



IC Advisors Transfer pricing Newsletter May 2015

BEPS Update – Release of public discussion drafts

BEPS Action 8 – Cost contribution arrangements (CCAs)

On 29th April 2015, the Organisation for Economic Co-operation and Development (OECD) published a discussion draft on proposed revision to Chapter VIII of the Transfer Pricing Guidelines on CCAs. Base erosion and profit shifting (BEPS) Action 8 assures that transfer pricing outcomes are in line with value creation and aims to prevent BEPS by moving intangibles among group members.

Key features of the discussion draft include:

- The revised definition of a CCA concept indicates that contributions are shared under a CCA, not costs. Costs should only be used for exceptional cases such as in the case of low-value added services.
- Guidance on the classification of CCAs under two broad categories – “development CCAs” and “services CCAs”. Development CCAs create future benefits for participants while services CCAs provide current benefits to the CCA participants.
- A party is considered a participant in a CCA when the party is able to control the associated risks from the expected benefits from a CCA

Comments on this draft are requested to be submitted by 29 May 2015 and a subsequent public consultation has been scheduled for 6-7 July 2015. The public discussion draft can be accessed [here](#).

BEPS Action 11 – Improving the analysis of BEPS

On 16th April 2015, the OECD published a discussion draft under the BEPS project on improving the analysis of BEPS. The draft assesses the existing data sources and potential indicators limitations on analysing the fiscal effects and economics impacts of BEPS over time.

The draft also discusses the current two approaches used in BEPS analysis. The first approach assess the responsiveness of profit to tax differentials to measure the effects of BEPS overall. A second approach estimates the impacts of specific BEPS channels.

The last chapter in the discussion sets existing empirical analyses of BEPS and proposes two complementary approaches to estimating the scale of BEPS. In order to overcome the limitations, the draft recommends a best practices approach and to enhance the collection of data on companies.

Comments on this draft are requested to be submitted by 8 May 2015 and a subsequent public consultation has been scheduled for 18 May 2015. The public discussion draft can be accessed [here](#).

ATO focuses on Singapore tax-incentivised subsidiaries of Australian corporations

Both BHP Billiton and Rio Tinto are currently being audited for “channelling billions of dollars in iron ore profits through companies in Singapore that pay almost no tax”. The Ministry of Finance and the IRAS have been requested to comment on these developments, and are clearly watching as these event unfold.

Marketing hubs have been established by energy and resources companies are seen as a risk to tax revenue as the hubs book profits offshore by purchasing all the products from the parent’s mines and

oil and gas fields to sell to their end customers. Typically these hubs also obtain a tax incentive (e.g., the Global Trader Programme) from relevant boards which will enable these companies to enjoy a concessionary tax rate of as low as 5% from the regular tax rate of 17%.

Foreign tax authorities are likely to scrutinise these incentivised operations to determine if the required function, asset, risk (“FAR”) profile is being exhibited by these companies to warrant the substantial profits that are booked in Singapore, or if the establishment of such companies in Singapore can be considered akin to tax avoidance.

This is not the first time that profits recorded in Singapore have been under attack. Apple Singapore’s operations were reviewed in a U.S. senate report and the profits booked by the Apple subsidiary in Singapore was queried from a transfer pricing perspective.

Corporate taxpayers, that enjoy tax incentives, are therefore required to prepare detailed transfer pricing documentation to support their intercompany transactions. Such documentation will assist them in any foreign tax authority scrutiny, as well as in any dispute resolution procedures.

Upcoming seminars:

Dr Sowmya Varadharajan will be presenting at the following seminars:

- a. Transfer Pricing: Methods, Trend and Updates, on 11 May 2015, organised by ACCA [Global](#)
- b. Understanding Transfer Pricing, on 9 June 2015, [organised](#) by AcClarity
- c. Singapore’s transfer pricing regime, on 12 June 2015, organised by the Singapore Business Federation
- d. Transfer Pricing Documentation Masterclass, on 15-16 June 2015, organised by CCH [Singapore](#)

If you would like to attend any of these seminars, please drop us an email at service@icadvisorsasia.com.