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Transfer Pricing Switzerland Insights

Special Issue September 2014



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Dear Sir or Madam,

We are pleased to present you a special edition of Transfer Pricing Insights in light of the latest developments on the Base Erosion and Profit Shifting (BEPS) initiative.

Latest news on the BEPS initiative

On 20/21 September 2014, the G20 received from the OECD the first seven of the 15 items in the BEPS Action Plan at the G20 meeting of Finance Ministers in Cairns in Australia. Of the seven deliverables the OECD released, two relate to transfer pricing topics: Action 8 on the transfer pricing aspects of intangibles, and Action 13 on transfer pricing documentation and country-by-country (CbC) reporting. The guidance released by the OECD amends Chapters I, V, and VI of the Transfer Pricing Guidelines. This newsletter provides links to three articles of the Deloitte's Arm's Length Standard which analyse the changes to each chapter.

Action 8 on the transfer pricing aspects of intangibles

The OECD on 16 September 2014 issued a reworked version of Chapter VI of the Transfer Pricing Guidelines, Special Considerations for Intangibles, as part of the release of the BEPS deliverables. The deliverable also brings revisions to Chapter I with important guidance being given on location-specific characteristics, workforce-in-place, and synergy benefits as comparability factors.

Stay connected on the latest Transfer Pricing topics by joining our BEPS events in Zurich (25 September) and Geneva (26 September).

Register [here](#).

This release is a work in progress, as several parts of the Transfer Pricing Guidelines remain in draft form and will only be finalized as part of the 2015 BEPS deliverables. However, the release provides important guidance in the many areas that are final, and for those that are not, it provides insight into the likely direction of future guidance.

Please click [here](#) for more details on the impact of the OECD release regarding Chapter VI.

Please click [here](#) for more details on the impact of the OECD release regarding Chapter I.

Action 13 on transfer pricing documentation and country-by-country reporting

The OECD's final revisions to Chapter V of the Transfer Pricing Guidelines materially reduce the documentation burden on businesses contemplated in the 30 January 2014 discussion draft on transfer pricing documentation and CbC reporting, and clarify many of the issues that had concerned businesses. The implementation date is likely to be January 2015 when the OECD releases additional guidance on implementation issues. You can find more details on Deloitte's preliminary analysis of the OECD release [here](#).

G20 Finance Ministers meeting

On 20 September 2014, OECD chief Angel Gurría has handed the BEPS recommendations to the G20 meeting of finance ministers. Gurría mentioned that the BEPS recommendations were compiled by 44 countries, including all the G20 members.

The OECD has not recommended a specific effective date for the changes covered by the BEPS deliverables. The effective date of the changes will depend on the domestic law of the adopting states. Some states have not enacted specific transfer pricing rules, and generally follow the OECD's Transfer Pricing Guidelines. For those countries, the changes could be automatically incorporated into domestic law when final. Conversely, those countries that do have specific transfer pricing legislation, rules, or guidance will have to either enact new legislation adopting the rules or formally amend their existing rules or guidance.

Whilst the BEPS project is expected to be concluded in 2015, the OECD has indicated that some of the guidance could apply retroactively as it could be construed as clarification of the interpretation of the application of the arm's length principle under Article 9 of the OECD Model Tax Convention.

We hope you have enjoyed this special edition of Transfer Pricing Switzerland Insights. If you have questions in relation to one of the above topics or you would like to discuss your situation and receive a professional opinion on any transfer pricing related topics, please feel free to contact us directly via phone or email.

Best regards,

Hans Rudolf Habermacher
Transfer Pricing Practice Leader, Partner

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