

OECD PUBLISHED FINAL BEPS REPORTS

On 5 October 2015, the Organisation for Economic Co-operation and Development (OECD) published final reports with guidelines on base erosion and profit shifting (BEPS).

The BEPS project is OECD's initiative designed to counteract the erosion of taxation base and the practice of profit shifting. OECD has defined key BEPS risk areas, including supplies of digital goods and services, transfer pricing, intra-group financial transactions (such as debt financing or insurance), and effectiveness of measures against tax avoidance.

The BEPS project has generated a set of 15 reports with guidelines and proposals for specific actions to increase the tax transparency of multinational corporations and to prevent base erosion. The reports relate to the following issues:

- tax challenges of the digital economy,
- hybrid instruments and mismatches,
- taxation of controlled foreign corporations (CFCs),
- deduction of interest and other financial payments,
- countering harmful tax practices,
- application of double tax treaties,
- avoidance of permanent establishment status,
- transfer pricing in the context of value creation and intangibles,
- transfer pricing documentation and country-by-country reporting,
- disclosing, measuring and monitoring BEPS,
- co-operative exchange of information among tax administrations,
- effective dispute resolution mechanisms,
- multilateral instruments for BEPS action.

The BEPS report recommendations are just recommendations and as such do not constitute generally applicable law. However, experience shows that OECD recommendations are often used by member states to design their national tax regulations.

Poland is actively involved (through its Finance Ministry) in OECD's BEPS project and implements OECD recommendations in its national legislation. For example, Poland has already introduced CFC regulations and legislated certain provisions in the area of income taxes (as regards the latter, the relevant bills are currently waiting for presidential approval, see our newsletter 62/2015). Therefore, we should expect that the other BEPS recommendations will soon find their way into Polish tax law, too.

If this issue pertains to your business and you are interested in our assistance, please contact your WTS&SAJA consultant or our office.

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