

## BEPS Actions implementation by country

### Action 6 – Prevent treaty abuse

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.

It is now for governments to digest and introduce the necessary legislation. The table below sets out a summary of the expected implementation and timing of the proposals under Action 6 by territory.

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Country	Notes on implementation	Expected timing	Last reviewed by Deloitte
Argentina	Argentina signed the multilateral instrument (MLI) on 7 June 2017. It has opted for the simplified limitation of benefits provision.	Subject to ratification and entry into force of the MLI	August 2017
Australia	Australia has included the PPT clause in its 2015 treaty with Germany, which is regarded as Australia's new model treaty. Australia has signed the OECD's multilateral instrument (MLI) and intends to adopt the PPT provisions via the MLI.	Ongoing in bilateral tax treaty negotiations Subject to ratification and entry into force of the MLI (see Action 15)	July 2017
Austria	Not yet known.	Not yet known	March 2017

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Belgium	<p>The Finance Minister has indicated that Belgium supports the implementation of BEPS Action 6 outcomes via the multilateral instrument (MLI).</p> <p>Belgium is proposing to its tax treaty partners the inclusion of the (amended) title and preamble and the introduction of the PPT.</p>	<p>Existing treaties: depends on outcome of Action 15 (MLI)</p> <p>New treaties: Already taken into account</p>	<p>May 2017</p>
Brazil	Not yet known.	Not yet known	July 2017
Canada	In the March 2016 budget, Canada announced it would adopt the approach outlined in Action 6.	See comments under Action 15, below	July 2017
China	<p>The recommendations in the Action 6 report are broadly in line with long-standing practices of the SAT.</p> <p>China's provisional list of reservations and notifications at the time it signed the MLI on 7 June 2017 indicates that it intends to include a PPT in its covered tax agreements. The SAT is also studying the "equivalent beneficiary" concept.</p>	Immediate (for existing practices)	July 2017
Czech Republic	Not yet known.	Not yet known.	April 2017
Denmark	No changes are expected because existing domestic tax law already addresses the proposals.	N/A	April 2017
Estonia	Changes to Estonia's model tax treaty will be made in 2017 and an LOB is likely to be added.	2017	July 2017

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Finland	Not yet known.	Not yet known	May 2017
France	France already has anti-abuse clauses in some tax treaties. It is expected that more will be added either through bilateral treaties or the multilateral instrument (MLI). France is likely to follow the PPT.	Subject to implementation of the MLI and bilateral negotiations	May 2017
Germany	Some German tax treaties contain PPT clauses or clauses that allow the application of domestic anti-abuse rules in cases of treaty abuse. Other domestic legislation prevents certain forms of treaty abuse and double nontaxation by way of a tax treaty override.  Germany signed the multilateral instrument (MLI) and intends to generally apply the PPT clause of the MLI.	Subject to ratification of the MLI (application of the new and/or amended rules as from 1 January 2019 possible) and bilateral negotiations	July 2017
Greece	Not yet known.	Not yet known	May 2017
Hong Kong	In processing an application for a certificate of residence status, the IRD will consider whether the applicant would be entitled to benefits under a tax treaty before issuing the certificate. A DIPN will be issued to clarify the tax treatment. The government has issued a consultation paper to the public and the IRD plans to incorporate a "principal purposes test" in future double taxation agreements (DTAs) and a symmetrical approach if a DTA partner has a different approach.	Published consultation paper on 26 Oct 2016  Plan to change future DTAs and issue a DIPN.	July 2017
Hungary	Hungary already has anti-hybrid rules and a general anti-avoidance rule. It is not yet known whether additional measures will be introduced.	Not yet known	April 2017

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Iceland	Not yet known.	Not yet known	June 2017
India	India has introduced a general anti-avoidance rule into the domestic tax law.	1 April 2017	May 2017
Indonesia	Indonesia already has a rule to prevent treaty abuse.	N/A	July 2017
Ireland	Ireland is likely to include a principle purpose test (PPT) in tax treaties as a preferred option. This is expected to be included through the multilateral instrument (MLI) and in any future bilateral agreements entered into by Ireland.	Subject to implementation of the MLI and any future bilateral agreements	March 2017
Israel	Israel already has general anti-abuse provisions that are applied in the context of tax treaty benefits. It is not yet known if further amendments will be made.	Not yet known	April 2017
Italy	A statutory domestic general anti-avoidance rule applies to both direct and indirect taxes. Additionally, in July 2016, the government introduced legislation that transposed the anti-abuse rule in the amended EU parent-subsidiary directive into Italian law. The domestic GAAR is directly applicable for these purposes.	1 October 2015  Effective from 1 January 2016	May 2017
Japan	The government has been updating Japan's tax treaties with various treaty partners to include LOB and information exchange clauses.	Ongoing	May 2017
Luxembourg	Developments are under way in connection with the MLI to implement tax treaty-related measures to prevent BEPS, although it is not yet known what position will be taken by the Luxembourg tax authorities. The MLI is expected to be signed in	Subject to implementation of the MLI.	March 2017

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June 2017.

Mexico	<p>The 2014 tax reform introduced provisions addressing the application of tax treaties in related party transactions. The Mexican tax authorities can require foreign taxpayers to prove they are resident in the treaty jurisdiction by having a legal representative submit a sworn declaration stating that double taxation would arise in the recipient's country of residence if treaty benefits were not granted.</p>	1 January 2014	March 2017
Netherlands	<p>Some of the Netherlands' existing tax treaties already contain LOB or PPT provisions and the government plans to renegotiate 23 treaties with developing countries to amend the anti-abuse clauses.</p> <p>The government supports the Action 6 proposals and has expressed a preference for a PPT over an LOB provision in view of the multilateral instrument (MLI). The government intends to advocate the inclusion of a PPT in future bilateral treaty negotiations.</p>	Subject to implementation of the MLI and bilateral negotiations	May 2017
New Zealand	<p>New Zealand already has an anti-treaty shopping/limitation-on-benefits provision in its model tax treaty, and such a clause has been included in recent treaties.</p> <p>Officials have indicated that New Zealand intends to sign up to the multilateral instrument including the principal purpose test (see Action 7).</p>	Subject to implementation of the multilateral instrument (MI) and individual treaty negotiations	June 2017
Norway	<p>Norway currently does not have LOB or PPT clauses in most of its tax treaties, although the government is expected to approve the implementation of these rules.</p> <p>Norway signed the multilateral instrument (MLI) on 7 June 2016 and the Ministry of Finance has published Norway's positions. Norway regards the PPT as an interim measure and the intention</p>	Subject to implementation of the MLI	August 2017

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where possible is to adopt an LOB in addition to, or instead of the PPT through bilateral negotiations.

Poland	<p>Poland is in the process of renegotiating some of its tax treaties.</p> <p>Poland has introduced a specific anti-avoidance rule relating to the tax exemption (based on Parent-Subsidiary Directive) for dividends, as well as a “beneficial owner” requirement (for interest exemption based on Interest-Royalty Directive) and a “real estate company clause” into its domestic law.</p>	<p>Subject to bilateral negotiations</p> <p>Anti-avoidance rule for dividends: 1 January 2016</p> <p>Beneficial owner/real estate company: 1 January 2017</p>	<p>May 2017</p>
Portugal	<p>Portugal has LOBs, as well as PPT provisions, in some tax treaties. Following the signature of the multilateral instrument (MLI), and according to the provisional notifications to be made by Portugal, the PPT provision should be adopted. The authorities increasingly have been focusing on transactions involving treaty shopping.</p>	<p>Subject to implementation of the MLI and bilateral negotiations</p>	<p>July 2017</p>
Russia	<p>Russia has opted for the simplified LOB provision set out in the multilateral instrument (MLI) (see action 15 below).</p> <p>The concept of a “beneficial recipient” has been introduced into the tax law for the purposes of applying reduced withholding tax rates on dividends, interest and royalties paid to nonresidents. The tax authorities have started to apply the concept more broadly, i.e. to any kind of income paid to foreign contractors.</p>	<p>N/A</p>	<p>July 2017</p>
Saudi Arabia	<p>Some of the Action 6 recommendations are broadly in line with the long-standing Saudi Arabian tax authority practices against treaty shopping. It is not yet known whether any changes will be made.</p>	<p>Not yet known</p>	<p>May 2017</p>
Singapore	<p>Singapore signed the multilateral instrument (MLI) on 7 June 2017 and has chosen the principal purpose test only option.</p>	<p>Not yet known – subject to ratification process</p>	<p>August 2017</p>
Slovakia	<p>Slovakia has signed the multilateral instrument (MLI), and has announced it will adopt a simplified LOB provision.</p>	<p>Subject to ratification of the MLI</p>	<p>August 2017</p>

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Slovenia	Not yet known.	Not yet known	December 2016
South Africa	<p>The DC has recommended that South Africa ensure that it preserves the use of the application of domestic anti-avoidance provisions in its tax treaties. The “main purpose” requirement in the GAAR is akin to the PPT recommended by the OECD.</p> <p>The DC also has recommended that South Africa take steps to renegotiate its older treaties or sign protocols amending the titles and preambles of older treaties to the effect they are not intended to create opportunities for non-taxation or reduced taxation through tax evasion or avoidance, including through treaty shopping arrangements.</p>	Not yet known	June 2017
South Korea	A substance-over-form rule already exists in South Korea, and often is used to deny treaty benefits in treaty abuse situations. It is unclear whether Korea will adopt a PPT and/or an LOB.	N/A	April 2017
Spain	Spain has PPT clauses in some of its tax treaties and is expected to add more through protocols to existing treaties, new treaties and the multilateral instrument (MLI).	Subject to implementation of the MLI and bilateral negotiations	May 2017
Sweden	In the MLI, Sweden has chosen to apply the principal purpose test of Article 7. Sweden has chosen not to apply any other articles in the MLI related to Action 6, i.e. articles 8-12.	See Action 15	July 2017
Switzerland	Switzerland has either PPT or LOB clauses in some tax treaties. More treaties and the multilateral treaty are expected to include such clauses in future.	Subject to implementation of the multilateral instrument and bilateral negotiations	February 2017
Turkey	Turkey already has anti-abuse clauses in some of its tax treaties. It is expected that more will be added either through treaties or the multilateral instrument (MLI).	Subject to implementation of the MLI and bilateral negotiations	June 2017

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United Kingdom	<p>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.</p>	<p>Subject to the outcome of the public consultation, implementation of the MLI and bilateral negotiations</p>	<p>May 2017</p>
United States	<p>The US generally meets the Action 6 minimum standard through its LOB provisions in treaties in force or in treaties or protocols awaiting ratification, and in its anti-conduit rules. Signed tax treaties that would add LOB provisions to US treaties with Hungary and Poland have been awaiting Senate consent since 2011, with no definite prospects for completion of the process in the foreseeable future</p> <p>The Treasury Department released a revised US model income tax convention in February 2016, which makes the LOB model provision more restrictive. The Congress remains opposed to, and will not adopt, a PPT.</p>	<p>N/A</p>	<p>March 2017</p>

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