

BEPS Actions implementation by country

Belgium



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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:

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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 Belgium.

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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 already implemented into domestic law. The government will assess whether the income tax rules need to be adapted.	1 January 2015
Hybrids (Action 2)	Common approach	<p>The Finance Minister has stated that anti-hybrid rules should be developed within the context of the EU. Provisions countering (certain) hybrid mismatches have been agreed upon by the EU member states in the context of the amended parent-subsidiary directive, which Belgium has implemented, as well as in the ATAD and ATAD 2.</p> <p>As an EU member state, Belgium is subject to the two EU anti-tax avoidance directives (ATAD and ATAD 2) and, therefore, is required to implement the directives into its domestic law. The ATAD and ATAD 2 include anti-hybrid rules that cover hybrid mismatches between EU member states, and between EU member states and non-member states, respectively. Member states are required to adopt the domestic legislation necessary to comply with the directives by 31 December 2019 (with an extension until 31 December 2021 for the reverse hybrid provisions).</p> <p>In addition, Belgium is proposing to its tax treaty partners that the Action 2 recommendation that treaty benefits should not be available for items of income where neither of the contracting states allocates the income to one of its residents, should be included in the treaties.</p>	<p>1 January 2017 (transposition of amended parent-subsidiary directive)</p> <p>1 January 2020 (1 January 2022 for reverse hybrid provisions)</p>

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CFCs (Action 3)	Best practice	As an EU member state, Belgium is subject to the ATAD, which must be implemented into its domestic law by 31 December 2018. The ATAD includes a CFC rule.	1 January 2019
Interest deductions (Action 4)	Common approach	As an EU member state, Belgium is subject to the ATAD, which must be implemented into its domestic law by 31 December 2018. The ATAD includes an interest limitation provision to discourage artificial debt arrangements designed to minimise taxes, although a transition period may apply for member states that already have national, targeted rules for preventing BEPS that are equally effective as Action 4. The transition period lasts until 31 December 2023.	1 January 2019 (1 January 2014 if the transition rules apply)
Harmful tax practices (Action 5)	Minimum standard	<p>The patent income deduction (PID) was abolished as from 1 July 2016 subject to a grandfathering regime, according to which the PID regime may be applied until 30 June 2021 for (qualifying) patents received or applications filed before 1 July 2016 (some anti-avoidance rules apply). A new regime, the "innovation income deduction," which is based on the "modified nexus approach" replaced the PID as from 1 July 2016.</p> <p>Belgium must implement into its domestic law the changes made to the EU directive on administrative cooperation in the field of taxation regarding the exchange of tax rulings.</p>	<p>1 July 2016 (abolition of patent income deduction and availability of new innovation income deduction)</p> <p>31 December 2016 (implementation of the amended directive), which may result in the exchange of rulings issued, amended or renewed as from 1 January 2012; full implementation date is not yet known but exchange of rulings already initiated in practice</p>

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Prevent treaty abuse (Action 6)	Minimum standard	The Finance Minister has indicated that Belgium supports the implementation of BEPS Action 6 outcomes via the multilateral instrument (MLI).	Existing treaties: depends on outcome of Action 15 (MLI)
		Belgium is proposing to its tax treaty partners the inclusion of the (amended) title and preamble and the introduction of the PPT.	New treaties: Already taken into account
Permanent establishment status (Action 7)	Revision of existing standard	The Minister of Finance has indicated that a circular letter on the broad interpretation of the concept of “dependent agent” would be appropriate.	Not yet known
		Belgium is expected to make a reservation on the new commissionaire definition in the MLI.	
Transfer pricing (Actions 8-10)	Revision of existing standard	The Finance Minister has indicated that the new transfer pricing guidance will be applied by the tax authorities in the context of transfer pricing audits, and that the transfer pricing department within the tax authorities would be expanded.	In principle already applied (the authorities have adopted the standard in audits etc.)
Disclosure of aggressive tax planning (Action 12)	Best practice	The Finance Minister has indicated that Belgium will examine, through a benchmarking study, the extent to which the mandatory disclosure rules in other countries have resulted in a discernible increase in tax compliance and revenue.	Not yet known
Transfer pricing documentation (Action 13)	Common approach	Belgium has introduced master file and local file reporting.	The first master file and part A and C local file reports must be filed for accounting years starting on or after 1 January 2016 Part B of the local file must be filed for accounting years starting on or after 1 January 2017

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CbC reporting (Action 13)	Minimum standard	CbC reporting has been introduced. Belgium will need to implement into its domestic law the changes to the EU directive on administrative cooperation in the field of taxation regarding CbC reports. Belgium is one of the countries that has signed a multilateral competent authority agreement for the automatic exchange of CbC reports.	Accounting years starting on or after 1 January 2016
Dispute resolution (Action 14)	Minimum standard Complemented by best practice	Belgium is one of the countries committed to binding arbitration and to close pending cases within 24 months.	Not yet known
Multilateral Instrument (Action 15)	Applicable across all four categories	Belgium is expected to sign the MLI in 2017.	During 2017

Unilateral BEPS Actions

Belgium presumably will make legislative changes only within an international framework (OECD/EU proposals), and this has been confirmed in the public comments made by the Finance Minister. The minister has publicly confirmed that Belgium generally supports the BEPS project, as well as the European Commission initiatives.

Other Tax Developments

A corporate tax reform is expected, but political disagreement has delayed the launch until the end of 2017.



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