



OECD approves incorporation of BEPS amendments into transfer pricing guidelines

Global Transfer Pricing Alert 2016-021

In a June 15 press release, the OECD announced that the OECD Council on May 23 had formally approved the amendments to the transfer pricing guidelines set out in the 2015 BEPS report on Actions 8-10, “Aligning Transfer Pricing Outcomes with Value Creation,” and the report on Action 13 regarding transfer pricing documentation and country-by-country reporting.

In the press release, the OECD stated that “the amendments provide further clarity and legal certainty about the status of the BEPS changes to the Transfer Pricing Guidelines,” which were endorsed by the Council on October 1, 2015, by the G20 Finance Ministers on October 8, 2015, and by the G20 leaders on November 15-16, 2015.

The amendments approved by the Council – the OECD’s governing body – incorporate the BEPS transfer pricing measures into the transfer pricing guidelines. Given that the transfer pricing guidelines are integrated into the domestic law of some countries, including, in some cases, by direct reference to the guidelines themselves, this approval process further clarifies the status of the BEPS reports’ changes to the transfer pricing guidelines.

According to the press release, the continuing efforts to make conforming amendments to the remainder of the transfer pricing guidelines, in particular to Chapter IX on the transfer pricing aspects of business restructurings are well advanced. Working Party No. 6 of the Committee on Fiscal Affairs is expected to soon invite interested parties to review the conforming changes to Chapter IX.

Andrew Hickman, head of the OECD’s transfer pricing unit, said last week at a conference sponsored by the OECD, USCIB, and BIAAC that the OECD intends to publish a new edition of the transfer pricing guidelines by year end, once the process is complete.

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