

## BEPS Actions implementation by country

### Austria

On 5 October 2015, the G20/OECD published 13 final reports and an explanatory statement outlining consensus actions under the base erosion and profit shifting (BEPS) project. The output under each of the BEPS actions is intended to form a complete and cohesive approach covering domestic law recommendations and international principles under the OECD model tax treaty and transfer pricing guidelines. The G20/OECD output broadly falls into the following categories:

OECD categorisation	Definition
Minimum standard	All G20/OECD members are committed to consistent implementation
Revision of existing standard	
Common approach	Common approaches to facilitate convergence of national practices
Best practice	Guidance drawing on best practices

It is now for governments to digest and introduce the necessary legislation. The table below sets out a summary of the expected local country implementation and timing in Austria.



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Action	OECD categorisation	Notes on local country implementation	Expected timing
VAT on business to customers digital services (Action 1)	Common approach	The EU VAT directive applies and is implemented into domestic law.	1 January 2015
Hybrids (Action 2)	Common approach	Austria has specific provisions to counter hybrid mismatch arrangements. These measures likely will be amended once the EU anti-tax avoidance directive (ATAD) is transposed into domestic law.	31 December 2019
CFCs (Action 3)	Best practice	Austria currently does not have CFC rules, although they likely will be introduced once the EU ATAD is transposed into domestic law.	31 December 2018
Interest deductions (Action 4)	Common approach	Austria recently introduced specific measures aimed at limiting the deductibility of interest (and royalty) payments. These measures are likely to be amended once the EU ATAD is transposed into domestic law.	31 December 2019
Harmful tax practices (Action 5)	Minimum standard	<p>In October 2016, the Ministry of Finance issued a decree on the automatic exchange of information regarding tax rulings. The decree implements the automatic exchange of information based on the EU Council Directive 2015/2376, as well as the mandatory spontaneous exchange of information with non-EU countries adopted under Action 5.</p>	<p>Exchange of information with EU countries:</p> <ul style="list-style-type: none"><li>- Rulings entered/ changed/ renewed after 31 December 2016: exchange within three months following end of calendar half-year.</li><li>- Rulings entered/ changed/ renewed between 1 January 2012 and 31 December 2016: exchange before 1 January 2018.</li></ul>

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			Exchange of information with non-EU countries:
			- Rulings entered/ changed/ renewed after 31 March 2016: exchange within three months following the date of issuance.
			Rulings entered/ changed/ renewed between 1 January 2010 and 31 December 2013: exchange before 1 January 2017.
Prevent treaty abuse (Action 6)	Minimum standard	Not yet known.	Not yet known
Permanent establishment status (Action 7)	Revision of existing standard	Not yet known.	Not yet known
Transfer pricing (Actions 8-10)	Revision of existing standard	An official statement on the expected implementation of Actions 8-10 has not yet been made, although it is possible that the Austrian tax authorities will consider the changes in the OECD transfer pricing guidelines to be effective immediately.	Not yet known
Disclosure of aggressive tax planning (Action 12)	Best practice	Not yet known.	Not yet known
Transfer pricing documentation (Action 13)	Common approach	Legislation on the implementation of CbC reporting and the requirement for master/local files has been published.	1 January 2016

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CbC reporting (Action 13)	Minimum standard	<p>Legislation on the implementation of CbC reporting and the requirement for master/local files has been published.</p> <p>Austria is one of the countries that signed a multilateral competent authority agreement for the automatic exchange of CbC reports.</p> <p>Each Austrian entity that is part of a multinational group and subject to CbC reporting must send a notification to the Austrian tax authorities by the last day of the reporting FY for FYs starting on or after 1 January 2016. Thus, the first notifications were required by 31 December 2016. The Austrian Transfer Pricing Documentation Act requires the notification to indicate whether the Austrian entity is the ultimate parent company, an entity assuming the filing responsibilities for the foreign ultimate parent company, or the identity and residence of the filing entity.</p>	1 January 2016
Dispute resolution (Action 14)	Minimum standard Complemented by best practice	Austria is one of the countries committed to binding arbitration.	Not yet known
Multilateral Instrument (Action 15)	Applicable across all four categories	On 13 March 2017, the Austrian Ministry of Finance requested an authorisation to negotiate 43 double tax treaties in order to implement some of the provisions of the MLI.	Not yet known

### Unilateral BEPS Actions

There have not yet been extensive changes in the tax law specifically related to BEPS, but changes are likely once the EU anti-tax avoidance directive (ATAD) is transposed into domestic law. However, changes have been made to implement the new documentation requirements supported by Action 13.

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Austrian domestic measures must comply with EU law, so as not to infringe any of the EU fundamental freedoms.

### **Other Tax Developments**

None.



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