

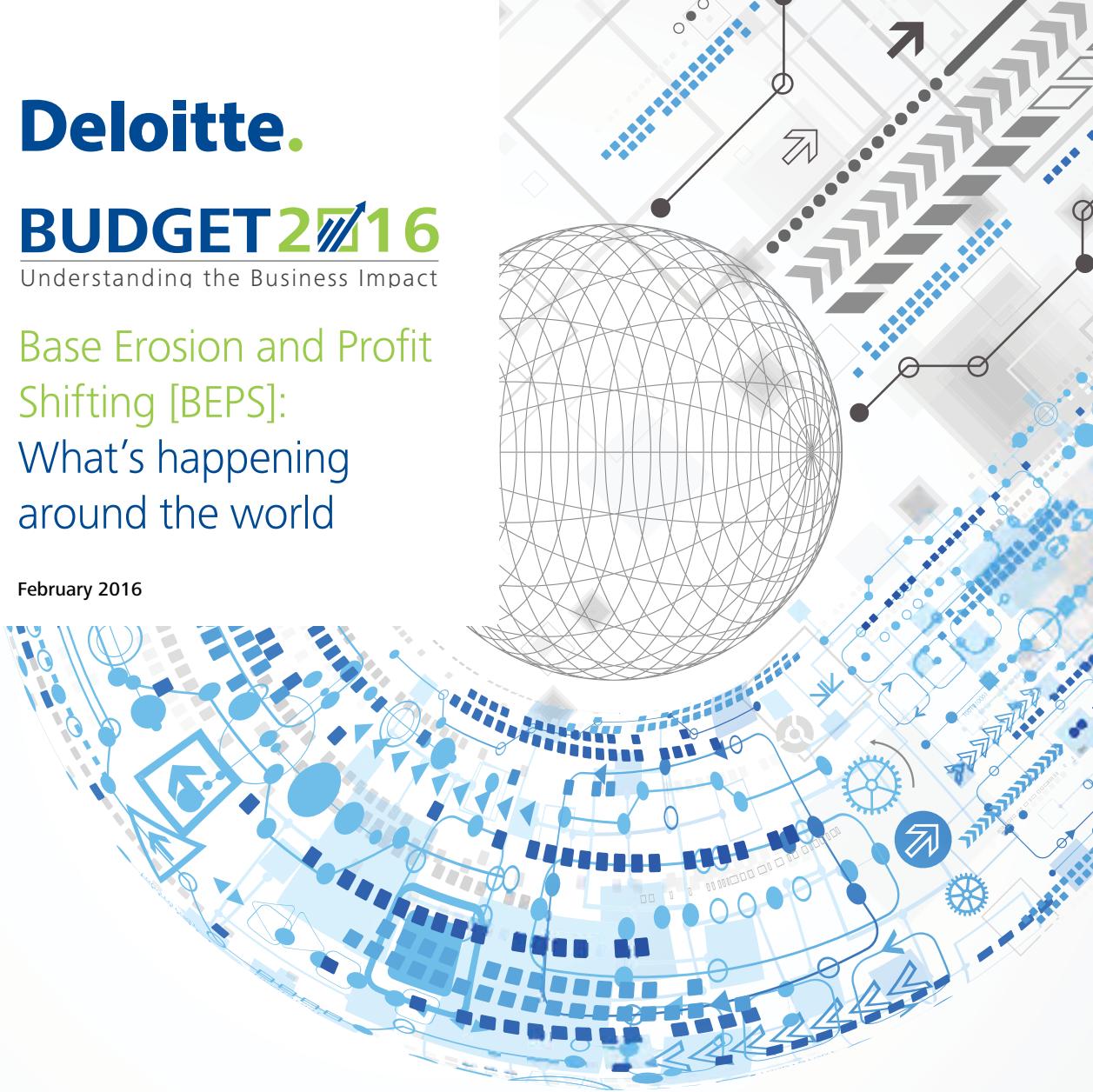
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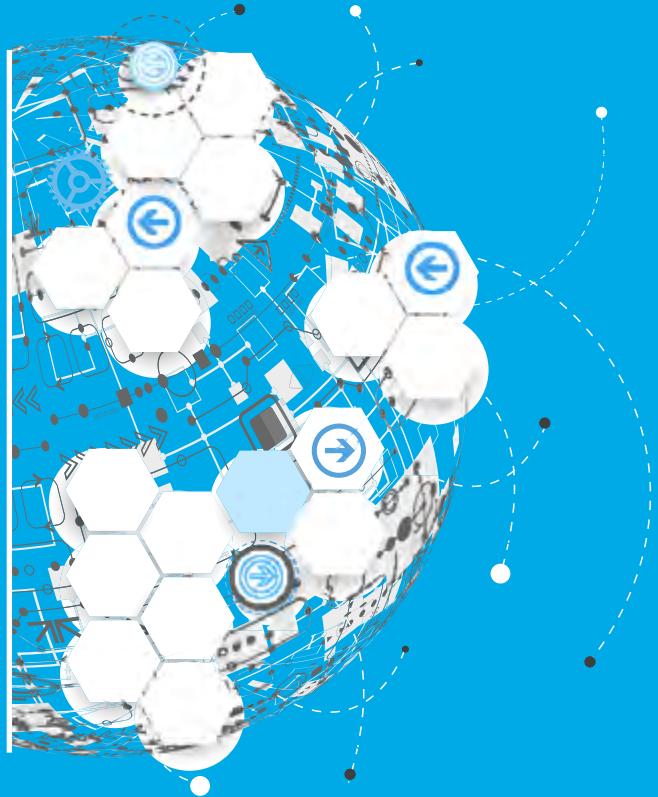
Understanding the Business Impact

Base Erosion and Profit
Shifting [BEPS]:
What's happening
around the world

February 2016



“Countries
around the
world are going
ahead with the
implementation
of BEPS,
especially CbCR”



Country updates for country-by-country reporting (“CbCR”) and transfer pricing documentation

Country	CbCR and transfer pricing documentation	Effective date	Threshold for CbCR	CbCR	Master File	Local File
Australia	<ul style="list-style-type: none"> The Australian government has implemented the requirement for CbCR. It is applicable to multinational enterprises (“MNEs”) as well as to Australian subsidiaries in certain cases. 	1 January 2016	MNEs with global revenue of AUD 1 bn	Yes	Yes	Yes
Belgium	<ul style="list-style-type: none"> The Belgian government is in the process of drafting legislation on CbCR that is expected to be presented to parliament in early 2016. Expected to adhere with the OECD standards and likely to include Master file, Local file as well as CbCR. 	Likely to apply for financial years starting on or after 1 January 2016	EUR 750 mn	-	-	-
Brazil	<ul style="list-style-type: none"> No CbCR rules announced till now. 	-	-	-	-	-
Canada	<ul style="list-style-type: none"> The government has indicated that it plans to adopt CbCR requirements. 	-	-	-	-	-
China	<ul style="list-style-type: none"> The draft revision to Circular No. 2 (China's main transfer pricing guidance) has been issued on 17 September 2015, which proposes a three-tiered documentation structure. CbCR to be filed with the annual income tax return. A foreign parent can nominate a Chinese subsidiary to prepare and submit the CbCR. China reserves the right to request a CbCR if the foreign entity does not submit the CbCR with the local authorities in its jurisdiction or if China was unable to get the CbCR through automatic information exchange system. An additional documentation is required to be maintained as part of contemporaneous documentation, if a taxpayer engages in related party service transaction. Companies with losses and limited functions / risks are also required to maintain master and local file. 	-	RMB 5 bn; Related party purchases and sales RMB 200 mn; Other related party transactions RMB 40 mn	Yes	Yes	Yes

Country	CbCR and transfer pricing documentation	Effective date	Threshold for CbCR	CbCR	Master File	Local File
European Union ("EU") member States	<ul style="list-style-type: none"> The European Commission released an anti-tax avoidance package on 28 January 2016 that includes amendments to the administrative cooperation directive to implement CbCR. Follows the signing of the Multilateral Competent Authority Agreement by 31 countries to facilitate the automatic exchange of CbCR. 	-	-	-	-	-
France	<ul style="list-style-type: none"> In December 2015, the French government enacted the provisions relating to submission of CbCR. The CbCR requirements extends to French subsidiaries of MNEs that are resident in a jurisdiction that does not require similar reporting. However, the parent group to file the CbCR through an entity resident in location that has implemented CbCR reporting. Stringent penal provisions for not responding, or submitting a partial response, to tax authority demands for transfer pricing documentation. 	1 January 2016	EUR 750 mn	Yes	-	-
Germany	<ul style="list-style-type: none"> Germany plans to implement the OECD guidance regarding transfer pricing documentation and CbCR. 	-	-	-	-	-
Hong Kong	<ul style="list-style-type: none"> The government is yet to announce CbCR regulations. 	-	-	-	-	-
Ireland	<ul style="list-style-type: none"> Ireland introduced CbCR regulations on 22 December 2015. Filing by the surrogate parent entity is provided. Where the ultimate parent company of a multinational group is not required to file a CbCR with its home jurisdiction tax authority or where the home country of the ultimate parent company does not have an agreement for the automatic exchange of such CbCRs, local entity with tax residence in Ireland is required to file an equivalent CbCR with Irish Revenue (an equivalent CbCR report is defined as a CbCR, but only to the extent that the information required to be included in that report is within the custody or possession of the Irish domestic constituent entity or that entity has the power to obtain such information). 	1 January 2016	EUR 750 mn	Yes	Yes	Yes

Country	CbCR and transfer pricing documentation	Effective date	Threshold for CbCR	CbCR	Master File	Local File
Italy	<ul style="list-style-type: none"> The provisions relating to CbCR enacted. Future decree to provide more details on the due dates and other procedural aspects. CbCR will apply to Italian resident MNEs and foreign-owned Italian resident subsidiaries, even if ultimate parent company is resident in a tax jurisdiction that does not collect CbCR information. Stringent penalties prescribed, in case of omission or incomplete submission of the CbCR. 	1 January 2016	EUR 750 mn	Yes	-	-
Japan	<ul style="list-style-type: none"> Japan has approved the 2016 tax reform proposal on 24 December 2015, which includes new transfer pricing documentation rules. Japanese companies meeting the threshold criteria are required to file the CbCR. Companies can also file through a surrogate entity. Japanese subsidiary of MNEs or Japanese permanent establishment ("PE") of a non-Japanese group company in which the ultimate parent is not a Japanese company is required to file CbCR if Japan has a double tax treaty with the jurisdiction of the ultimate parent company and CbCR cannot be obtained from the other jurisdiction. If Japan does not have a double tax treaty with the other jurisdiction, the Japanese subsidiary or PE is not required to file the report separately. 	CbCR, Master File 1 April 2016; Local File 1 April 2017	JPY 100 bn for Master File and CbCR; JPY 5 bn of related party transactions or JPY 300 mn of related-party intangible property transactions for Local file	Yes	Yes	Yes
Luxembourg	<ul style="list-style-type: none"> No proposal has been made till date. 		-	-	-	-
Mexico	<ul style="list-style-type: none"> The Minister of Finance has released the Budget proposal for 2016 on 8 September 2015, which has introduced the provision of country-by-country reporting in line with the requirements developed under the BEPS Action Plan 13. 	Effective from Calendar Year 2016	EUR 750 mn for CbC; Understand that threshold for Master File and Local File have also been prescribed	Yes	Yes	Yes
Netherlands	<ul style="list-style-type: none"> CbCR legislation has been passed by Dutch Upper House on 21 December 2015. The Dutch law requires constituent entities in the Netherlands to file the CbCR for the entire MNE group if the CbCR were not to be exchanged with the Netherlands by the country of the (surrogate) parent. 	1 January 2016	EUR 750 mn for CbCR; EUR 50 mn for Master and Local Files	Yes	Yes	Yes

Country	CbCR and transfer pricing documentation	Effective date	Threshold for CbCR	CbCR	Master File	Local File
Singapore	<ul style="list-style-type: none"> Singapore has not introduced any regulation on CbCR till date. However, the revised transfer pricing guidelines released by the Inland Revenue Authority of Singapore on 6 January 2015 requires taxpayers to maintain group level and entity level documentation. 	-	-	-	-	-
South Africa	<ul style="list-style-type: none"> The government has indicated that it will implement CbCR requirements for multinationals if the consolidated group turnover exceeds the minimum threshold of EUR 750 mn effective 1 January 2016. But no rules has been announced yet. 	-	-	-	-	-
Spain	<ul style="list-style-type: none"> New rules enacted in July 2015 includes change to the transfer pricing rules, such as the introduction of CbCR obligations and changes to the reporting and documentation obligations of taxpayers. 	1 January 2016	EUR 750 mn for CbCR. Simplified documentation for MNEs with group revenue of EUR 45 mn	Yes	Yes	Yes
Switzerland	<ul style="list-style-type: none"> No regulation announced till now. 	-	-	-	-	-
United Kingdom	<ul style="list-style-type: none"> Draft legislation on CbCR has been released on 5 October 2015. Ultimate parent entity or surrogate parent entity may file CbCR. No provision for reporting foreign-owned UK subsidiary. Stringent penalty proposed for failure to file, for filing an inaccurate CbCR, and for failing to comply with requests for information to enable Her Majesty's Revenue and Customs to assess the accuracy of the filing. (understand that the final CbCR regulation is enacted on 29 February 2016) 	Effective for accounting periods beginning on or after 1 January 2016 with first reports to be filed by 31 December 2017	EUR 750 mn	Yes	-	-

Country	CbCR and transfer pricing documentation	Effective date	Threshold for CbCR	CbCR	Master File	Local File
United States of America ("US")	<ul style="list-style-type: none"> The US Treasury Department on 21 December 2015 released a proposal on regulations that would require annual filing CbCR by US companies that are the ultimate parent entity of a MNE group. If the regulations are finalised in 2016, CbCR would be due with timely-filed tax return (with extensions) in tax year 2017 for calendar year taxpayers. However, US MNEs may still need to file CbCR in 2016 under foreign rules. No requirement for US subsidiary of a non-US MNE to produce CbCR, if country of ultimate parent does not require it. US to implement CbCR through bilateral agreements rather than signing a multilateral agreement. 	Effective from tax year 2017	USD 850 mn	Yes	-	-



“Other than
CbCR, many
countries are
taking significant
steps for BEPS
implementation”



Country updates for implementation of BEPS

Country	Actions taken in terms of BEPS	Effective date
Australia	<ul style="list-style-type: none"> Transfer Pricing Rules enhanced with extensive re-characterisation powers to the tax authorities. Australia has passed the multinational anti-avoidance law in December 2015. Structures with principal purpose of avoiding tax by not having tax presence disregarded, with profits from domestic sales being booked domestically. The Board of Taxation to consult with the government on implementation of anti-hybrid rules and provide its recommendation for implementation by March 2016. Maximum penalties for tax avoidance and profit-shifting schemes would be doubled where the Commissioner believes the anti-avoidance rules apply. The government is reviewing existing debt and equity rules and thin capitalisation provisions to curb any arbitrage opportunities. Indicated that it will incorporate treaty abuse in tax treaty negotiations. A specific BEPS unit has been set up in the Australian Tax Office to address BEPS within existing laws and also broader international tax areas. Australia has released a consultation paper proposing to incorporate the recent 2015 OECD report "Aligning Transfer Pricing Outcomes with Value Creation" and other potentially upcoming OECD transfer pricing updates into Australia's transfer pricing legislation on 11 February 2015. 	<p>1 January 2016</p> <p>Effective from the 2016-2017 Federal Budget</p> <p>1 January 2016</p>
Belgium	<ul style="list-style-type: none"> Belgium to include in the domestic laws, the anti-hybrid rule and the General Anti Avoidance Rules ("GAAR") as included in the amended EU Parent-Subsidiary Directive. Belgium has proposed to introduce the recommendation of Action 2 (Hybrid Instruments), the title and preamble proposed under Action 6 (Treaty Abuse) and the principal purpose test to prevent treaty abuse, in its tax treaty. 	Likely to apply for financial years starting on or after 1 January 2016.
Brazil	<ul style="list-style-type: none"> Government proposed rules that introduce new reporting requirement for taxpayers to disclose transactions that were carried out to reduce, eliminate or defer taxes. There have not been any changes in the tax laws specifically related to BEPS. The Brazilian tax authorities have informally indicated that they intend to wait for the initial results of the OECD's efforts on the BEPS project before deciding on the next steps. 	January 1, 2016 (if proposed rules become law)
Canada	<ul style="list-style-type: none"> Canada has proposed to introduce an anti-treaty shopping proposal. 	-

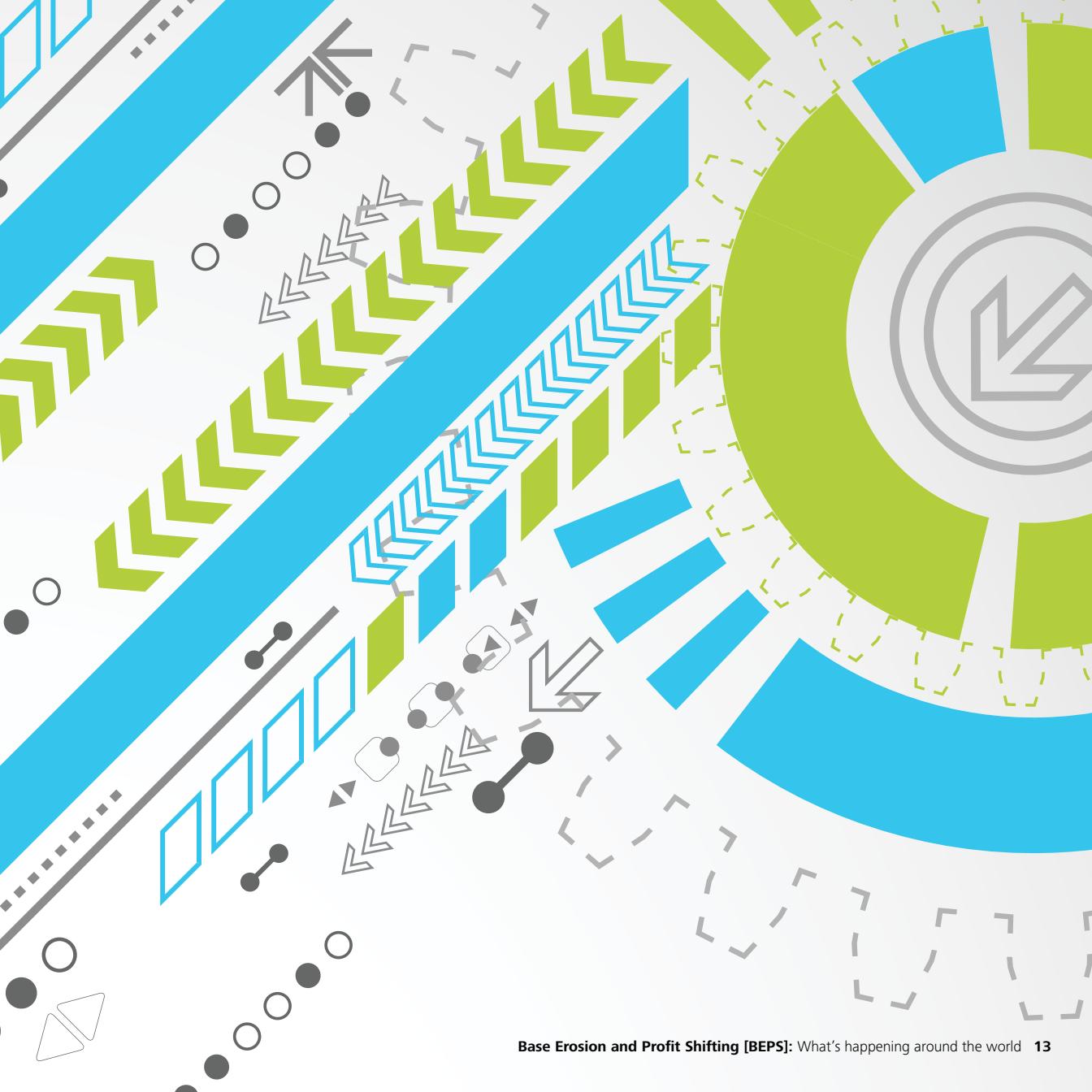
Country	Actions taken in terms of BEPS	Effective date
China	<ul style="list-style-type: none"> Deduction of cross-border payments to overseas related parties will be subject to more detailed assessment by the tax authorities. Discussion draft of "Special Tax Adjustment Implementation Measures" released in September 2015, incorporates a number of recommendations in the context of the BEPS initiative. In response to the OECD action plans, China is taking number of actions including revising domestic laws, implementation of BEPS measures through revised Circular 2 (Circular 2 deals with adjustments under GAAR, transfer pricing, CFC, thin-capitalisation) and reforming the international tax administration system. 	<p>18 March 2015</p> <p>Still in draft but expected to be finalised by the end of 2015 or early 2016</p>
EU member States	<ul style="list-style-type: none"> GAAR introduced in the EU Parent-Subsidiary Directive to be implemented mandatorily by all 28 EU member states. Anti-hybrid instrument measure introduced in the EU Parent-Subsidiary Directive to be implemented mandatorily by all 28 EU member States; exemption disallowed on hybrid dividends. Directive for exchange of information of rulings within the EU likely to be implemented by all EU member States. 	<p>1 January 2016</p> <p>1 January 2017</p>
France	<ul style="list-style-type: none"> Deduction disallowed for low-taxed related party interest expenses. The French government has introduced anti-hybrid rules and there are proposals to introduce regulations in the digital area. 	Financial year ending on or after 25 September 2013
Germany	<ul style="list-style-type: none"> Dividend exemption disallowed on hybrid dividends. Disallowance of deductions on hybrid instruments and in certain double dip structures planned. A working group has been established to discuss the implementation of the results of BEPS project and to draft a bill. 	<p>Financial year beginning 1 January 2014</p> <p>Still unclear; likely financial year 1 January 2016</p>
Hong Kong	<ul style="list-style-type: none"> The Hong Kong government is closely monitoring developments on BEPS and the Revenue Authorities are reviewing the need to update the current regulations. However, legislation has been enacted to provide a legal framework for standalone tax information exchange agreements and to enhance existing exchange of information arrangements. 	-

Country	Actions taken in terms of BEPS	Effective date
Ireland	<ul style="list-style-type: none"> Ireland had rules on the residence of incorporated companies that led to the use of the 'double Irish' structure. The structure has been discontinued from 1 January 2015, although there is provision of a six-year transitional arrangement for companies incorporated before 31 December 2014. 	Effective from January 2015
Italy	<ul style="list-style-type: none"> Digital Tax: 25 percent withholding tax would apply on digital sales made by foreign entities to Italian clients. Withholding tax not applicable if the sales are made through an Italian PE of the foreign entity. International Tax Decree published in September 2015 has introduced several changes towards the transfer pricing rules, PEs, payment of interest and royalties, distribution of dividend from entities located in countries that are black listed etc. Italy has a Controlled Foreign Corporation ('CFC') regime which has been further modified vide International Tax Decree published in September 2015 to exclude foreign corporations in which Italian entity holds less than 50 percent of the share capital. CFC regime with new criteria introduced for privileged tax jurisdiction (black listed countries). A legislative decree containing GAAR applies from October 2015. Italy in its 2015 budget has introduced an optional patent box regime based on schemes already adopted by other EU member states. 	Announced by the Government: should be included in the 2016 Financial Law and likely applicable as of 1 January 2016.
Japan	<ul style="list-style-type: none"> Certain changes in tax laws specifically related to BEPS have been included in the 2015 tax reform proposal, which is currently being discussed in the Japan parliament. Cross-border digital services are deemed to take place at the main office or domicile of the service recipient, instead of at the main office of the supplier, for Japanese consumption tax (VAT) purposes. 95% foreign dividend exemption disallowed for a dividend that is deductible in the source country (e.g., dividends on redeemable preference shares between Australia and Japan). Exit tax applicable to Japanese resident individuals with certain financial assets. 	<p>1 October 2015</p> <p>Fiscal years beginning on or after 1 April 2016</p> <p>1 July 2015</p>
Luxembourg	<ul style="list-style-type: none"> The 2016 draft budget proposes to repeal the intellectual property box regime from 1 July 2016 (1 January 2017 for net wealth tax purposes). The existing intellectual property regimes may be maintained during a transitional period from 1 July 2016 to 30 June 2021. The government has indicated that it intends to fully comply with the OECD recommendations and could take into account the actions taken by other EU member countries. 	-

Country	Actions taken in terms of BEPS	Effective date
Mexico	The 2014 tax reform included a number of BEPS related measures, such as the disallowance of deductions on interest, royalty and technical assistance payments, unless the payment is subject to tax in the recipient's country of residence and requiring a non-resident claiming benefits under a tax treaty to demonstrate that double taxation would arise in the absence of treaty benefits. The government considers these measures to be aligned with BEPS recommendations, so additional measures are not expected.	1 January 2016 (first deadline 31 December 2017)
Netherlands	<ul style="list-style-type: none"> The government proposes to renegotiate its treaties with countries to implement anti-abuse clause. The amended EU Parent-Subsidiary Directive to be implemented into domestic legislation. Changes relating to hybrid loans and GAAR have been proposed as a result of changes to the EU Parent-Subsidiary Directive. 	
Singapore	<ul style="list-style-type: none"> There have not been any changes in the tax laws specifically related to BEPS. However, Singapore already has stringent requirements for maintenance and preparation of documentation except in certain safe harbour situations. 	
Spain	<ul style="list-style-type: none"> A new corporate income tax law has been implemented which includes measures in response to the BEPS initiatives like, specific anti-abuse rule for hybrid entities, application of CFC rules to more transactions and types of income, re-characterisation of intra-group profit participating loans as equity instruments, introduction of limits on the deductibility of financing expenses incurred in leveraged buyout transactions. Spain has announced that, it will establish a committee on international tax fraud and tax havens. The task of the committee will be to evaluate the OECD BEPS Plan and the EU anti-avoidance package, transfer pricing, and measures on tax evasion and tax avoidance by multinational companies. 	Effective from 1 January 2015
South Africa	<ul style="list-style-type: none"> The Davis Tax Committee released interim report on BEPS in South Africa in 2014 and 2015. The Committee is of the view that South Africa already has various measures in place to prevent BEPS, but that further guidance from the South African Revenue Service is required. No specific unilateral BEPS actions have been implemented to date, but BEPS is a specific focus area of the legislative review process that is underway. 	
Switzerland	<ul style="list-style-type: none"> Switzerland has announced a proposal to reform its corporate tax system to align the domestic rules with the BEPS requirements and international standards which would include the changes relating to, phasing out of all special tax regimes, introduction of broad patent box regime, introduction of R&D tax incentives and reduction of headline corporate income tax rates. 	-

Country	Actions taken in terms of BEPS	Effective date
United Kingdom ('UK')	<ul style="list-style-type: none"> • Diverted Profit Tax introduced and applies where a non-UK resident company artificially avoids creating a taxable presence in the UK; or where a UK resident company (or UK PE) uses transactions or entities lacking economic substance. If applicable, a tax rate of 25 percent is charged on perceived 'diverted profits'. • The UK government issued consultation documents on changes to the UK's patent box regime to take account of the OECD 'nexus approach', and on interest deductibility in 2015. 	1 April 2015
United States of America ('US')	<ul style="list-style-type: none"> • The US Treasury officials believe that there is no requirement to introduce 'substantial' changes to the current transfer pricing regulations in light of the OECD BEPS Action Plan since the same are already embodied in the US transfer pricing regulations. The Treasury said that it may make clarifications to the current regulations if it deemed necessary. • Recently the Treasury released the revised US Model Income Tax Convention and an accompanying preamble. The Tax Convention includes a number of new provisions intended to eliminate double taxation without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance. 	





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