



**IC Advisors Transfer pricing Newsletter
November 2014**

OECD - BEPS deliverables

Further to the release of the September 2014 Deliverables, the heads of tax administrations from 38 countries, met in Dublin for the 9th meeting of the Forum on Tax Administration (FTA) in which the Base Erosion and Profit Shifting (BEPS) project came was addressed. The agreements consisted of:

- Developing systematic and enhanced co-operation between tax administrations
- Investing resources needed to implement the new standard on automatic exchange of information
- Improving the practical operation of the mutual agreement process (MAP)

Details of the agreement can be viewed here <http://www.oecd.org/ctp/administration/fta-2014-communication.pdf>.

OECD – BEPS Action 7 update

Action 7 of the BEPS Action Plan calls for the development of “changes to the definition of PE (“Permanent establishment”) to prevent the artificial avoidance of PE status in relation to BEPS. The OECD is working on closing the loopholes existing in commissionaire structures and similar arrangements that are intended to erode the taxable base of the State where sales took place.

Treaty rules on agency PE allow contracts for the sale of goods belonging to a foreign enterprise to be negotiated and concluded in a country by the sales force of a local subsidiary of that foreign enterprise without the profits from these sales being taxable to the same extent as they would be if the sales were made by a distributor, which has led enterprises to replace arrangements under which the local subsidiary traditionally acted as a distributor by “commissionaire arrangements” with a resulting shift of profits out of the country where the sales take place without a substantive change in the functions performed in that country. The Action Plan also notes that multinationals may artificially fragment their operations among multiple group entities to qualify for the exceptions to PE status for preparatory and auxiliary activities.

Comments concerning the discussion draft are due by 9 January 2015. Further details of the discussion draft can be accessed here <http://www.oecd.org/ctp/treaties/action-7-pe-status-public-discussion-draft.pdf>.

Upcoming Seminars

Dr Sowmya Varadharajan will be presenting at the following seminars:

- a. Transfer Pricing Across the Region: Key Country Updates on November 18, organised by ISCA
- b. Introduction to transfer pricing, on December 3, organised by TAKX Solutions
- c. Managing transfer pricing in Asia, on December 5, organised b ISCA

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