

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

China currently does not have a system which quantitatively analyzes the base erosion in our country. Yet, we do find, and it is obvious, that the major threat China faces is that many MNE groups have shifted their profits by means of tax planning and transfer pricing.

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 are that:

- a. MNE groups adopt transfer pricing principles and methodologies in such intra-group dealings as purchase & sale transactions, financing transactions, equity transfer transactions and service provision transactions, in order to lower the profits of their subsidiaries in China.
- b. MNE groups set up shell companies with no genuine economic substance in the low-tax jurisdictions and tax havens, in order to shift the profits.

Our responses:

We have enacted the general anti-avoidance rules and carry out TP audits to recover the taxes.

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?

We make our judgment by (a) auditing MNE groups' annual filing and reviewing their contemporaneous documentation; (b) considering the profit levels of the industry and comparable companies; and (c) performing functional analysis.

We then make adjustments as necessary when our judgment is made.

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?

We are primarily faced with two obstacles:

- a. China is in lack of comparable companies. China's domestic legislation requires that the listed companies must make mandatory disclosures, but the unlisted companies are not required to make such disclosures. Therefore, it is unrealistic to find comparables from the over 2000 listed companies in China.
- b. The other obstacle is in relation to the companies' cooperation. They are often unwilling to provide the tax authorities with necessary information, such as resale prices, especially the business operation and profits throughout the supply chain. Their reluctance to cooperate increases the difficulties of our audits, as we do not have a big picture in mind in our audits.

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

Yes.

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 believe that TP-related actions are most important to us.

We believe Action 11 will be increasingly important to us. China is dedicated to establish methodologies to collect and analyze data on BEPS, which is something developing countries should work hard on.

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?

With the increase in disputes between tax jurisdictions resulted from a rise in TP audits, more MAP cases have emerged in bilateral negotiations. It is suggested that an action plan on how to resolve MAP cases during bilateral negotiations is laid out.

The development of the digital economy increases the online transactions. How to tax these transactions remains a difficulty for

tax administrations. The action plans should consider how to tackle the challenges of digital economy on the existing tax systems and the revenue base.

- 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?**

It would be very useful and beneficial for developing countries if the UN could work out a guideline on the above action plans.

- 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?**

One issue is concerned with the general anti-avoidance. MNE groups often exploit the tax loopholes or carry out business activities with no genuine substance. This issue calls for the establishment of the general anti-avoidance rules (GAAR) by developing countries.

Another issue is in relation to the developing countries' capacity-building on TP cases and the international aspects of taxation at large. International organizations are suggested to lay out a guideline for developing countries on their staffing budgets for certain type/volume of work.

- 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.

Do you have any other comments you wish to share with the

Subcommittee about base erosion and profit shifting, including your experience of obstacles to assessing and then addressing the issues, as well as lessons learned that may be of wider benefit?

A major challenge faced by developing countries in terms of their international tax administration is their lack of personnel, especially qualified personnel. Therefore, it is recommended that international organizations could create a standard or guideline on at least how many people are required for certain type/volume of work, and what qualifications/capacities these personnel should possess.