



Post-BEPS controversy readiness

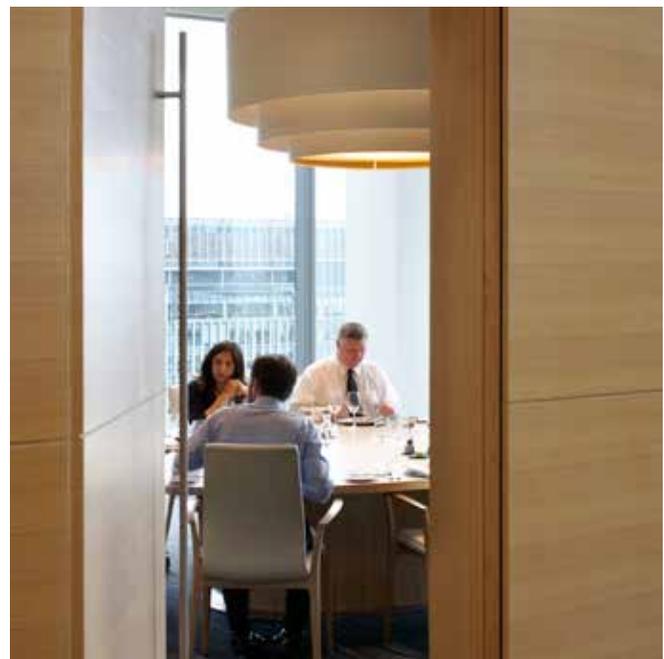


Tax controversies are expected to surge in the aftermath of the Organisation for Economic Co-operation and Development's (OECD) base erosion and profit shifting (BEPS) project. Tax authorities across the globe have already begun to step up scrutiny and institute new transfer pricing rules, including country-by-country (CbyC) reporting requirements. A recent KPMG LLP (KPMG) survey reveals that many of our clients do not feel adequately prepared to coordinate and address the multitude of issues raised by today's rapidly shifting enforcement landscape.¹

CbyC reporting is expected to be a game changer. In September 2017, the OECD published two handbooks² that identify a broad array of potential risk indicators in CbyC reports, including disparities between profits and functions, low-risk activities, separate IP structures, and reporting discrepancies. This guidance instructs governments on how to use CbyC data to select audit targets effectively.

As a result, tax auditors will be studying CbyC reports and deciding which companies to audit during the second half of 2018. Multinational enterprises will start to see their own data used to pinpoint risk areas as tax authorities employ data analytics to identify industry trends and focus on outliers. Companies' use of industry and activity codes will be subject to scrutiny as these are matched against the data in CbyC reports. Many multinationals may see a substantial increase in the number of tax audits as a result.

The question facing tax departments today is: are you ready?



¹ Of the 52 survey tax executive participants, less than one-third rated their preparedness at 7 or higher on a 10-point scale. Read [BEPS Controversy Readiness](#), November 2017, KPMG LLP.

² [Country-by-Country Reporting: Handbook on Effective Implementation](#) and [Country-by-Country Reporting: Handbook on Effective Tax Risk Assessment](#), Organisation for Economic Co-operation and Development.

How KPMG can help

KPMG's BEPS Controversy Readiness (BCR) team has the knowledge and resources to help you respond to the challenges that come with global transfer pricing controversies. Our experienced professionals from our Transfer Pricing, International Tax, and Controversy practices can work with your transfer pricing and controversy teams to standardize compliance and dispute resolution procedures across your organization. By integrating procedures and implementing safeguards across jurisdictions, we can help you manage transfer pricing inquiries in a streamlined and effective manner.

Controversy Readiness Report: BCR professionals can review your existing approach to managing tax controversies to identify key strengths and gaps. Our findings are conveyed in a readiness report, noting areas where action is recommended, such as central controversy tracking, communication protocols, standardized review processes for information to be shared with tax authorities, and a central repository for transfer pricing materials. The report results in an action plan built around quarterly milestones to take the tax organization from its current state to a BEPS-ready end state that is tailored to the company's resources and risk profile.

Tax Audit Process Manual: BCR professionals can work with you to establish procedures for your local tax teams to follow in local audits and related controversies. The manual prescribes requirements, including protocols for communication with, and escalation to, the global tax team, and internal approvals prior to the delivery of documents and financial information to tax authorities. To help ensure a tailored approach that complements your organizational procedures, the manual would be prepared in close collaboration with your tax, transfer pricing, and controversy personnel.

Tax Authority Interview Guide: KPMG expects that local tax authorities will increasingly request informational meetings with local tax teams to seek clarification on items in the local file, the master file, and the CbyC report. Because the latter two items are global in nature, local tax teams may lack the enterprise knowledge to describe global value chains effectively and to "tell the company's story" appropriately. BCR professionals can work with you to develop a guide that provides viable responses to potential tax authority questions, which can be leveraged across the company to improve quality and consistency of messaging, and sets forth procedures to follow in connection with a tax authority raid.

Online and Social Media Governance: Listing inflated capabilities on local affiliates' Web sites and overstated job descriptions on LinkedIn can complicate or even instigate tax authority inquiries, leading to unnecessary controversy and confusion. BCR professionals can provide you with guidance on global leading practices and standards to be shared with employees across the enterprise, especially those involved in R&D activities, to mitigate these risks.

Controversy Inventory Tracking: BCR professionals can assist you in implementing a system to be used at the headquarter level to maintain a complete inventory of pending tax controversies. KPMG's Link 360 Global Tax Disputes Management Module offers a tested approach to tracking due dates, impending milestones, and controversy status across jurisdictions and can be tailored and scaled to meet your organization's needs.



Related services

As a result of BCR-related work, additional areas of exposure and planning may be uncovered. KPMG has significant experience providing services across the following areas:

Value Chain Analysis: The OECD's BEPS Action Plan provides that profit should be allocated to entities that have control of risk and the financial capacity to bear such risk. Specifically with respect to profit from intangibles, control of risk associated with the development, enhancement, maintenance, protection, and exploitation (DEMPE) functions related to those intangibles should be considered. KPMG professionals can review your company's entire value chain to assist in identifying the key drivers of value creation in your organization and the control of risk functions associated with those value creating activities and ensure that value drivers are appropriately compensated at each level, mitigating the risk of DEMPE-related adjustments.

MLI Risk Assessment: The adoption of the Multilateral Instrument (MLI) and its ratification by five jurisdictions mean that we expect the various provisions adopted to be operational as of January 1, 2019. KPMG professionals can perform an analysis of your global structure and provide a risk assessment for your company under the MLI provisions adopted by the specific jurisdictions in which you operate. This risk assessment includes a heat map of riskier jurisdictions and provisions as applied to your organization and is useful in prioritizing restructuring or other actions on a global basis.

PE Exposure Assessment: KPMG professionals can review your existing global footprint and intercompany distribution agreements to identify exposures under existing permanent establishment (PE) rules and the revised PE standards adopted as part of the MLI.

CbyC Compliance Review: Participants in the e-Brainstorming Survey expressed more concern about CbyC requirements than any other topic.³ The CbyC regime makes it imperative that companies speak with a single voice across jurisdictions. Moreover, the rules themselves pose significant procedural hurdles as governments around the globe institute new filing processes. We can work with you to eliminate inconsistencies in messaging, facilitate CbyC reporting compliance, and reduce friction with tax authorities at this key juncture. Further, we can assist companies to review their CbyC reporting positions in light of their industry peers and identify potential audit risk areas based on outlier data in line with recently released guidance on CbyC reporting and CbyC implementation.



³ Nearly two-thirds of participants selected CbyC reporting as one of the top three BEPS-related areas of focus most applicable to their organization. [BEPS Controversy Readiness](#), November 2017, KPMG LLP.

Contact us

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