

Dbriefs Bytes Transcript

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For comments on Action 1, see [the highlighted text below](#).

BEPS

JAPAN

1. Consumption tax

Well, I have three stories from Japan.

The first concerns consumption tax, which is the name Japan uses for VAT.

You may remember that, in November 2013, the Japanese Ministry of Finance issued a report in regard to inbound supplies of services and intangibles (and in particular, digital content such as music, movies, games and software). It focused on the fact that, in B2C transactions, such inbound supplies escape consumption tax. This gives offshore digital suppliers a major competitive advantage over domestic digital suppliers.

Well, there have been recent reports that the government has decided to plug this gap. The legislation is currently being drafted, with the aim that the new rules will apply from 1 October 2015.

The elephant in the room is how to enforce compliance. The November report canvassed a number of possibilities, including a withholding obligation being imposed on consumers or alternatively requiring the foreign suppliers to register and comply with the Japanese consumption tax rules.

Apparently, the government has decided that the kids in Shibuya are not going to be interested in withholding tax – a smart decision.

So, the focus is on requiring the foreign suppliers to register and comply.

Obviously, the large companies will do this.

But the interesting question is whether you can expect small suppliers to do so voluntarily. And if they don't do so voluntarily, how can you force compliance?

The November report suggested that one way to do so would be enlist the help of the foreign tax authority (in the country where the supplier is based) – this could be done under a double tax treaty (assuming it were amended to cover VAT) or possibly under the Multilateral Mutual Assistance Treaty.

This would still leave open the situation where the supplier is based in a non-treaty country.

It will be interesting to see how the Japanese government decides to handle this issue.

But it's not the only jurisdiction which is struggling with this challenge.

It's been reported that South Africa will be changing its VAT rules to move from the existing system of consumer-based withholding tax (which did not work at all), to a system requiring the foreign supplier to register and comply.

Also, the EU faces this challenge. Although the intra-EU situation will be dealt with with the so-called "one stop shop" regime, that will still leave open the situation where the supplier is based outside of the EU.

Obviously, many folks are waiting for the magic solution.

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