

Questionnaire

Mexico's experiences regarding base erosion and profit shifting issues

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

BEPS has significantly affected tax revenues in Mexico. The current global international tax system has opened up opportunities for Multinational Enterprises to greatly minimize their tax burden. This undermines the integrity of the tax system and requires a higher cost to ensure compliance.

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?

The most common practices and structures detected in Mexico, are:

- a) Sales of companies in Mexico; when alienating holding companies located in jurisdictions with little or no access to exchange of information and where those sales are not taxed or taxed at low rates.***
- b) Migration of intangibles developed in Mexico to jurisdictions with low or no taxation.***
- c) Structures that do not recognize the existence of permanent establishments in Mexico because it is considered that the activities and risks are located abroad.***
- d) Huge debts with no business reason.***

The response to these structures has been through audits and modifications in domestic legislation.

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?

The Mexican Tax Authority judges whether the MNE has reported an appropriate amount of profit in Mexico by means of a transfer pricing risk assessment procedure, including analyses of taxpayer's profits and tax reported (effective tax rate) during certain periods of years; industry and sector averages; and analyses of profitability of Mexican taxpayers compared with consolidated global returns (when such information is available, e.g. public companies).

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?

The main obstacles that Mexico has encountered in assessing whether the appropriate amount of profit is reported in our jurisdiction and in ensuring that tax is paid on such profit are: (1) lack of information about the global business of the MNE group, including information about foreign related parties where the company operates, (2) lack of public information on local comparable companies, (3) the volume and complexity of international intra-group trade, and (4) other opportunity areas in deploying an efficient transfer pricing risk assessment program to identify and assess that the appropriate amount of profit is reported and paid, and the consequent selection of cases for audit when needed.

5. Do you agree that these are particularly important priorities for developing countries?

Yes, we agree that those are very important priorities for developing countries as they relate to taxation at source and the implementation of actions on those issues could really help avoid BEPS.

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

Each of those points is important to our country as we try to avoid base erosion at source. Out of those Actions, our priorities are Action 6 and the Actions related to Transfer Pricing (Actions 8, 9 and 13). However, as we implement measures related to those Actions, an effective implementation of Action 12 could become a next priority.

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

Of the Actions Points not listed, for Mexico Action 2 (Neutralise the effects of hybrid mismatch arrangements) and Action 7 (Prevent the artificial avoidance of PE status) are of particular importance.

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?

No, we haven't identified at the moment any other approaches that could be more effective for approaching the issues outlined in the BEPS Action Plan.

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 the OECD?

No, as a member of G20 and OECD, Mexico participated in the development of the BEPS Action Plan and we haven't identified at the moment other relevant BEPS issues that could deserve consideration by international organisations.

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, at the following emails:

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