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International Tax Update

Alex Law
International and M&A Tax Leader, MENA

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International Tax

Base Erosion and Profit Shifting (BEPS)

1. **What is BEPS?**

- *“In an increasingly interconnected world, national tax laws have not kept pace with global corporations, fluid capital, and the digital economy, leaving gaps that can be exploited by companies who avoid taxation in their home countries by pushing activities abroad to low or no tax jurisdictions. This undermines the fairness and integrity of tax systems.” [OECD commentary on BEPS]*
- OECD set out 15 specific actions needed in order to equip governments with the domestic and international instruments to address this challenge.
- 3 Phases:
  - September 2014
  - September 2015
  - December 2015

Base Erosion and Profit Shifting (BEPS)

2. What has been the focus so far?

- Digital economy
- Treaty abuse
  - Anti avoidance provisions
  - Limitations of Benefits
  - Purpose test
- Transfer pricing
  - Master and local file reporting
  - Country by Country (CbC) reporting template

MENA Trends

Is BEPS coming to the MENA region?

- Transfer pricing ("TP") in the Middle East
- The new frontier – OECD-based rules
- **Egyptian experience** – formal TP rules exist, broadly based on OECD Guidelines, and require detailed documentation to support the arm's length principle
- **General Anti-Avoidance(GAAR) rules** – most of the tax legislations include GAAR rules whereby the tax authorities have power to adjust inter company transactions and which provide for prevention of tax avoidance
- **TP legislations to be introduced in Qatar and in Saudi Arabia** – however, no specific timing is determined yet
- **Documentation requirements**
- **Tax evasion – hiding behind side agreements, GCC legal ownership, etc.**
- **Information exchange** – local tax authorities are increasingly willing to share information on taxpayers, etc.

Other key regional trends

Key trends

Continued misconception that there is no tax in the M.E

- Currently, only Bahrain and the UAE which do not apply corporate taxes on profit of companies in practice (with few exceptions)

Increase in the number of double taxation treaties concluded

- UAE has recently signed treaties with Libya and Hungary
- No tax treaties between the GCC countries yet

Increase introduction of electronic filing

- Saudi Arabia has introduced e-filing system for Zakat filing,
- e-filing to be introduced in respect of corporate tax in September 2014

Increase in tax reforms

- Tunisia is undergoing a tax reform of its tax system
- Morocco introduced new provisions following discussions with Moroccan Companies Association

Increased implementation of withholding tax

- Currently 13 out of 15 countries have in place a withholding tax mechanism

Introduction of transfer pricing rules

- Egypt has already introduced TP regulations
- Saudi Arabia and Qatar are discussing a potential introduction of TP regulations

Positive developments within the region

- **Developing awareness** of taxpayers' issues
- **Demand for technical training** for tax authorities
- **Participation in working groups** alongside taxpayers and tax professionals
- **Tax authorities increasingly open to dialogue** with taxpayers
- **Increasing initiatives to modernise the processes** (e.g., introduction of e-filing, e-payment)
- **Collaboration** between tax authorities of countries in the region to share best practices
- Increasing interest to **expand the tax treaties network**

Questions and answers

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