

BEPS Actions implementation by country

South Korea

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 South Korea.



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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	Nonresident vendors that supply electronic services to Korean consumers must register with the Korean tax authorities and charge VAT.	1 July 2015
Hybrids (Action 2)	Common approach	The Ministry of Strategy and Finance is conducting an internal study, but no action has been taken.	Not yet known
CFCs (Action 3)	Best practice	Korea already has CFC rules. It is unknown whether these rules will be further revised.	N/A
Interest deductions (Action 4)	Common approach	Existing thin capitalization rules have been strengthened by changing the 3:1 debt-to-equity ratio requirement to 2:1. The EBITDA approach is being studied within the Ministry of Strategy and Finance.	1 January 2015
Harmful tax practices (Action 5)	Minimum standard	There is no indication of adopting the recommendation.	Not yet known
Prevent treaty abuse (Action 6)	Minimum standard	A substance-over-form rule already exists in South Korea, and often is used to deny treaty benefits in treaty abuse situations. It is unclear whether Korea will adopt a PPT and/or an LOB.	N/A
Permanent establishment status (Action 7)	Revision of existing standard	There is no indication that the OECD's recommendation will be adopted.	Not yet known
Transfer pricing (Actions 8-10)	Revision of existing standard	Not yet known.	Not yet known

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Disclosure of aggressive tax planning (Action 12)	Best practice	Not yet known.	Not yet known
Transfer pricing documentation (Action 13)	Common approach	The amended tax law for 2016 includes recommendations from Action 13 (transfer pricing documentation). Both master file and local file requirements have been implemented and the first reporting is due by 31 December 2017 for calendar year taxpayers.	Legislation effective from 1 January 2016
CbC reporting (Action 13)	Minimum standard	CbC reporting is included in the 2016 amended tax law and the first reporting is due by 31 December 2017 for calendar year taxpayers.	Legislation effective from 1 January 2017
Dispute resolution (Action 14)	Minimum standard Complemented by best practice	A competent authority process is available with treaty partners. It is not yet known whether arbitration will be adopted.	Not yet known
Multilateral Instrument (Action 15)	Applicable across all four categories	It is not yet known whether Korea will sign the multilateral instrument.	Not yet known

Unilateral BEPS Actions

None.

Other Tax Developments

None.



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