

How is BEPS likely to impact Singapore?

TTN Hong Kong Conference
2016

22 February 2016

Shanker Iyer



Iyer
Practice
ADVISERS

SINGAPORE | HONGKONG
20 YEARS IN PRACTICE

Background

- Singapore not an OECD member, but closely monitors BEPS
 - Singapore MoF officially supports BEPS
 - However, emphasizes Singapore's investment friendly and tax competitive status will not change
- Singapore has already addressed some of the BEPS issues within its domestic law.

Important Actions for headquarter / holding operations

- Action 2: Hybrid mismatch
- Action 4: Interest deductions
- Action 5: Harmful tax practices
- Action 6: Preventing treaty abuse
- Actions 8-10, 13: Transfer Pricing
- Actions 12 and 15

Action 2: Hybrid mismatch

- Potential use of Section 33 of Singapore Income Tax Act to disregard transactions structured with abusive intent
- May 2014 e-Tax Guide:
 - Discusses characterization/tax treatment of hybrid instruments
 - Provides for advance rulings
- Case e.g. Dividend income exempt in SingCo / Interest payment deductible in LuxCo - How would Action 2 apply if an advance ruling obtained?

Action 4: Interest deductions

2015 Singapore TP Guidelines

- Focus on “arm’s length” interest on related party loans
- Does not subscribe to formulaic interest deductions

Payments made to entities in haven jurisdictions will attract scrutiny

Action 5: Harmful tax practices

- Singapore tax incentive schemes
 - People requirements (see next slide)
 - Not featured in list of 43 preferential regimes reviewed by the OECD's Forum
 - How does for e.g. PIC scheme compare to UK patent box/Dutch innovation box?
- Automatic exchange of information (“AEOI”)
 - Singapore increasing its EOI agreements
 - Committed to implement AEOI by 2018

Action 5: Harmful tax practices

Singapore incentives	People	Activities	Other requirements
Headquarters award	75% skilled staff	At least 3 headquarter services	Minimum average remuneration per worker
Development and expansion incentive	--	Manufacturing or growing leading-edge activities in Singapore	Contribution to the innovation capabilities
Global trader program	Employ trading professionals	Substantial international physical trading activities	Local business spending; use local financial services
Financial sector incentive	Employ qualified professionals	Fund Management activities	--

Action 5: Harmful tax practices

- Case examples
 - Singapore IP owner/contract R&D activities to India – where does substance lie?
 - Acquire IP into Singapore, claim W/D allowance, license out and earn royalty income, obtain treaty benefits..

Action 6: Preventing treaty abuse

- Anti-abuse rules adopted in Singapore treaties
 - LOB (remittance) clause in many treaties: Korea, Japan, Netherlands;
 - Singapore – China: domestic anti-abuse rule can be applied/main purpose test for dividend, interest and royalties
 - Singapore – Japan: treaty benefits not granted in source country if tax exempt and no actual activities in residence country
 - Singapore – India: (Protocol) Primary purpose test / Conduit company clause

Actions 8-10, 13: Transfer Pricing

- 2015 release of Singapore TP Guidelines
 - OECD/BEPS aligned
 - Group file and local file recommendations
 - Focus on intra-group loans and services (including cost contribution arrangements)
 - 5% safe harbor for low value added services
- Will Singapore implement in CbCR?

Actions 12 and 15

- Action 12: Mandatory disclosure rules – if Singapore investment holdCo set up for treaty purposes, will this potentially need to be disclosed?
- Action 15: Multilateral instrument – Will Singapore participate?

Other action plans

- Action 1 – Digital economy
- Action 3 – CFC rules
- Action 7 – Permanent establishments
- Action 11 – BEPS data collection
- Action 14 – Dispute resolution



What will BEPS mean?

- Increased scrutiny
- More disclosure
- Substance!



Services

- International & Domestic Tax
- Company Formation & Administration
- Trusts & Foundations
- Immigration & HR
- Regulatory & Compliance
- Accounting & Financial Reporting

The insight
to be your
trusted
adviser

Contact Us



Shanker Iyer

Email shanker@iyerpractice.com
Phone +65 6532 5746
Mobile +65 9760 6488

80 Raffles Place
#26-01 UOB Plaza 1
Singapore 048624

Sanjay Iyer

Email sanjay@iyerpractice.com
Phone +852 2529 9952
Mobile +852 9355 3495

Unit 29E, 29/F Admiralty Centre Tower 1
18 Harcourt Road, Admiralty
Hong Kong

Sunil Iyer

Email sunil@iyerpractice.com
Phone +65 6532 5746
Fax +65 6532 7680

80 Raffles Place
#26-01 UOB Plaza 1
Singapore 048624

To keep yourself updated on new developments in Singapore and Hong Kong, please subscribe online to our free quarterly newsletter via our website: iyerpractice.com

Disclaimer: This presentation of slides is intended as a general guide only, and the application of its contents to specific situations will depend on the particular circumstances involved. Accordingly, readers should seek appropriate professional advice regarding any particular problems that they encounter, and this presentation should not be relied on as a substitute for this advice. While all reasonable attempts have been made to ensure that the information contained in this presentation is accurate, Iyer Practice accepts no responsibility for any errors or omissions it may contain, whether caused by negligence or otherwise, or for any losses, however caused, sustained by any person that relies on it.