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OECD's BEPS initiative—a global survey

Multinational survey results

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The purpose of Deloitte’s recent survey, “OECD Base Erosion and Profit Shifting (BEPS) & Responsible Tax survey,” was to gauge clients' and contacts’ views regarding the increased media, political, and activist group interest in “responsible tax” and BEPS, and the resulting impact on their organizations. Nearly 600 Deloitte member firms clients and contacts responded to the survey, a summary of which follows.

The OECD's BEPS project, which has the support of the G-20, has 15 action steps. The OECD’s work includes looking at the allocation of taxable profits of multinational companies with a view toward developing recommendations so that all income is taxed somewhere, eliminating so called “stateless income” and seeking consensus among governments in order to increase transparency and reduce inter-government competition in certain areas. The OECD has set out their objective as providing “comprehensive, balanced, and effective strategies for countries concerned with base erosion and profit shifting.” The OECD states that essential elements of this framework include the arm’s length principle and the elimination of double taxation as well as the elimination of inappropriate double non-taxation, “whether that arises from aggressive strategies put in place by taxpayers or from tax policies introduced by national governments.” Draft reports in certain areas have already been issued with a view toward finalizing some reports in 2014 and the balance by the end of 2015. It will be up to the individual countries to amend their law and tax treaties to align with the BEPS principles.

It is too early to assess the precise scope of coming changes to the tax landscape; however, it is clear that change is coming. For multinationals, identifying risks and opportunities that these developments bring is critical and will require regular monitoring and review of BEPS developments and an organization’s position and options.

Results show a growing concern over increased media interest in tax

93% of survey respondents agreed or strongly agreed that there has been an increased media and political interest in tax in their country. Overall, 74% agreed or strongly agreed that their organization is concerned about the increased media, political, and activist group interest in tax and 60% have received questions from their C-Suite and/or Board of Directors about the increased media and political activist group interest in tax.

Other important survey results

- Nearly 90% of respondents are anticipating that their income tax compliance burden will substantially increase as a result of the additional reporting from the BEPS recommendations
- Over 50% of respondents are anticipating significant unilateral legislative changes to protect the tax base that is not coordinated with what other countries are doing
- Almost 50% of respondents are anticipating significant legislative and treaty changes as a result of the BEPS initiative

Concerns raised by the respondents

- Potential for double taxation where countries do not align their taxation regimes
- Increased costs for administration and compliance
- Creating more uncertainty in the international tax area
- Increased tax audits in many locations

Not surprisingly, the results of the survey vary somewhat country-by-country.

Expectations of the OECD'S initiative are high

Ideally, the OECD's work should limit uncoordinated unilateral action by countries that would contribute to uncertainty, risk of double taxation, and other potential cross border trade and investment barriers.

Companies need the certainty of conducting tax affairs based on laws that are clear and reduce the opportunities for tax disputes. This is a somewhat unique opportunity for governments to achieve this on a multi-lateral basis in the spirit of cooperation. Of course, we do not underestimate the challenge of this given that at least on a short term basis it is unlikely that all governments will see proportionate increases or decreases in corporate tax revenues as a result of the BEPS initiative.

Adding to the complexity is the fact that, even in a post-BEPS world, governments can be expected to continue to provide economic and tax incentives in their domestic laws. Many of these incentives are designed to encourage investment and increase employment. Also, governments want to ensure that the tax rules applicable to their headquartered companies do not put those companies at a competitive disadvantage relative to their foreign peers.

This is an opportunity for governments to define acceptable incentives within the tax area. Again, we do not underestimate the challenge of this because it will likely require governments to give up some degree of sovereignty. This is also an opportunity to modify public perception about fairness of tax policies. BEPS could provide governments the opportunity to set the record straight with the public, the media, and the business community regarding the rules of the road. To date, there has been some media and discussion within the general public about what is legal tax planning and illegal tax evasion (which nobody supports). There exists, in some circles, highly subjective views on “morality” and “fairness” relating to how much tax an entity pays. Business needs the certainty of laws with which it can comply. This is an opportunity for governments to enact those laws.

Concerns of business

Some jurisdictions are introducing unilateral tax changes that are not coordinated with the BEPS initiative. This increases uncertainty for taxpayers.

Even though tax law changes have not yet occurred on a number of issues, certain tax administrations are interpreting their tax policy as if tax law changes have occurred, especially in the transfer pricing area.

Taxpayers are increasingly experiencing transfer pricing concerns regarding various cross-border transactions, which will increase the amount of transfer pricing reporting, examinations, controversy, Advance Pricing Arrangements (APAs), and competent authority requests. In addition to the increased workloads for taxpayers, there is concern about the increased workloads for tax administrations. Changes will require increased taxpayer guidance, training, availability for advance rulings, fast and fair dispute mechanisms, etc. Will the tax administrations have the budget to timely execute on this increased workload?

In general, taxpayers understand the need for increased reporting, but given the increased business costs associated with reporting; they want to ensure that the information will be of benefit to tax administrators and that such requests will be streamlined whenever possible.

Summary

Tax has become a significant strategic business issue. It can impact an organization’s competiveness but can also impact an organization’s brand and its broader approach to corporate social responsibility. The global landscape of BEPS, unilateral action by countries, and increased international tax audits has resulted in a Global Tax [r]Evolution. As such, it needs to be managed strategically.

The OECD began work on their BEPS project to address concerns that current principles of national and international of taxation were failing to keep pace with the global nature of modern trading and business models. In particular, a perception that existing rules give business too much opportunity for arbitraging tax rates and regimes. However, this is a challenge, as a number of the issues being examined by the OECD represent well established government policies that individual jurisdictions have adopted for many years in the name of competiveness. Also, as indicated earlier, any increase in overall tax revenue is not likely to be shared proportionately amongst countries. Policy makers are now aiming to tackle these issues, and, politically, maintaining the status quo does not appear to be an option.

Deloitte will continue to contribute to this process, including discussions with and making submissions to the OECD and local governments, as well as continuing the discussion in global and domestic forums. We will also continue to advise clients and contacts on any developments. We recommend that multinationals assess the potential impact of the OECD's recommendations on their business.

Additional information and contacts

For further information, please visit the **BEPS page on Deloitte.com** or contact **Albert Baker**, Deloitte Global Leader – Tax Policy.