



Tax Espresso

Special Highlight: Base Erosion and Profit Shifting

Greetings from the
International Tax and
Transfer Pricing
Groups of Deloitte
Malaysia

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Takeaways

[Base Erosion and Profit Shifting](#)

In this October 2015 Tax Espresso, we are pleased to present to you the latest updates on the Base Erosion and Profit Shifting (BEPS) project.

On 5 October 2015, ahead of the G20 Finance Ministers' meeting in Lima, Peru on 8 October 2015, the OECD Secretariat published 13 final reports and an explanatory statement outlining consensus actions under the base erosion and profit shifting (BEPS) project. These reports include and consolidate the first seven reports presented to, and welcomed by, the G20 Leaders at the Brisbane Summit in 2014. The OECD press release, explanatory statement and final reports can be accessed [here](#).

This newsletter sets out:

- An overall perspective of the current status of the BEPS project and an indication of the next steps required to implement the proposals in the final reports. [Click here](#)
- A summary of several key non-transfer pricing reports and highlights of some of the significant changes from prior deliverables and discussion drafts. [Click here](#)
- The salient points of the transfer pricing aspects. [Click here](#)

As you know, BEPS is arguably the hottest international tax topic of all time. Whilst Malaysia is neither a member of OECD nor G20, the Malaysian authorities are following the BEPS development closely and indeed, have participated in the Regional Network meetings on BEPS Project. These meetings are being set up for an ongoing and more structured dialogue process with a broader group of developing countries which may not be able to participate directly in the BEPS Project. A first round of meetings was organized on 12-13 February 2015 in Seoul

Events

Deloitte TaxMax – the 41st series

Date	Venue
4 Nov 2015	Kuala Lumpur
11 Nov 2015	Kuching
12 Nov 2015	Kota Kinabalu
12 Nov 2015	Penang
13 Nov 2015	Ipoh
13 Nov 2015	Johor Bahru
13 Nov 2015	Sandakan
18 Nov 2015	Melaka

Deloitte Tax Challenge 2015

- Competition rounds:
15 October 2015
- Final & Gala Dinner:
12 November 2015

Important deadlines:

Due date for 2016 tax estimates for companies with November year-end
(31 October 2015)

6th month revision of tax estimates for companies with April year-end
(31 October 2015)

9th month revision of tax estimates for companies with January year-end
(31 October 2015)

Statutory filing of 2015 tax returns for companies with March year-end
(31 October 2015)

in which 61 countries and jurisdictions participated, including Malaysia.

Time and tide wait for no man. Therefore, if you have not considered BEPS aspects in your outbound investment and inbound investment into Malaysia, we strongly recommend that you do so. We expect that the present Malaysian tax treaties and probably, domestic tax law to be revisited in the near future in light of BEPS development. In the interim, some of the key areas that you should consider are as follows:

- **Permanent establishment (PE)** - Whether the present or proposed operations overseas/Malaysia will trigger a PE given a lower threshold.
- **Transfer pricing** – There is need to align transfer pricing outcomes with value creation given the issue of “substance” over “form”. Essentially, a mere contractual allocation of risks or legal ownership alone would not create entitlement to profits. Also, the safe harbor on low value adding intragroup services (subject to local tax authority’s stance) is to be considered. The increased visibility for local tax authority, emanating from country-by-country (CbC) Report and Masterfile required to be prepared for the group may also be a relevant point.
- **Treaty Abuse/Harmful Tax Practice** - Whether the present or holding structure (especially those involving conduit companies) would be respected under the relevant treaty. There is also a need to revisit structures that involve entities in low tax jurisdictions / preferential tax regimes.
- **Hybrid arrangement** - Whether hybrid instrument is involved and if so, whether the funding cost is tax deductible.

- **Limit base erosion via interest deductions** – The impact on the deductibility of interest expense and as to how this is integrated with the Malaysian domestic tax law.

We trust that you will find this edition of Tax Espresso useful. You may also wish to visit our **BEPS site on Deloitte.com**, which contains useful resources and updates.

Should you have any comments or questions arising from this newsletter, please speak to your usual Deloitte contact or any of us.

Best wishes

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We invite you to explore other tax related information at:
<http://www2.deloitte.com/my/en/services/tax.html>

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