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Policy Brief

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Taxing Multinational Enterprises

BASE EROSION AND PROFIT SHIFTING (BEPS) II

UPDATE
September 2014

- **The BEPS Action Plan**, which addresses tax rules that allow multinational enterprises (MNE) to shift profits legally to low- or no-tax jurisdictions, but at considerable cost to governments and other taxpayers, was successfully launched at the G20 in July 2013.
- **The Action Plan** is based on three core principles: coherence, substance and transparency, and sets forth 15 actions to fundamentally change these tax rules in a co-ordinated manner (see OECD Policy Brief).
- **The BEPS Project**, carried out by OECD and G20 countries on an equal footing, is set to be finalised in 2015, with the first set of measures delivered in September 2014.
- **Engagement with developing countries** is now being enhanced.

What's the issue?

The BEPS Action Plan launched in July 2013 addresses tax rules that allow multinational enterprises (MNE) to shift profits legally to no- or low-tax jurisdictions at considerable cost to governments and other taxpayers. The Action Plan was fully endorsed by the G20 Finance Ministers and Central Bank Governors at their July 2013 meeting in Moscow as well as at the G20 Leaders Summit in Saint Petersburg in September 2013. This OECD Policy Brief highlights some of the progress made since the 2013 OECD Policy Brief (see sources) explaining why BEPS is damaging and must be addressed.

Why is this important?

It is not possible yet to quantify how much tax money is lost because of profit shifting, but it is clear that governments and their electorates no longer accept the corrosive impact shifting profits has on tax bases and the burden it places on other taxpayers. The fact that the BEPS Project is carried out by OECD and G20 countries on an equal footing is unprecedented and underscores the importance of the issue. The project is set to be finalised in 2015, with the first set of measures delivered in September 2014. Acting on these deliverables will improve the fairness, integrity and effectiveness of the rules for the taxation of cross-border operations.

See
www.oecd.org/ctp/beps-multimedia.htm

"Tax planning results in locating the profits in tax havens where nothing is happening. The BEPS Project is about putting an end to that."

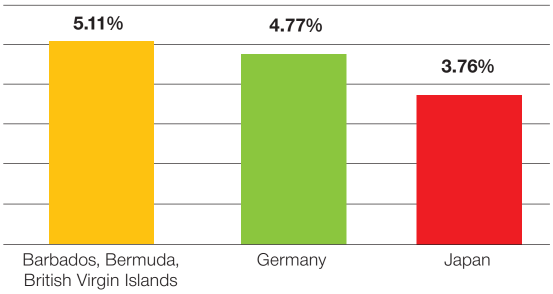
Pascal Saint-Amans
Director, Centre for Tax Policy & Administration, OECD

What should policymakers do?

The 2014 BEPS "deliverables". The first set of consensus-driven deliverables represents an important landmark in the BEPS project. As a result of the adoption of these measures by national governments, hybrid mismatches will be neutralised and "treaty shopping" and other forms of treaty abuse will be addressed. Abuse of existing transfer pricing rules in the key area of intangibles will be minimised, while improved documentation requirements for MNEs, including country-by-country reporting, will enhance transparency and information provision for governments. BEPS has been exacerbated by the rise of the digital economy, and a common understanding of the tax challenges faced by governments will allow policymakers to deepen their work in achieving common solutions. The work to fight harmful tax practices, in particular in the area of intellectual property (IP) regimes and in the area of tax rulings, has been advanced and further guidance will be developed in 2015. Last but not least, a feasibility study has been completed recommending the development of a new multilateral instrument to ensure swift implementation of measures to address BEPS and amend bilateral tax treaties. These deliverables, together with an explanatory statement on their content, are available on line at www.oecd.org/tax/beps-2014-deliverables.htm.

Developing countries' perspective. Over the past year or more, regional consultations have been organised in Asia, Africa and Latin America, as well as in France for francophone countries. The BEPS Project also obtains additional input from developing

Signs of tax avoidance by MNEs
Inward foreign direct investment (FDI), % of global FDI, 2010



Source: OECD (2013), *Addressing Base Erosion and Profit Shifting.*

The fact that very small economies attract more FDI than major economies such as Germany and Japan is a sign that MNEs register income in low-tax countries that was actually generated in other countries. The OECD Action Plan aims at improving the measure of BEPS by multinationals.

countries via the OECD Global Fora, the Task Force on Tax and Development, and the OECD Global Relations Programme. International tax issues can be particularly sensitive in developing countries, and a sub-group on BEPS has been set up at the UN level to provide input. Important initiatives, including Tax Inspectors Without Borders and a major effort to build transfer pricing capacity, are now being geared up to help developing countries address the practicalities of BEPS. Engagement with developing countries will be enhanced with a focus on their priorities and the implementation of measures to address them.

Stakeholders' input. BEPS needs stakeholder involvement to succeed, and representatives from business, trade unions, academia and civil society have commented on the project through a transparent and intensive consultation process. Their contributions generated more than 3,500 pages of comments on drafts. Over 10,000 people participated in webcasts and were able to ask questions. This diverse input assists policymakers as they continue to improve their understanding of the different perspectives on BEPS, and craft the most appropriate and effective solutions.

What's next?

The technical work on the deliverables for 2015 will continue a pace to ensure the development of a comprehensive package to address BEPS. These include recommendations regarding the design of effective controlled foreign company (CFC) rules; domestic and transfer pricing rules that limit interest deductions; preferential intellectual property regimes; treaty rules that prevent the artificial avoidance of permanent establishment (PE) status; and transfer pricing rules that are in line with value creation, relating to hard-to-value intangibles and high risk transactions, and more. The package will also include methodologies to collect data and carry out economic analysis on BEPS; domestic rules requiring the disclosure of aggressive tax planning arrangements; treaty rules to enhance the effectiveness of dispute resolution mechanisms among tax administrations; and the development of a multilateral convention to streamline the implementation of the BEPS Action Plan. These outputs of the BEPS Project will be presented in 2015. With the support of policymakers and stakeholders in OECD, G20 and developing countries, the package of measures will have the potential to put an end to BEPS and ensure that taxable income is reported where economic activities are carried out and value is created. Government finances, taxpayers and whole economies will benefit.

Visit our website at **www.oecd.org/tax/beps.htm**

Sources

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