

BEPS Actions implementation by country

United Kingdom

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 the United Kingdom.



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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.	1 January 2015
Hybrids (Action 2)	Common approach	<p>Legislation enacted in September 2016 addresses imported mismatches and mismatches involving permanent establishments. Updated draft guidance was published by the UK tax authorities in March 2017.</p> <p>EU member states will be subject to the two EU anti-tax avoidance directives (ATAD and ATAD 2) and required to implement the directives into 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>The UK tax authorities are of the view that existing laws are compatible with both the ATAD and ATAD 2; therefore, no further changes are expected.</p>	1 January 2017
CFCs (Action 3)	Best practice	The UK considers that its existing CFC law is compliant with BEPS Action 3.	N/A

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Interest deductions (Action 4)	Common approach	<p>Following public consultation, draft legislation restricting corporate interest tax deductibility was issued in December 2016 and updated in January and March 2017. Net interest expense exceeding GBP 2 million will be restricted to the lower of 30% of tax-based EBITDA, and the worldwide group's net interest expense. A group may elect to deduct an amount based on the group's net accounting interest to accounting EBITDA ratio (the group ratio rule). Separate rules apply for infrastructure that has a public benefit.</p> <p>EU member states are subject to the ATAD, which must be implemented into 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.</p> <p>However, the UK tax authorities are of the view that existing laws are compatible with ATAD, so no further changes are expected.</p>	1 April 2017
Harmful tax practices (Action 5)	Minimum standard	Legislation to modify the patent box rules to comply with the new international framework and G20/OECD "nexus approach" was enacted in September 2016; the existing regime closed to new entrants from 1 July 2016.	1 July 2016
Prevent treaty abuse (Action 6)	Minimum standard	The UK has PPT clauses in some treaties. Following the OECD's release of the multilateral instrument (MLI), the UK government presented its intended approach for public consultation. It intends to adopt the PPT provisions and the competent authority tiebreaker provisions via the MLI. The UK does not intend to implement the specific treaty abuse clauses.	Subject to the outcome of the public consultation, implementation of the MLI and bilateral negotiations

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Permanent establishment status (Action 7)	Revision of existing standard	The UK intends to retain the current “preparatory and auxiliary” provisions in its treaties, and it does not intend to adopt most of the revisions suggested by the MLI, although it will accept the anti-fragmentation rule. The UK considers that modern approaches to transfer pricing recover the appropriate slice of profit.	Subject to the outcome of the public consultation, implementation of the MLI and bilateral negotiations
Transfer pricing (Actions 8-10)	Revision of existing standard	The revisions to the OECD transfer pricing guidelines made by the final report on Actions 8-10 “Aligning Transfer Pricing Outcomes with Value Creation” have been enacted into UK law.	HMRC already follow the guidelines.
Disclosure of aggressive tax planning (Action 12)	Best practice	UK already has disclosure rules and these are kept under review. There are proposals to strengthen the tax avoidance disclosure regimes regarding VAT and inheritance tax.	Currently unknown
Transfer pricing documentation (Action 13)	Common approach	The UK is not expected to implement specific rules as it already has sufficient powers to require information.	N/A
CbC reporting (Action 13)	Minimum standard	CbC reporting is required. UK standalone entities and UK sub holding companies also are required to file where the parent company does not. Non-UK-headed multinational groups with a UK presence can file voluntarily. The UK is one of the countries that signed a multilateral competent authority agreement for the automatic exchange of CbC reports.	For accounting periods starting on or after 1 January 2016

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Dispute resolution (Action 14)	Minimum standard Complemented by best practice	The UK is one of the countries committed to binding arbitration. The UK is included in the first batch of peer reviews.	Subject to implementation of the MLI
Multilateral Instrument (Action 15)	Applicable across all four categories	Following the OECD's release of the final text of the MLI, the UK issued its draft approach to UK treaties for public consultation (see comments above in respect of specific actions). The UK is expected to sign and ratify the MLI in 2017.	Not yet known

Unilateral BEPS Actions

The UK government has introduced a 25% diverted profits tax (DPT), which applies as from 1 April 2015, to encourage multinationals to adjust their UK corporate tax position in advance of completion of the BEPS project. The DPT tax applies in two situations:

- Where a non-UK company has artificially avoided having a taxable presence (permanent establishment) in the UK; or
- Where a group has a UK company (or UK permanent establishment of a non-UK company), and there is a tax advantage as a result of an entity or transactions that lack economic substance.

Other Tax Developments

No other tax developments to note.



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