

OLAF’s expertise in fraud detection has been important in uncovering complex cases of cross-border carousel fraud, the report says. OLAF estimated the amount of evaded VAT on the electronics at €30 million.

4. Digital Taxes may already be affecting European M&A

Digital taxes and trade wars are potential factors in lackluster mergers and acquisitions activity across Europe in the first half of 2019, according to newly released data.

Second-quarter European deal activity “reflected a market hesitant to conduct costlier and ultimately riskier deals in a politically and macroeconomically challenging playing field,” according to PitchBook Data Inc.’s second-quarter 2019 European M&A Report, released August 27.

The report says the tax targets large U.S. technology firms with major European operations, though French President Emmanuel Macron has insisted that the tax doesn’t target any particular companies.

The report also notes that the United Kingdom has released draft legislation for a 2 percent revenue-based digital services tax that would be imposed from April 1, 2020, on groups with worldwide digital services revenue of over £500 million and U.K. digital services revenue of over £25 million.

“Large, multinational technology companies are concerned about double taxation, while the broader European market fears U.S. retaliation of punitive tariffs on French goods,” the report states. On August 26, Macron said France and the United States had reached an agreement whereby France will withdraw its DST and give tax credits to companies that paid it once an internationally accepted solution to taxing the digital economy is reached.

5. France: Guidance for transmission of FATCA, CRS reports

Concerning the FATCA and common reporting standard (CRS) regimes, guidance provides French financial institutions with technical descriptions and specifications required for the transmission of FATCA and CRS reports.

- The FATCA guidance provides that an electronic portal will reopen in early October 2019. The date of re-opening is to be provided in a subsequent communication.
- The CRS guidance reflects a reference to an April 2019 order specifying the partner countries and territories for the automatic exchange of information; provides additional details regarding the method for providing the account number tag; and clarifies the process for reporting undocumented accounts.

6. US IRS begins to increase enforcement efforts in cryptocurrency space

In recent weeks, the United States (US) Internal Revenue Service (IRS) has sent letters (Letter 6173, Letter 6174, or Letter 6174-A) to approximately 10,000 taxpayers with regard to cryptocurrency transactions. This signals a serious step-up in enforcement efforts by the IRS in the cryptocurrency space since the 2 July 2018, announcement of the virtual currency campaign that indicated that the IRS was not contemplating a voluntary disclosure program specifically to address tax non-compliance involving virtual currency. In all three letters, the IRS has provided “educational” material and a hotline number for questions related to the letters, promising a response within three business days.

Additionally, some taxpayers are reporting receipt of CP2000 notices from the IRS, which assert that the taxpayer has underpaid tax with respect to cryptocurrency transactions. Unlike Letters 6173, 6174, and 6174-A, the CP2000 notice contains the IRS’s calculation of underpaid tax, plus interest.

The IRS has issued limited guidance on the taxation of cryptocurrencies. Generally, the Notice treats “convertible virtual currency” as property, rather than currency, for federal tax purposes.

7. Ireland: Possible changes to transfer pricing rules

The Irish government released a “feedback statement” in response to the public consultation launched earlier this year regarding Ireland’s transfer pricing regime. The document provides a summary of the proposed changes being considered including draft wording for legislative purposes.

The following is a summary of the key provisions contained in the feedback statement:

- Introduction into law of the OECD 2017 Transfer Pricing Guidelines.
- Draft legislation to introduce the 2017 guidelines includes specific wording that essentially seeks to interpret certain OECD principles.
- Removal of the exemption from transfer pricing rules for pre-July 2010 (i.e., “grandfathered”) arrangements.
- Non-trading transactions brought within the scope of transfer pricing rules.
- Small and medium size entities (SMEs) brought within the scope of transfer pricing rules.
- Simplified documentation requirements.
- Application of OECD transfer pricing principles in connection with attribution of profits to branches has been deferred at this time.
- All changes could apply for periods beginning on or after 1 January 2020.

8. Luxembourg: bill submitted to implement anti-tax avoidance provisions

With effect from 1 January 2019, the Anti-Tax Avoidance Directive (ATAD) I intra-EU hybrid mismatches rules were introduced into Luxembourg’s domestic law.

The government published draft legislation which would introduce the third country hybrid rules from ATAD II, mainly with effect from 1 January 2020. There would be exclusions for the banking and fund sectors.

The legislation would only apply to arrangements between “associated enterprises” (companies or permanent establishments) or structured arrangements, which have the effect of producing a double income tax deduction or a deduction for one party without a corresponding income inclusion for the other party.

Luxembourg has chosen to adopt the exclusions offered by ATAD II in order to provide a pragmatic solution for its important banking and funds industries. Also, the commentaries to the Bill indicate that only situations with a substantial risk of tax evasion will be addressed.

9. Poland issues draft bill to implement EU ATAD 2 anti-hybrid measures

Poland’s Ministry of Finance published a draft bill setting forth several provisions to implement certain anti-hybrid measures (as an implementation of the European Union (EU) Anti-Tax Avoidance directive ATAD 2).

Generally, hybrid mismatches may occur when jurisdictions have different regulations in the tax qualification of sources of income or types of entities, which results in double deduction of payments as tax deductible costs or in deduction of costs without inclusion as taxable revenues on the other side of the transaction.

The key purpose of implementing the ATAD 2 into the Polish legal order is to counteract the situation of double tax deductions or the tax deduction of costs without recognition of corresponding revenues. To achieve this goal, some topics have been defined differently than envisaged by ATAD 2.

The Polish Ministry of Finance opened a consultation on the draft bill. The provisions may also be subject to further amendments during the legislative process.

10. India seeking to bury legacy indirect tax disputes this year

India will launch its legacy dispute scheme starting September 1, 2019.

Announced in the 2019-20 Budget, the initiative is intended to speed up the resolution of legacy service tax and excise duty-related disputes, following the tax's replacement with goods and services tax.

The Government said the two main components of the scheme are dispute resolution and amnesty. It said: "The dispute resolution component is aimed at liquidating the legacy cases of central excise and service tax that are subsumed in GST and are pending in litigation at various forums. The amnesty component of the scheme offers an opportunity to the taxpayers to pay the outstanding tax and be free of any other consequence under the law."

"For all the cases pending in adjudication or appeal – in any forum - this scheme offers a relief of 70 percent from the duty demand if it is INR5m (USD13,900) or less and 50 percent if it is more than INR5m.

Source: https://www.tax-news.com/news/India_Seking_To_Bury_Legacy_Indirect_Tax_Disputes_This_Year____97284.html