

BEPS Actions implementation by country

Japan



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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 Japan.

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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	This issue was addressed in the 2015 tax reform and certain inbound digital services are now subject to Japanese VAT.	1 October 2015
Hybrids (Action 2)	Common approach	This issue was addressed in the 2015 tax reform, with the result that deductible dividends will not be considered exempt for Japanese tax purposes.	1 April 2016
CFCs (Action 3)	Best practice	This issue will be addressed in the 2017 tax reform and certain non-active companies (e.g. cash box) will be subject to stricter rules.	1 April 2018
Interest deductions (Action 4)	Common approach	Existing earnings stripping rules restrict the deduction of interest where it exceeds 50% of adjusted taxable income. The 50% limitation may be further reduced in the future as a result of the Action 4 recommendations.	Not yet known
Harmful tax practices (Action 5)	Minimum standard	Japan is not considered to have harmful tax practices (such as a patent box or harmful ruling system).	N/A
Prevent treaty abuse (Action 6)	Minimum standard	The government has been updating Japan's tax treaties with various treaty partners to include LOB and information exchange clauses.	Ongoing
Permanent establishment status (Action 7)	Revision of existing standard	Japan has committed to actively participate in the G20/OECD follow-up discussion expected to take place in 2016 with respect to the profit attribution to a PE.	Not yet known
Transfer pricing (Actions 8-10)	Revision of existing standard	Japan is looking to the further discussions at the G20/OECD that are expected to take place in 2017	Not yet known

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Disclosure of aggressive tax planning (Action 12)	Best practice	<p>The government is discussing whether a mandatory disclosure rule and a GAAR need to be introduced.</p> <p>There is an existing disclosure rule in the Certified Public Tax Accountant Law but because the disclosure is voluntary rather than mandatory, it is not often used.</p>	Not yet known
Transfer pricing documentation (Action 13)	Common approach	<p>This issue is addressed in the 2016 tax reform proposal and Japanese companies are required to prepare and maintain transfer pricing documentation. A de minimis exemption applies to certain non-material intercompany transactions.</p>	1 April 2016 for Master file documentation and 1 April 2017 for Local file documentation
CbC reporting (Action 13)	Minimum standard	<p>This issue is addressed in the 2016 tax reform proposal, under which an ultimate parent of a Japanese multinational whose consolidated global revenue is not less than JPY 100 billion is required to file reports with the Japanese tax authorities.</p> <p>Japan is one of the countries that signed a multilateral competent authority agreement for the automatic exchange of CbC reports.</p>	1 April 2016
Dispute resolution (Action 14)	Minimum standard Complemented by best practice	<p>Japan is one of the countries committed to binding arbitration.</p>	Ongoing

Unilateral BEPS Actions

No unilateral BEPS Actions to note.

Other Tax Developments

No other tax developments to note.



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