

UN Subcommittee on Base Erosion and Profit Shifting Issues for Developing Countries

Singapore's Responses – 15 April 2014

1. How does base erosion and profit shifting affect your country?

- Singapore supports the base erosion and profit shifting (BEPS) Action Plan and agrees that profits should be taxed in jurisdictions where real economic activities driving the profits take place. The main issues that Singapore faces on BEPS are where profits are not taxed in jurisdictions where real economic activities driving the profits take place.
- This is caused primarily by the use of artificially contrived arrangements, which are essentially arrangements that do not have legitimate business substance and are conducted solely for tax avoidance.
- Such arrangements erode our revenue base and are unfair to our other taxpayers.

2. If you are affected by base erosion and profit shifting, what are the most common practices or structures used in your country or region, and the responses to them?

- Non-taxation of foreign businesses selling to domestic consumers through the internet and non-adherence to arms length principle for transfer pricing between related parties are the most common practices.
- Singapore has enacted general anti-avoidance provisions, as well as issued transfer pricing guidelines to deter BEPS.
- The transfer pricing guidelines require our taxpayers to adhere to the arm's length principle for related party transactions in accordance with international practices.
- To ensure tax compliance, we have been reaching out to taxpayers to conduct transfer pricing consultation programs to remind our taxpayers of the importance of keeping robust transfer pricing documentation.
- In addition, we have been concluding bilateral advance pricing arrangements with our treaty partners to ensure that the transactions of companies are treated and priced in accordance with the arm's length principle. In this regard, we have been leveraging on the OECD's transfer pricing guidelines.

- Taken as a whole, these rules have helped Singapore to address BEPS concerns, but we are conscious of the need to update the rules continuously in line with changes in global tax rules.

3. When you consider an MNE's activity in your country, how do you judge whether the MNE has reported an appropriate amount of profit in your jurisdiction?

- Singapore thinks that it is important to align taxation with substance. The allocation of profits in cross-border activities should follow where substantive economic activities are undertaken.
- In our view, the best way to do this is to have robust transfer pricing guidelines that require taxpayers to adhere to the arm's length principle for related party transactions, in accordance with international practices.
- Where there is no substance (i.e. functions, risks, assets) in a jurisdiction, a correctly applied transfer pricing would ensure that minimal profits are allocated there. We draw guidance from the OECD's transfer pricing guidelines in this regard.
- In addition, we have a strict matching principle where tax deductions in our tax system have to be matched closely to the income that is being produced. For passive income like rental and interest income, any excess deduction would be disregarded and cannot be set off against other income. Furthermore, as dividends are not taxed in our one-tier corporate income tax system, interest expenses incurred to derive the dividends would not be allowed any tax deduction. Therefore, the risk of inflating interest expenses for the purpose of achieving a lower tax rate through excessive tax deduction is minimised.

4. What main obstacles have you encountered in assessing whether the appropriate amount of profit is reported in your jurisdiction and in ensuring that tax is paid on such profit?

- Nil.

5. Do you agree that actions 4, 6, 8, 9, 10, 11, 12 and 13 are particularly important priorities for developing countries?

- As there are considerable variations in country-specific issues between developing countries, and each tax jurisdiction has its unique features, it

would be difficult to generalise that some actions are more important priorities than others for developing countries as a whole.

- Countries and tax jurisdictions would need to determine for themselves which Actions are their priorities with the paradigm of sovereignty in mind.
- For developing countries, it is important that the BEPS recommendations do not impede the growth of genuine substantive business activities which is critical to a country's development.

6. Which of these OECD's Action Points do you see as being most important for your country, and do you see that priority changing over time?

- We think that transfer pricing is the most important aspect of the BEPS Action Plan.
- As a business hub and gateway to Asia, it is important to have robust transfer pricing guidelines to ensure that profits are allocated to where economic activities take place and where value is created, based on OECD's transfer pricing guidelines.
- The continued correct application of the arms length principle to allocate profits based on function, risks and assets will help to ensure that profits are allocated based on where value is created.

7. Are there other Action Points currently in the Action Plan but not listed above that you would include as being most important for developing countries?

- We would like to highlight that the focus on countering BEPS should be to grow the economic pie for every country, and not let the work be sidetracked by protectionism and development of rules for political expedience.
- It is important, especially for developing countries, that the BEPS recommendations do not impede the growth of genuine substantive business activities which is critical to a country's development.
- Fiscal characteristics and constraints of developing countries (e.g. fiscal prudence, small country, reliance on international trade) should be taken into account in the derivation of the BEPS rules.
- In particular, tax incentives are a valuable tool for developing countries to spur investment in under-invested sectors and regions, and BEPS should not

take away such tools as long as they are geared towards real development and substantial economic activities.

8. Having considered the issues outlined in the Action Plan and the proposed approaches to addressing them (including domestic legislation, bilateral treaties and a possible multilateral treaty) do you believe there are other approaches to addressing that practices that might be more effective at the policy or practical levels instead of, or alongside such actions, for your country?

- To facilitate implementation of the eventual BEPS rules, we also suggest that end deliverables (including those on tax treaties) be developed as a set of options that countries can consider, striking a balance between the central objective of alignment of taxation with location of substantive activities, and catering for flexibilities for countries to calibrate their regime accordingly and quickly bring about the implementation of BEPS rules.
- While it is important to ensure international coherence, the sovereignty of each country should not be compromised, including the ability to determine tax rates and tax base.
- Recommendations should not adopt a “one size fits all” approach. Instead, there should be adequate flexibility for countries to choose what meets their unique needs best. We should not be aiming to achieve one universal tax system for the whole world – this would undermine sovereignty and development.

9. Having considered the issues outlined in the Action Plan, are there *other* base erosion and profit shifting issues in the broad sense that you consider may deserve consideration by international organisations such as the UN and OECD?

- The BEPS project has made good progress under the OECD’s leadership and Singapore appreciates the UN’s effort to reach out to developing countries to seek their views. It is important to ensure inclusiveness in the BEPS project as this would lead to wider adoption of BEPS solutions.
- To ensure greater legitimacy and buy-in on the BEPS project, OECD may want to consider setting up a multilateral forum similar to the Global Forum on Transparency and Exchange of Information¹ where developing countries

¹ The Global Forum, with over 100 members on equal footing, is an international body set up by OECD for ensuring the implementation of the internationally agreed standards of transparency and exchange of

would be accepted on an equal footing, and are able to voice and contribute their views. This will provide assurance to developing countries that their views have been incorporated, and help promote the wider adoption of BEPS solutions that benefit both OECD and non-OECD countries.

- Where developing countries' views have been sought, a summary of their views and what has been done to address these views could be prepared and disseminated to these countries, so that developing countries can see how their concerns have been addressed.
- On approaches to address BEPS, where countries apply domestic rules that have cross-border impact, the rules should be applied on an equal basis across all tax jurisdictions, without exemptions for specific economic groupings to minimise regulatory arbitrage.

10. Do you want to be kept informed by email on the Subcommittee's work on base erosion and profit shifting issues for developing countries and related work of the UN Committee of Experts on International Cooperation in Tax Matters?

- Yes. Where possible, Singapore is also interested in actively participating in the UN Subcommittee's work on BEPS issues for developing countries.
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information in the tax area. It conducts peer reviews and monitors that its members fully implement the standard.