Deloitte.

The Impact of the BEPS Action Plan on global businesses operating in Qatar

This short alert revisits the Base Erosion Profit Shifting project in light of the fact that many Gulf Cooperation Council territories are at present adopting the four minimum standards (Actions 5, 6. 13, 14).

The authors cannot recall witnessing any global international tax legislative developments as far reaching as the BEPS project. From the established economies of the western world to the emerging BRICS (Brazil, Russia, India, China & South Africa) countries, and the rapidly growing GCC economies, the BEPS project has been a forefront discussion for multinationals as well as tax authorities. Ever since its inception back in September 2013 by the joint effort of the OECD (Organization for Economic Cooperation and Development) and the G20 nations, the BEPS Action Items (see below) have taken center stage in addressing the challenges of the global economy. This is especially true where multinationals have implemented structures to shift profits from high tax jurisdictions to low tax jurisdictions thereby eroding the tax base. Most international tax rules were written and enacted decades ago and so the BEPS changes are fundamental in the global landscape alongside globalization and digitalization of modern economy. It has been imperative for tax authorities and multinational organizations to address the issues of double taxation, profit shifting and tax evasion.

BEPS revisited

The sole purpose of the BEPS framework is to seek consensus building amongst OECD member countries and G20 nations in relation to international tax arrangements. The ultimate goal is to implement policies and reforms that would ensure that international tax rules don't facilitate the shifting of corporate profits away from where the real economic activity and value creation is taking place. Two years after the introduction of BEPS action plan in September 2015, the OECD/G20 nations delivered a comprehensive package of 15-point BEPS Action Plan that would provide transparency, coherence and uniformity and reinforcing capability in the international tax arena. Those 15-point BEPS Action Plans are as follows ;

- Action 01 → Addressing the tax challenges of the digital economy
- Action 02 → Neutralizing the effects of hybrid mismatch
- Action 03 → Designing effective controlled foreign company rules
- Action 04 → Limiting base erosion involving interest deductions and other financial payments
- Action 05 → Countering harmful tax practices more effectively, taking into account transparency and substance
- Action 06 → Preventing the granting of treaty benefits in inappropriate circumstances
- Action 07 → Preventing the artificial avoidance of permanent establishment status
- Action 08 → Aligning transfer pricing outcomes with value creation
- Action 09 → Aligning transfer pricing outcomes with value creation
- Action 10 → Aligning transfer pricing outcomes with value creation
- Action 11 → Measuring and monitoring BEPS
- Action 12 → Mandatory disclosure rules
- Action 13 → **Guidance on transfer pricing documentation and country-by-country reporting**
- Action 14 → Making dispute resolution mechanisms more effective
- Action 15 → Developing a multilateral instrument to modify bilateral tax treaties

Action 13 (transfer pricing documentation) is already having a significant impact on business around the world.

The OECD report published in October 2015, proposed a three tier approach to transfer pricing documentation that would require a Multinational Enterprise (MNE) to prepare ;

Master file

High level information about the MNE's business, transfer pricing policies and agreements with tax authorities in a single document available to all tax authorities where the MNE has operations

Local file

Detailed information about the local business, including related party payments and receipts for products, services, interest, etc.

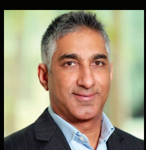
CbC report

High level information about the jurisdictional allocation of revenues, profits, taxes etc. to be shared with all tax authorities where the MNE has operations

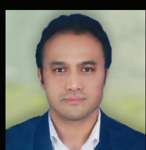
The ultimate parent of a multinational enterprise group (with minimum annual gross revenue of $850 million or more or the equivalent in local GCC currency) should prepare a Country-by-Country (CbC) report for the group and provide it to the tax authority in the country where it resides. The tax authority will then exchange the CbC Report with tax authorities in other countries under bilateral or multilateral treaties. Not only does this involve a significant tax compliance and reporting burden on the taxpayer but it also provides historical information of the taxpayer to the tax authorities of different jurisdiction making challenges more prevalent. Recall that the CbC data will include the nature and source of revenue, names and addresses of any affiliates in foreign jurisdiction, transfer pricing arrangements made in foreign jurisdictions etc.

As international tax authorities (including Qatar) have mandated the CbC reporting for their MNEs in their respective jurisdictions – different countries may have differing rules/due dates. However, one thing remains consistent across the board i.e. companies have to determine how to collect, analyze and report data to their respective tax jurisdictions. As they collect all the necessary data, they will have to perform multiple analysis to review and evaluate what the information will show and consider how the tax authorities may interpret the information reported. This certainly can be quite a challenging and mundane tasks for large multinationals where they could have hundreds of foreign subsidiaries all the over the world, and compiling and organizing such data in a user friendly manner can be very burdensome and time consuming. This is where tax departments have to be agile and adaptive to various technological innovations that have gradually evolved in recent years. In today's day and age, we see companies are relying on data analytics, artificial intelligence, block chain and robotics where certain tasks could be performed in couple of hours, which would have taken hundreds of hours before. With technology in place and with better understanding of data analytics and Action 13 reporting requirements, it is incumbent upon tax departments of multinationals to properly implement this CbC reporting.

BEPS Action 13 has been a catalyst to increase transparency by providing tax authorities with a high-level overview into the multinationals global footprint to ensure a fairer and more stable environment in the international tax arena. It is important for GCC based multinationals to focus on this now.



Muhammad Bahemia
Qatar Tax Leader
mbahemia@deloitte.com



Abi Man Joshi
Partner, Tax
abijoshi@deloitte.com

[i] OECD Website <http://www.oecd.org>
[ii] OECD data source