



Declaration on Base Erosion and Profit Shifting

**OECD Legal
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Date(s)

Adopted on 29/05/2013

Background Information

The Declaration on Base Erosion and Profit Shifting was adopted on 29 May 2013 on the occasion of the OECD Council Meeting at Ministerial Level. During the meeting, Ministers highlighted the importance of restoring fairness and confidence in tax systems, including by acting against tax fraud and evasion and welcomed recent work on Base Erosion and Profit Shifting (BEPS). The Declaration on BEPS calls on the OECD to develop a Comprehensive Action Plan to revise the international tax rules to prevent companies from artificially shifting profits to locations where they are subject to more favourable tax treatment. Working with the G20, the OECD will develop a comprehensive Action Plan to provide countries with the information, the analysis, the best practices, recommendations and international instruments needed to adapt their tax systems to the business practices of the 21st century.

WE, THE MINISTERS AND REPRESENTATIVES of Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Indonesia, Ireland, Israel, Italy, Japan, Korea, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, the Russian Federation, the Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, the United Kingdom, the United States and the European Union;

CONSIDERING that international investment is of major importance to the world economy, and has considerably contributed to the development of our countries and that multinational enterprises and the taxes they pay play an important role in this process;

CONSIDERING that base erosion and profit shifting (BEPS) constitutes a serious risk to tax revenues, tax sovereignty and the trust in the integrity of tax systems of all countries that may have a negative impact on investment, services and competition, and thus on growth and employment globally;

RECOGNISING that beyond the existing problem of tax compliance, governments lose substantial corporate tax revenue because of international tax planning that has the effect of artificially shifting profits to locations where they are subject to a more favourable tax treatment;

MINDFUL that BEPS is a pressing and current issue not only for industrialised countries but also for emerging and developing ones and it is now very high on the agenda of numerous jurisdictions;

WELCOMING the OECD report on *Addressing Base Erosion and Profit Shifting* which recommends the development of an action plan to address BEPS issues in a comprehensive manner and **NOTING WITH SATISFACTION** that the OECD is developing a Comprehensive Action Plan (CAP) to address BEPS;

FURTHER WELCOMING the fact that in the Los Cabos meeting on 18-19 June 2012, the G20 Leaders referred to “*the need to prevent base erosion and profit shifting*” and stated that they would “*follow with attention the ongoing work of the OECD in this area*”, and **NOTING WITH SATISFACTION** that G20 finance ministers welcomed the OECD report at their Moscow meeting on 15-16 February 2013 and declared to be “*determined to develop measures to address base erosion and profit shifting, take necessary collective actions and look forward to the comprehensive action plan the OECD will present to [them] in July*”:

1. **DECLARE** that there is a pressing need to address BEPS and to work towards a level playing field in this area.

2. **AGREE** that national authorities should collaborate in evaluating the issues and developing potential solutions to address the challenges raised by BEPS.

3. **DIRECT** the development of a CAP that takes into consideration the need to encompass all the different aspects of the issue, in particular the fact that in some circumstances corporations and other legal persons take advantage of asymmetries in domestic and international tax rules thus resulting in “double non-taxation” or very low effective taxation.

4. **ENCOURAGE** efforts to develop proposals (as identified in the OECD report on *Addressing Base Erosion and Profit Shifting*) on possible:

- Instruments to put an end to or neutralise the effects of hybrid mismatch arrangements and arbitrage.
- Improvements or clarifications to transfer pricing rules to address specific areas where the current rules produce undesirable results from a policy perspective. The current work on intangibles, which is a particular area of concern, would be included in a broader reflection on transfer pricing rules.
- Updated solutions to the issues related to jurisdiction to tax, in particular in the areas of digital goods and services. These solutions may include a revision of treaty provisions.
- More effective anti-avoidance measures, as a complement to the previous items. Anti-avoidance measures can be included in domestic laws or included in international

instruments. Examples of these measures include General Anti-Avoidance Rules, Controlled Foreign Companies rules, Limitation of benefits rules and other anti-treaty abuse provisions.

- Rules on the treatment of intra-group financial transactions, such as those related to the deductibility of payments and the application of withholding taxes.
- Solutions to counter harmful regimes more effectively, taking into account factors such as transparency and substance.

5. **URGE** the OECD Committee on Fiscal Affairs (CFA) to proceed speedily on the elaboration and agreement of a CAP to be shared with all relevant instances and stakeholders and on its implementation.

6. **UNDERLINE** the need to take forward such CAP in a timely and inclusive manner and to ensure that all relevant countries will participate in such further work on an equal footing.

7. **INVITE** the Secretary-General of the OECD to report on progress in developing and taking forward the CAP at the 2014 Meeting of the Council at Ministerial level and at other international fora as appropriate.

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